

# TOWN AND VILLAGE OF SWANTON

## CHILD SAFETY ORDINANCE

### **Section 1. Authority**

This ordinance is enacted pursuant to the authority granted the Town & Village to promote the public safety, health, welfare and convenience contained in 24 V.S.A. § 2291. This ordinance shall be a civil ordinance with the meaning of 24 V.S.A. Chapter 59.

### **Section 2. Definitions**

(a) Definitions. For the purpose of this article, the following terms shall have the respective meanings ascribed to them.

(1) "Sex offender" means sex offender as defined in Vermont statute; reflected in 13 V.S.A. chapter 167, subchapter 3, § 5401 (10).

(2) "School" means a licensed or accredited public or private school or church school that offers instruction in pre-school, including other businesses permitted as a school by the Town and Village of Swanton, 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.

(3) "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 Town and Village of Swanton.

(4) "Licensed daycare" means any Town and Village of Swanton licensed daycare facility registered with the appropriate state agency.

(5) "Third Party" means any Landlord, Homeowner, Lessee, or Government Agency.

### **Section 3. Child Safety**

(a) Residency Prohibitions. 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 or recreation facility in the Town and Village of Swanton. The one thousand (1,000) foot restriction shall be measured from the nearest property line of the school or recreation facility 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 or recreation facility is not in violation if the residency was established prior to the date of passage of this ordinance and 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 or recreation facility 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 11-36 if the residency has been consistently maintained.

(c) Sex Offender Violation by Current Resident. Those citizens of Swanton already having established residency within one thousand (1,000) feet of a school or recreation facility who are convicted of a violation making them a sex offender as defined by subsection (a1) of this section shall be found in violation of this ordinance.

(d) Notice to Move. Sex offenders in violation of subsection b 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 thousand (1,000) feet of any school or recreation facility. 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 or recreation facility shall be considered a separate violation.

(e) Third-Party Violations. It shall be unlawful for a third-party to knowingly allow or aid a sex offender in violating this statute. Third-party violations are subject to the same fines and penalties as outlined in subsection (h).

**(f) Sex Offender Presence.**

(1) 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 police 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 Town and Village of Swanton in violation of this subsection, the penalties set forth in subsection (h) of this section shall apply.

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

(a) The property also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to BOTH of the following conditions:

(1) 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

(2) The sex offender shall not participate in any religious education programs that include individuals under the age of 18.

(b) 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:

(1) 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.

(c) The property also supports a polling location in a local, state, or federal election subject to all of the following conditions:

(1) The sex offender is eligible to vote;

(2) The property is the designated polling place for the sex offender; and

(3) 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.

(d) 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.

(e) The property also supports a court, government office, or room for public governmental meetings, subject to all of the following conditions:

(1) 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

(2) The sex offender leaves the property immediately upon completion of the business or meeting.

**Section 4. Penalties**

(a) Penalties. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. section 1974a 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: \$150.00 waiver fee.

Second and subsequent offenses: \$300.00 waiver fee and notification to offender's parole officer and/or probation officer, and the Vermont Department of Corrections.

**Section 5. Enforcement**

Any law enforcement officer can enforce this section.

Adopted at Swanton, Vermont this 23rd day of SEPTEMBER, A.D. 2008.

SWANTON TOWN SELECTBOARD



Harold R. Garrett



Sharon Holbrook



L. John Lavoie

SWANTON VILLAGE TRUSTEES



Christopher Leach



Armand Messier



Suzanne Washburn

I hereby certify that the foregoing ordinance was posted in five (5) public places in the Town of Swanton on the 24th day of September, A.D. 2008 to wit: Town Clerk's Office, Swanton Village, Inc. Office, Swanton Post Office, Chittenden Bank and Grand Union and was published in the *St. Albans Messenger*, a newspaper having general circulation in the Town of Swanton on the 26th day of September, A.D. 2008 and was recorded in the Ordinance Records of the Town of Swanton on the \_\_\_th day of \_\_\_\_\_, A.D. 2008 and the Ordinance Records of Swanton Village, Inc. on the 20th day of November, A.D. 2008.

ATTEST:



Doris H. Raleigh, Town Clerk



Dianne Day, Village Clerk