

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on July 21, 2015, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 7, sections 26-33, entitled "Sex Offender Residency Restrictions", is being created by adding the underscored language below to the Old Orchard Beach Code of Ordinances:

CHAPTER 7: SEX OFFENDER RESIDENCY RESTRICTIONS

Sec. 7-26. Title.

This Chapter shall be known as the "Town of Old Orchard Beach Sex Offender Residency Restriction Ordinance."

Sec. 7-27. Findings and purpose.

The Town 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 Town 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 Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this ordinance is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

Sec. 7-28. Authority.

This ordinance 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. 7-29. 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.

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. 7-30. Restricted Property map; restrictions.

(a) The Planning Department, with the assistance of the Police Department, shall prepare and file with the Town Clerk and Police Department an official map showing Restricted Property as defined by this ordinance. Said map is hereby incorporated herein and made a part of this ordinance. The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the Town Council to reflect any changes in the locations of any Restricted Property and Setbacks. The Town Council may amend the Restricted Property official map by Council Order, and any amended official map shall be filed with the Town Clerk and the Police Department.

(b) No Designated Sex Offender shall reside within the Setback of any Restricted Property.

Sec. 7-31. Exceptions.

A Designated Sex Offender maintaining a residence within the Setback of a Restricted Property is not in violation of this ordinance if the residence was established and consistently maintained as a residence prior to August 4th, 2015, the date of adoption of this ordinance. A Designated Sex Offender is not in violation of this ordinance 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.

Sec. 7-32. 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 Town, acting by and through its Police Department, is in violation of this ordinance shall be subject to an action brought by the Town to enforce the requirements of this ordinance. 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 violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this ordinance, 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 Town. All civil penalties shall inure to the benefit of the Town of Old Orchard Beach.

Sec. 7-33. 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.

Per Order of the Municipal Officers this 16th day of June, 2015.

A True Copy

Attest:

s/Kim McLaughlin

Kim M. McLaughlin, Town Clerk