



TOWN OF WEST GARDINER
318 SPEARS CORNER RD
WEST GARDINER, MAINE 04345
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SEX OFFENDER RESIDENCY RESTRICTIONS

ARTICLE I – IN GENERAL

TITLE.

This ordinance shall be known as the Town of West Gardiner Sex Offender Residency Restrictions Ordinance.

2. Findings and purpose

The Town promotes and strives to create a safe environment of its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The Town recognized that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. 11201 et seq., as may be amended from time to time, the Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this is to provide such further protective measures while balancing the interest and residential needs of sex offenders.

3. Authority

The ordinance is adopted in accordance with the provision of 30-A M.R.S.A. 3001- and 30-A M.R.S.A. 3014, as may be amended from time to time.

4. Definitions

Setback. A 750-foot radius surrounding “restricted property.”

Designated sex offender(s). Person(s) convicted of Class A, B, or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

Residence. The temporary or permanent occupation or use of a place, including, but not limited to a domicile, for the purpose of living, residing or dwelling.

Restricted property. (i) The real property comprising a public or private elementary, middle, or secondary school; and (ii) the real property comprising a municipally owned property or state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users.

5. Restrictions

No designated sex offender shall reside within the setback of any restricted property.

6. Exceptions

A designated sex offender maintaining a residence within the setback of a restricted property is not in violation of this ordinance if the offender's residence was established and consistently maintained as the offender's residence prior to March 21st, 2020, the date of adoption of this ordinance. A designated sex offender is not in violation of this chapter if the restricted property is created, moved or enlarged and such creation, movement or enlargement results in a designated sex offender residing within the setback of a restricted property, as long as the offender's residence was in place and consistently maintained prior thereto.

7. Violations and Penalties

- A. A designated sex offender who, thirty (30) days after actual receipt of written notice sent by regular mail or hand-delivered from the Town, is in violation of this ordinance shall be subject to an action brought by the town to enforce the requirements of this ordinance. The Town may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to state and local laws, including, without limitation, declaratory and injunctive relief.

The Town may also seek a penalty in the minimum amount of \$ 500.00 per day. Each day of violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. All civil penalties shall inure to the benefit of the Town of West Gardiner.

- B. Property owners who, thirty (30) days after written notice from the Town of West Gardiner lease or rent any residence to a designated sex offender within the setback from a restricted property shall be subject to an action brought by the Town of West Gardiner to enforce the requirements of this ordinance. The Town of West Gardiner may seek injunctive relief to require compliance with the provisions to this ordinance.

8. Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE 55: SHALL AN ORDINANCE ENTITLE SEX OFFENDER RESIDENCY RESTRICTIONS ORDINANCE BE ENACTED?

Adopted as read at the Annual Town Meeting 04/10/2021


Gregory A. Couture


Steven A. McGee

Attested:


Angela J. Phillis
Town Clerk