

RESOLUTION #125

A LOCAL LAW TO AMEND CHAPTER 132 OF THE CODE OF THE COUNTY OF PUTNAM (LOCAL LAW #9 OF 2007) ENTITLED "CHILD SAFETY ZONES"

Be it enacted by the Legislature of the County of Putnam as follows:

SECTION 1. Chapter 132 of the Code of the County of Putnam is hereby amended to read as follows:

CHILD SAFETY ZONES

132-1. Legislative Intent and Purpose

A. The Putnam County Legislature finds and determines that due to the recidivism rate among convicted sex offenders, there exists a heightened potential for reoccurrence of their crimes when they reside, have employment or frequent areas where children are likely to regularly congregate, such as public or non-public elementary, middle and high schools, child care facilities, parks, playgrounds, public or private youth center or public swimming pools.

B. The Putnam County Legislature further determines that it is essential for Putnam County to make every effort to protect children from sex offenders who have committed sexual offenses against minors.

C. The Putnam County Legislature further determines that it is in the best interests of the health, safety and welfare of the residents of Putnam County, and particularly its children, to establish residency restrictions and restrictions on location of employment and other activities for sex offenders who have committed sexual offenses against minors.

D. It is the purpose of this local law to prohibit sex offenders from residing, having employment or otherwise enter or remain within one thousand (1,000) feet of areas and facilities that would provide them easy access to potential victims.

132-2. Definitions

A. The term "sex offender" shall have the same meaning as defined in Paragraph 1 of Section 168-a of the Corrections Law.

B. The term childcare facility shall mean a licensed and/or registered nursery, preschool, child day care center, group family day care home, and family day care home as defined by the New York state social services law.

C. The term residence shall mean the place where a person sleeps, which may include more than one location and may be mobile and/or transitory.

D. The term employment shall mean doing work, whether or not for financial gain.

E. The term child safety zone shall mean within one thousand (1,000) feet of the real property comprising a public or private, elementary, middle or high school, child care facility, nature preserve, park, playground, public or private youth center or public swimming pool, public or commercial recreational facility clearly designed to attract children, including but not limited to theaters, bowling alleys, sports fields, exercise or sporting facilities, and additionally, multi-family dwellings (three families or more), apartment buildings, co-ops, condominiums, mobile home (trailer) parks, or other clustered housing developments (ten or more single family homes on less than 1/3 acre). Hotels, motels, and rooming houses shall be exempt from a child safety zone, providing that the owner/manager notifies all patrons of their housing unit(s), in writing, daily; that a sex offender is living on the premises.

F. The term “law enforcement officer having jurisdiction” shall mean: (1) the chief law enforcement officer of a local police department in the village or town in which the sex offender resides or lives; or (2) if there be no local police department in such village or town, the Sheriff of Putnam County. If the primary law enforcement officer having jurisdiction is the chief law enforcement officer of a police department in the village or town in which the sex offender resides or lives, but such officer does not enforce the provisions of this Local Law, then in that event the Sheriff of Putnam County shall be authorized to enforce the provisions hereof.

132-3 Restrictions

- A. A sex offender as herein defined shall not reside within a child safety zone.
- B. A sex offender as herein defined shall not have employment within a child safety zone.
- C. A sex offender as herein defined shall not loiter for purposes of committing any crime within a child safety zone.

132-4 Exceptions

A sex offender as herein defined entering or remaining within a child safety zone does not commit a violation of this local law if any of the following apply:

- A. The sex offender is serving a sentence at a jail, prison, juvenile facility or other correctional institution or facility, or is an inpatient in a hospital, hospice, mental health facility or nursing home. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.
- B. The sex offender has established employment that would otherwise be in violation of this Local law prior to the effective date of this local law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone other than for purposes relating to schooling. In such case, the parent(s)

or legal guardian of the minor contacted must be informed of the contact.

C. The sex offender attends primary, secondary or post-secondary school that would otherwise be in violation of this local law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.

D. The sex offender only intermittently or sporadically enters a child safety zone for the purposes of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.

E. The sex offender shall only be permitted to drive past or through a designated school bus stop and those areas as defined in 132-2 E for the purposes of traveling. Under NO circumstance shall a sex offender be allowed to initiate or maintain contact with any child while driving past or through a designated school bus stop and those areas as defined in 132-2 E.

F. A child safety zone is newly located on or after the effective date of this local law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.

G. The sex offender is a minor or a ward under a guardianship. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.

H. The sex offender enters a child safety zone for the purposes of exercising the right to vote. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that child safety zone.

132-5. Prohibition

Any person who resides or lives in a “Child Safety Zone” as defined in Section 132-2 (E), shall have six months from receipt of written notice of the prohibition set forth herein to move. Failure to move to a location, which is in compliance with this section within that time period, shall constitute a violation of this section.

132-6. NOTICE OF PROHIBITION; FORM OF NOTICE; SERVICE.

A “Notice of Prohibition”, as provided for in Section 132-5, shall be served by registered or certified mail on a sex offender who resides or lives in a Child Safety Zone. Such Notice shall be served by the law enforcement officer having jurisdiction. Such Notice of Prohibition shall be in substantially the following form:

NOTICE TO SEX OFFENDER:

PROHIBITED RESIDENCE WITHIN CHILD SAFETY ZONE

(Name and Address of sex offender)

You are hereby notified that the undersigned, pursuant to Chapter 132 of the Code of the County of Putnam (Local Law #9 of 2007, as amended), has determined that you reside or live within a Child Safety Zone, as that term is defined in Section 132-2 (E) of said

Law, which conduct is prohibited. Specifically, it has been determined that your residence is located within one thousand (1,000) feet of the real property boundary line of _____(Name and Address of school, park, sporting facility ,etc., as the case may be.)

You are hereby notified to remove yourself from the Child Safety Zone within six months from your receipt of this Notice. Your failure to move to a location that is in compliance with Chapter 132 within such six-month period shall constitute a violation of the Law. The first violation of the provisions of Chapter 132 shall be a class B misdemeanor, punishable by a fine of up to \$500 and imprisonment of up to three months in jail. A second or subsequent violation shall be a class A misdemeanor, punishable by a fine of up to \$1,000 and imprisonment of up to one year in jail.

Notice mailed (date)

By: (signature)

(Title and Name of officer)

132-7. Penalties

The first violation of the provisions of this local law shall be a Class B Misdemeanor Punishable by a fine of up to \$500.00 and imprisonment of up to three months in jail. A second or subsequent violation shall be a Class A Misdemeanor, punishable by a fine of up to \$1,000 and imprisonment of up to one year in jail.

132-8. Cessation of Restrictions

The restrictions outlined in section 4 shall cease when the sex offender is no longer required to register and/or verify pursuant to New York state correction law article 6-C, the sex offender registration act.

132-9. Immunity from Liability

A. No official, employee or agency, whether public or private, shall be subject to any civil or criminal liability for damages in connection with the implementation or enforcement of this local law unless it is shown that such official, employee or agency acted with gross negligence or in bad faith.

B. Nothing in this section shall be deemed to impose any civil or criminal liability upon or to give rise to a cause of action against any official, employee or agency whether public or private, for failing to implement or enforce the provisions of this local law unless it is shown that such official, employee or agency acted with gross negligence or in bad faith.

132-10. Severability

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or

unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 2. Effective date.

This local law shall become effective immediately upon the filing of this local law in the office of the New York secretary of state pursuant to section 27 of the municipal home rule law.

BY POLL VOTE: ALL AYES. LEGISLATOR CONKLIN WAS ABSENT.

April 1, 2008