

CHAPTER 6  
Child Safety Ordinance  
*Approved at the Board of Aldermen meeting August 4, 2008*  
*Effective August 27, 2008*

**Section:**

- 4301 Authority**
- 4302 Purpose**
- 4303 Definitions**
- 4304 Residency Prohibitions**
- 4305 Sex Offender Presence**
- 4306 Penalties**
- 4307 Severability**

**§ 4301. Authority**

This ordinance is enacted pursuant to the authority granted the city in 24 V.S.A. §2291 to promote public health, safety, welfare and convenience and also pursuant to sections 3-1 and 5-1 of the Revised Charter of the City of Rutland.

**§ 4302. Purpose**

It is the purpose of this ordinance to restrict the residency of sex offenders near schools and recreation facilities, as well as the presence of sex offenders in schools, recreation facilities and licensed day care facilities, which the city hereby defines as a public nuisance being contrary to the safety and welfare of the citizens of the City of Rutland, pursuant to 24 V.S.A. §2291(14).

**§ 4303. Definitions**

For the purpose of this ordinance, the following terms shall have the respective meanings ascribed to them.

(a) "Sex offender" means sex offender as defined in Vermont statute; reflected in 13 V.S.A. § 5401(10)(B).

(b) "School" means a licensed or accredited public, private or religious school that offers instruction in pre-school, including other businesses permitted as a school by the City of Rutland or any of grades K through, and including, 12. This definition shall not include private residences in which students are taught by parents or tutors.

(c) "Recreation facilities" means a park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field or sports facility, including the parking area and land surrounding any of the aforementioned facilities, which is owned by or under the jurisdiction of any department, agency or authority of the City of Rutland.

(d) "Licensed daycare" means any City of Rutland licensed daycare facility registered with the appropriate state agency.

**§ 4304. Residency Prohibitions**

(a) It shall be unlawful for any sex offender to establish a residence or any other living accommodations, permanent or temporary, whose property lines fall within one thousand (1,000) feet of a school, recreation facility or licensed daycare in the City of Rutland. The one thousand (1,000) foot restriction shall be measured from the nearest property line of the school, recreation facility or licensed daycare to the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located.

(b) Established Residents. A sex offender residing within one thousand (1,000) feet of a school, recreation facility or licensed daycare is not in violation if the residency was established prior to the effective date of this ordinance and such residency has been consistently maintained. Changes to property within one thousand (1,000) feet of a sex offender's registered address which moves a school, recreation facility or licensed daycare into the prohibited proximity to the residence of the sex offender which occur after a sex offender establishes residency shall not form the basis for finding a sex offender in violation of Section 4304(a) if the residency has been consistently maintained.

(c) Other Exceptions. This restriction shall not apply to any sex offender incarcerated at the Marble Valley Regional Correctional Facility.

(d) Sex Offender Violation by Current Resident. Those citizens of Rutland already having established residency within one thousand (1,000) feet of a school, recreation facility or licensed daycare who are convicted of a violation making them a sex offender as defined by subsection (a)(1) of this section shall be found in violation of this ordinance.

(e) Notice to Move. Sex offenders in violation of subsection a and/or d of this ordinance shall, within fifteen (15) days of receipt of written notice of the sex offender's noncompliance with this section, move from said location to a new location, but said new location may not be within one (1,000) feet of any school, recreation facility or licensed daycare. The first day following the fifteen day written notice shall be considered the first violation. Following the first violation, every day that the sex offender continues to reside within one thousand (1,000) feet of any school, recreation facility or licensed daycare shall be considered a separate violation.

#### **§ 4305. Sex Offender Presence**

(a) Violations. It shall be unlawful for a sex offender to be present on the property of any school, recreation facility or licensed daycare. If a law enforcement officer reasonably believes that a sex offender is on the property of any school, recreation facility or licensed daycare in violation of this section, the officer shall require the suspected sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a sex offender, then the officer shall issue a written warning that he/she is in violation of this chapter and require the person to leave the school, recreation facility or licensed daycare. Subsequently, if the person refuses to leave or is found at any school, recreation facility or licensed daycare in the City of Rutland in violation of this subsection, the penalties set forth in §4306 shall apply.

(b) Exceptions. A sex offender who enters upon a school, recreation facility or licensed daycare property does not commit a violation of this ordinance if any of the following apply:

- (1) The property also supports a church, synagogue, mosque, temple or other house of religious worship, subject to BOTH of the following conditions:
  - (A) The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and



- (B)The sex offender does not participate in any religious education programs that include individuals under the age of 18.
- (2) The property also supports a use lawfully attended by a sex offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the sex offender as the child's parent upon the property, subject to the following condition:
  - (A)The sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
- (3) The property also supports a polling location in a local, state or federal election subject to all of the following conditions:
  - (A)The sex offender is eligible to vote;
  - (B) The property is the designated polling place for the sex offender; and
  - (C) The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and vacates the property immediately after voting.
- (4) The property also supports a school lawfully attended by the sex offender as a student under which circumstances the sex offender may enter upon the property supporting the school at which the sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.
- (5) The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
  - (A)The sex offender is on the property only to transact business at the government office or place of business or attend an official meeting of a government body; and
  - (B)The sex offender leaves the property immediately upon completion of the business or meeting.

**§ 4306. Penalties**

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. section 1974(a) and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance.

The waiver fee shall be set at:

First offense: \$250.00 waiver fee and notification to offender's parole officer and/or probation officer and the Vermont Department of Corrections, if applicable.

Second and subsequent offenses: Full \$500.00 fine and notification to offender's parole officer and/or probation officer, and the Vermont Department of Corrections, if applicable.

Any law enforcement officer can enforce this section.

§ **4307. Severability**

Each separate provision of this ordinance and any amendments hereto shall be deemed independent of all other provisions herein. If any provision of this Ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.