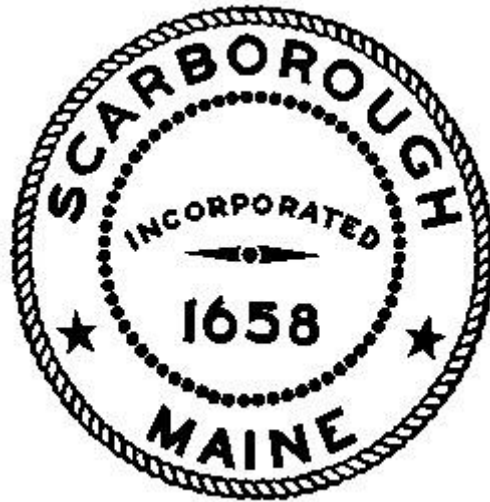


**Chapter 617**

**The Town of Scarborough**

**Sex Offender Residency Restriction Ordinance**



**ADOPTED 09/20/2023**

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**Chapter 617 – Town of Scarborough  
Sex Offender Residency Restriction Ordinance**

**ARTICLE I. TITLE**

This article shall be known as the “Town of Scarborough Sex Offender Residency Restriction Ordinance.”

**ARTICLE II. FINDINGS AND PURPOSE**

The Town promotes and strives to create a safe environment for its citizens to live and raise families in and considers the promotion of safety and welfare of children to be of paramount importance. The Town recognizes that sex offenders who prey upon children may have a high rate of recidivism, and for this reason extra protective measures are beneficial to the community and its children. 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 (SORNA 1999), 34-A M.R.S.A. subsection 11201 et seq., as may be amended periodically, the Town finds that further protective measures are necessary and warranted to safeguard places where children play and congregate. The purpose of this article is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

**ARTICLE III. AUTHORITY**

This article is adopted in accordance with the provisions of 30-A M.R.S.A. subsection 3001 and 30-A M.R.S.A. subsection 3014 as may be amended periodically.

**ARTICLE IV. DEFINITIONS.**

As used in this chapter, the following terms shall have the meanings indicated:

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 purposes of living, residing or dwelling.

Restricted Property:

- A. The real property comprising of a public or private elementary, middle or secondary school; and
- B. 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 regular users.

Setback:

A 750-foot radius surrounding restricted property.

## **ARTICLE V. RESTRICTED PROPERTY MAP; RESTRICTIONS**

- A. The Planning Department, with the assistance of the Police Department, will prepare and file with the Town Clerk and the Police Department an official map showing restricted property (to be called the “Restricted Property Map” – Exhibit A), as defined by this Article. The map is hereby incorporated herein and made part of this article. The Police Department shall, by July 1st of each year, recommend updates of the Restricted Property Map to the Town Council to reflect any changes recommended by the Police Department at public hearing and may thereafter amend the Restricted Property Map by Council Order. The official Restricted Property Map, and all amendments thereafter, shall be filed with the Town Clerk and the Police Department. If the Police Department does not forward or recommend any changes or revisions to the Restricted Property Map, then the existing Restricted Property Map shall remain in effect until the succeeding July 1st.
- B. No designated sex offender shall reside within the setback of any restricted property.
- C. Restricted property list:
- (1) Scarborough High School, 11 Municipal Drive.
  - (2) Scarborough Middle School, 21 Quentin Drive.
  - (3) Wentworth School, 20 Quentin Drive.
  - (4) Blue Point Primary School, 174 Pine Point Road.
  - (5) Eight Corners Primary School, 22 Mussey Road.
  - (6) Pleasant Hill Primary School, 143 Highland Avenue.
  - (7) Community Services – The Hub, 418 Payne Road.
  - (8) Blue Point Park, 241 Pine Point Road.
  - (9) Black Point Park, 160 Black Point Road.
  - (10) Memorial Park, 5 Durant Drive.
  - (11) Peterson Sports Complex, 138 Old Blue Point Road.
  - (12) Springbrook Sports Complex, 11 Longmeadow Road.
  - (13) Willey Sports Complex, 42 Tenney Lane.

## **ARTICLE VI. EXCEPTIONS**

A designated sex offender maintaining a residence with a setback of a restricted property is not in violation of this article if the residence was established and consistently maintained as a residence prior to the date of adoption of this article. A designated sex offender is not in violation of this article 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 residence was in place and consistently maintained prior thereto. The Chief of Police has the discretion to waive the residency requirements.

## **ARTICLE VII. PUBLICATION AND NOTICE**

The Restricted Property Map shall be posted in the Town Planning Department with all Town Zoning Maps, and a copy shall also be posted at the Scarborough Public Safety Building at a place easily visible by the public. The Town shall also post the Restricted Property Map on the Town's official website. The Town may also, at its discretion, mail a copy of the Restrict Property Map to the owners of all rental properties located within the Town of Scarborough so they are also on notice as to the location of all restricted properties.

A. Method of Notification.

For Designated Sex Offenders as defined in this ordinance and further described in the Sex Offender Registration and Violation Acts of 1999 and 2013, who establish residency in the Town of Scarborough, notice will be provided to the community within the stated setbacks of a 750 foot radius to include, but not limited to, electronic communications, door to door notifications and/or notifications via first class mail. Citizens can also receive notifications of new registrants in the Town of Scarborough through the State of Maine Sex Offender Registry website.

For registered sex offenders, who do not meet the definition of a Designated Sex Offender, as described in this ordinance, will be subject to an internal review by the Scarborough Police Department based upon the facts and circumstances of the case and will be subject to the notification process outlined herein, if deemed appropriate by the Chief of Police.

The Police Department will notify employers within the Town of Scarborough who hire Designated Sex Offenders if the business provides services that require frequent contact with children or provide a door to door service to residential neighborhoods.

**ARTICLE VIII. VIOLATIONS AND PENALTIES**

- A. A Designated Sex Offender who, 30 days after actual receipt of written notice sent by regular mail or hand delivered from the Town, acting by and through its Police Department, is in violation of this article and subject to action brought by the Town to enforce requirements of this article. 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.
- B. The Town may also seek a penalty in the minimum amount of \$500.00 per day. Each day of the violation shall constitute a separate action. In the event the Town is the prevailing party in any action under this article, it shall be entitled to an award of its reasonable attorney fees, court costs of any expert witness fees incurred by the Town. All civil penalties shall be inure to the benefit of the Town of Scarborough.

**ARTICLE IX. 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.