

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
VACANT, Ward Four



Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDINANCE 01-02062017

BE IT ORDAINED, that the City Council hereby adopts to Chapter 39 in the Code of Ordinances SEX OFFENDER RESIDENCY RESTRICTIONS as follows:

Chapter 39 - SEX OFFENDER RESIDENCY RESTRICTIONS

ARTICLE I. - IN GENERAL

Sec. 39-1. - Title.

This chapter shall be known as the "City of Auburn Sex Offender Residency Restrictions Ordinance."

Sec. 39-2. - Findings and purpose.

The city promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The city recognizes 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 city finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this chapter is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

Sec. 39-3. - Authority.

This chapter is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

Sec. 39-4. - 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.

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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.

Sec. 39-5. - Restricted property map; restrictions.

(a) The ICT department, with the assistance of the police department, shall prepare and file with the city clerk and police department an official map showing restricted property as defined by this chapter. Said map is hereby incorporated herein and made a part of this chapter. The GIS department, with the assistance of the police department, shall by July 1 of each year recommend updates to the map to the city council to reflect any changes in the locations of any restricted property and setbacks. The city council may amend the restricted property official map by council order, and any amended official map shall be filed with the city clerk and the police department.

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

Sec. 39-6. - 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 1st, 2017, the date of adoption of this chapter. 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.

Sec. 39-7. - 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 city, acting by and through its police department, is in violation of this chapter shall be subject to an action brought by the city to enforce the requirements of this chapter. The city 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 city 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 city is the prevailing party in any action under this chapter, 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 city. All civil penalties shall inure to the benefit of the City of Auburn.

(b) Property owners who, thirty (30) days after written notice from the City of Auburn lease or rent any residence to a designated sex offender within the setback from a restricted

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property shall be subject to an action brought by the City of Auburn to enforce the requirements of this ordinance. The City of Auburn may seek injunctive relief to require compliance with the provisions to this ordinance.

Sec. 39-8. - Severability.

If any section, phrase, sentence or portion of this chapter 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.

Public hearing and passage of first reading on 2/6/2017.
Passage of second reading on 2/27/2017 (Councilor Stone absent).