

amending Chapter 14 of the Revised Ordinances entitled “Offenses – Miscellaneous.”

Chapter 14 of the Revised Ordinances entitled “Offenses – Miscellaneous” is hereby amended by adding the following section:

**Section 14-20. Sex Offender Residency Restrictions**

§ 14-20.1. Determinations and intent.

- A. It is the intent of this ordinance to protect the City’s compelling interest to promote and protect the public health, safety and welfare of the inhabitants of the City of Leominster by creating areas around locales where children regularly congregate and wherein certain sex offenders are prohibited from establishing temporary or permanent residence.
- B. It is determined that this ordinance is the most narrowly crafted means of restricting to the fullest extent possible the opportunity for registered sex offenders to approach or interact with children where they routinely and naturally congregate and that the protections of the health and safety of our children is a compelling public and governmental interest.
- C. This ordinance is intended to create a civil nonpunitive regulatory scheme in order to protect children to the greatest extent possible under the circumstances of public welfare protections and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to children as a vulnerable group residing in or visiting the City. Because registered sex offenders are more likely than any other type of offender to re-offend for another sexual offense, the City desires to impose safety precautions in furthering the public purpose of protecting children. The purpose of this ordinance is to mitigate the potential risk of harm to children of the Leominster community by deterring the ability for registered sex offenders to be in contact with unsuspecting children in locations that are primarily utilized by such children, that is the grounds of public and private schools for children. The City desires to add location restrictions to such offenders where state law is silent.

§ 14-20.2. Definitions.

The following words, terms, and phrases when utilized in this chapter shall have the meanings ascribed to them in this section, except where the context clearly describes a different meaning:

1. "Registered Sex Offender" for the purposes of this chapter shall mean: (a) any person who is a sexually violent predator as defined by Chapter 6, § 178C, of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; (b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C, of the Massachusetts General Laws and who is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry; and (c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C, of the Massachusetts General Laws, who is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry.
2. "Sex Offender" and "Sex offense" shall have the same meaning as provided for in M.G.L. Chapter 6, § 178C.
3. "Child" or "Children" shall mean persons under 18 years of age.
4. "School" -- Any public or private educational facility that provides services to children in grades Kindergarten through 12.
5. "Permanent Residence" -- A place where a person lives, abides, lodges, or resides for 14 or more consecutive days.
6. "Temporary Residence" -- A place where a person lives, abides, lodges, or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's permanent residence; but "temporary residence" shall not include residence at a hospital or other healthcare or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.

7. "Establishing a Residence" -- To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

§ 14-20.3. Sexual offender residence prohibition, restrictions, penalties.

A. Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,250 feet of any school.

B. It shall be unlawful for any sex offender who is finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board to establish a temporary or permanent residence within 1,250 feet of any school.

C. It shall be unlawful for a property owner or property manager or representative agent to let, lease, or rent any place, building, structure, or part thereof, as a temporary or permanent residence to any person who is prohibited from establishing such residence pursuant to this Ordinance, if such place, building, structure, or part thereof is located within the City of Leominster and within 1,250 feet of the property on which any school is located.

D. Evidentiary matters measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school.

E. Exceptions. A registered sex offender residing within 1,250 feet of any school does not commit a violation of this section if any of the following apply:

(1) The registered sex offender established the permanent residence prior to the effective date of this ordinance, and:

(a) Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in, and does not move to another restricted location in Leominster different from, the permanent residence established prior to the effective date of this ordinance; or

(b) Permanent residence was established through a valid arm's length, fixed-term, written lease or rental agreement, executed prior to the effective date of this ordinance, as long as the registered sex offender continues to reside within, and does not move to another restricted location in Leominster different from, the permanent residence established prior to the effective date of this ordinance; or

(c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within, and does not move to another restricted location in Leominster different from, the permanent residence established prior to the effective date of this bylaw.

(2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence pursuant to this section.

(3) The school within 1,250 feet of the registered sex offender's permanent residence was designated or opened after the registered sex offender established the permanent residence.

F. Forfeiture of exception. If, either after the effective date of this ordinance or after a new school opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection E and judgment enters that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this section.

G. Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,250 feet of any school, and who is not subject to any of the above exceptions, shall be in violation of this section and shall, within 30 days of receipt of written notice from the Leominster Police Department of the registered sex offender's noncompliance with the chapter, move from said location to a new location, but said location may not be within 1,250 feet of any school. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,250 feet of any school. Furthermore, it shall be a violation each day that a registered sex offender shall move from one location in the City to another that is within 1,250 feet of any school.

H. Penalties.

(1) Any violation of this section shall be enforced by noncriminal disposition pursuant to M.G.L. c. 40, § 21D, as follows:

(a) First offense subject to this ordinance: noncriminal fine of \$150, and notification to sex offender that he/she has 30 days to move.

(b) Subsequent offense subject to this ordinance: noncriminal fine of \$300, and notification to sex offender's parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the sex offender has violated the City's ordinance.

(2) For purposes of this section, notice shall be deemed to be sufficient and proper if the person receives service by registered mail, return receipt requested, or receives in hand service or service by a Constable, Sheriff or other person authorized to serve civil process within the Commonwealth of Massachusetts or other service as a court of competent jurisdiction may allow.

§ 14-20.4. Additional exceptions.

A person residing within 1,000 feet of any school does not commit a violation of this section if any of the following apply:

- A. The person was a minor when he/she committed the offense and was not convicted as an adult.
- B. The school within 1,000 feet of the permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.
- C. The person is incarcerated in any facility owned, maintained and/or operated by the City of Leominster.

§ 14-20.5. Safety Zones

A. Prohibitions.

(1) A registered sex offender is prohibited from entering upon the premises of a school unless previously authorized specifically in writing by the school administration.

(2) The prohibitions defined shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, or from attending any religious service.

B. Penalties. Any violation of this section may be enforced by noncriminal disposition pursuant to M.G.L. c. 40, § 21D, resulting in: (1) a noncriminal fine of \$150 for a first violation; and (2) a noncriminal fine of \$300 for each additional violation of this section. A registered sex offender commits a separate offense for each and every violation of this section.

§ 14-20.6. Enforcement.

A. The Leominster Police Department shall be charged and empowered with the enforcement of this chapter.

B. A map depicting the residency restriction areas shall be created by the City and maintained by the Leominster Department of Public Works. The Leominster Police Department shall review both the list set forth below and the maps no less than annually for changes. The maps and a copy of this ordinance will be available to the public at the Leominster Police Department, the Leominster City Clerk's Office, the Leominster Public Library and on the City of Leominster website. The following is a list of schools, as defined in § 14-20.2 of this ordinance, in the City that are subject to this ordinance.

1. Johnny Appleseed School – 845 Main Street
2. Sky View School – 500 Kennedy Way
3. Northwest School – 45 Stearns Avenue
4. Priest Street School – 115 Priest Street
5. Leominster High School – 122 Granite Street
6. St. Leo's School – 120 Main Street
7. Bennett School – 145 Pleasant Street
8. Lincoln School – 16 Cross Street
9. St. Anna's School – 213 Lancaster Street
10. Southeast School – 95 Viscoloid Avenue
11. Fall Brook School – 25 DeCicco Drive
12. Samoset School – 100 DeCicco Drive

§ 14-20.7. Severability.

If any clause, sentence, paragraph, subdivision, section or other part of this ordinance shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this ordinance, and it shall be construed to have been the legislative intent to enact this ordinance without such unconstitutional or invalid parts therein.