

**SPECIAL TOWN MEETING
MONDAY, MAY 10, 2010
TOWN OF NORWOOD**

ARTICLE 29. To see if the Town will vote to add a new Section to the Norwood General Bylaws, sequentially numbered, as follows, or take any other action in the matter:

SEX OFFENDER RESIDENCY BYLAW

SECTION 1. DEFINITIONS

1. "Park" means public land owned or controlled by a unit of local government, and located within the Town of Norwood, that is designated by the unit of local government for use solely or primarily for children's recreation and Town of Norwood recreational areas including but not limited to, a forest preserve, jogging trail, hiking trail, water park, swimming pool, soccer field or baseball field under the jurisdiction of a unit of local government.
2. "Town Library" means the structure in which the Morrill Memorial Library is located.
3. "School" means any public or private educational facility that provides services to children in grades kindergarten – 12, or any one or more of such grades.
4. "Day Care Center" means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care or its successor.
5. "Elderly Housing Facility" means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one (1) or more members fifty-five (55) years of age or older.
6. "Place of Worship" means a structure used for religious worship or religious education purposes on land owned by, rented by, or held in trust for the use of any religious organization.
7. "Loiter" means remaining in or around town park property for more than fifteen (15) minutes.
8. "Sex Offender" means a person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under M.G.L. c. 123A §14, as in force at the

time of adjudication, or a person released from civil commitment pursuant to section 9 of said c. 123A, whichever last occurs, on or after August 1, 1981.

9. "Sex Offender Registry" means the collected information and data that is received by the Criminal History Systems Board pursuant to Massachusetts General Laws Chapter 6, Sections 178C to 178P, inclusive, as such information and data is modified or amended by the Sex Offender Registry Board or a Court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
10. "Permanent Residence" means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
11. "Temporary Residence" means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (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.
12. "Establishing a Residence" means 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).
13. "Sex Offense Involving a Child" means an indecent assault and battery on a child under the age of 14 under section 13B of Massachusetts General Laws Chapter 265; rape of a child under the age of 16 with force under section 22A of said Chapter 265; rape and abuse of a child under section 23 of said Chapter 265; assault of a child with intent to commit rape under section 24B of said Chapter 265; kidnapping of a child under the age of 16 under section 26 of said Chapter 265; enticing a child under the age of 16 for purposes of committing a crime under section 26C of said Chapter 265; inducing a minor into prostitution under section 4A of Massachusetts General Laws Chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said Chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said Chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said Chapter 272; dissemination of visual material of a child in a statue of nudity or sexual conduct under section 29B of said Chapter 272; unnatural and lascivious acts with a child under the age of 16 under section 35A of said Chapter 272; aggravated rape under section 39 of Massachusetts General Laws Chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of Massachusetts General Laws Chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

SECTION 2. SEX OFFENDER RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS

1. It is unlawful for any sex offender, so long as finally classified as a level 2 or 3 sex offender, pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship.
2. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, town library, day care center, park, elderly housing facility or place of worship.
3. Notice to move. Any sex offender, so long as finally classified as a level 2 or level 3 sex offender, who establishes a permanent residence within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this bylaw, move from said location to a new location, but said location may not be within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of Norwood to another that is within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship.
4. Penalties. Violation of this bylaw, or of any regulations adopted hereunder by the Board of Selectmen, may be enforced through any lawful means in law or in equity by the Board of Selectmen, Town Manager, or their duly authorized agents, or any police officer of the Town of Norwood including, but not limited to, enforcement by non-criminal disposition pursuant to M.G.L. c. 40, § 21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:
 - a. First Offense: Notification to offender that he/she has thirty (30) days to move.
 - b. Subsequent Offense: Non-criminal fine of \$300.00, enforceable by a police officer, and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal ordinance.
5. Exceptions. A person residing within five hundred (500) feet of any school, town library, day care center, park, elderly housing facility or place of worship does not commit a violation of this section if any of the following apply:
 - a. The person established the permanent residence and reported and registered the residence pursuant to M.G.L. c.6, §§ 178C to 178P, inclusive, prior to the effective date of this bylaw. This exception shall also apply to the renewal or extension of a lease or rental agreement for real property in existence prior to the

effective date of this bylaw, whether through written execution or automatic renewal, notwithstanding said renewal or extension occurring subsequent to the effective date of this bylaw.

- b. The person was a minor when he/she committed the offense and was not convicted as an adult.
- c. The person is a minor.
- d. The school, town library, day care center, park, elderly housing facility or place of worship within five hundred (500) 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 Act, M.G.L. c. 6, §§ 178C to 178P.
- e. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility within the Town of Norwood.
- f. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. c. 123 within the Town of Norwood.
- g. The person is a mentally ill person subject to guardianship pursuant to M.G.L. c. 201, § 6 or a mentally retarded person subject to guardianship pursuant to M.G.L. c. 201, § 6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised twenty-four (24) hours a day within the Town of Norwood.

SECTION 3. PROHIBITION

1. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to knowingly be present in any Town park, provided that this subsection shall only apply to those sex offenders who have undergone an individualized risk assessment and have been finally classified by the Commonwealth's Sex Offender Registry Board.
2. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to loiter within three hundred (300) feet of a Town park, provided that this subsection shall only apply to those sex offenders who have undergone an individualized risk assessment and have been finally classified by the Commonwealth's Sex Offender Registry Board.
3. Enforcement. If a police officer has a reasonable suspicion that a sex offender who has been convicted of a sex offense involving a child is in a Town park or loitering within three hundred (300) feet of a Town park, in violation of this bylaw, the officer shall require said sex offender to provide his/her name, address, and telephone number. If it is established that

the individual is a sex offender who has been convicted of a sex offense involving a child, then the officer shall notify said sex offender that he/she is in violation of this bylaw.

4. Non-Criminal Fine. In addition to enforcement by criminal complaint, a violation of this section may also be enforced by a police officer by non-criminal complaint pursuant to the provisions of M.G.L. c. 40 section 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of this section shall be \$300.00. In addition, a violation of this section may be enforced through any other lawful means in law or in equity by the Board of Selectmen, Town Manager, or their duly authorized agents, or any police officer of the Town of Norwood.

If any provision of this bylaw is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. If any provision of this bylaw is in conflict with state law, state law will prevail.