

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
 City of Niagara
 Town
 Village

Local Law No. 6 of the year 20 08

A local law "Niagara County Pedophile-Free Child Safety Zone Act".
(Insert Title)

Be it enacted by the Legislature of the
(Name of Legislative Body)

- County
 City of Niagara as follows:
 Town
 Village

SECTION 1. Name of Local Law

This Local Law shall be known as "The Niagara County Pedophile-Free Child Safety Zone Act".

SECTION 2. Legislative Intent and Purpose

A. The Niagara County Legislature finds and determines that due to the recidivism rate among convicted sex offenders following their release from confinement, 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 centers or public swimming pools.

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

C. The Niagara County Legislature further determines that it is in the best interests of the safety, health and welfare of the citizens of Niagara 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.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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

SECTION 3. Definitions

A. A person who has been convicted of a sexual offense against a minor and has received a Level II or III designation as defined under Article 6-C of the New York State Correction Law.

B. The term childcare facility shall mean a licensed and/or registered nursery school, 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 one thousand (1,000) feet from the real property comprising a public or private, elementary, middle or high school, child care facility, park, playground, public or private youth center or public swimming pool.

SECTION 4. 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.

SECTION 5. 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 a residence or 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.
- 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 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.
- 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. 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.
- f. The sex offender is a minor or a ward under a court-ordered guardianship. 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 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.

SECTION 6. 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.

SECTION 7. 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, Sex Offender Registration Act.

SECTION 8. 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 9. Effective Date

This Local Law shall become effective immediately upon the filing with the Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 20 08 of the (County)(City)(Town)(Village) of Niagara was duly passed by the Niagara County Legislature on June 17 20 08, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Mary Jo Tamburlin

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 7-1-08

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Niagara

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]

Signature
Niagara County Attorney

Title

County _____
~~City~~ of Niagara
~~Town~~
~~Village~~

Date: June 2008