

Introduced by: County Administration and Public Safety and Emergency Services Committees
Seconded by:

RESOLUTION ADOPTING LOCAL LAW INTRO. NO. 2 OF 2007, ENTITLED "A LOCAL LAW ADOPTING CHAPTER 170 OF THE BROOME COUNTY CODE IMPOSING MOVEMENT AND RESIDENCY RESTRICTIONS UPON REGISTERED SEX OFFENDERS"

WHEREAS, the Honorable Jerry F. Marinich requests authorization for a Resolution Adopting Local Law Intro. No. 2 of 2007, Entitled "A Local Law Adopting Chapter 170 Of The Broome County Code Imposing Movement And Residency Restrictions Upon Registered Sex Offenders", now, therefore, be it

RESOLVED, that Local Law Intro. No. 2 of 2007, entitled "A Local Law Adopting Chapter 170 of the Broome County Code Imposing Movement and Residency Restrictions Upon Registered Sex Offenders" be and the same is hereby adopted and approved in accordance with the Broome County Charter, The New York State Municipal Home Rule Law and all the applicable statutes and laws pertaining thereto.

Local Law Introduced No. 2 of 2007
"A Local Law Adopting Chapter 170 of the Broome County Code Imposing Movement and
Residency Restrictions Upon Registered Sex Offenders"

BE IT ENACTED by the County Legislature of the County of Broome as follows:

Section 1. Chapter 170 shall be and hereby is added to read as follows:

1. Enacting Clause

The Local Law is enacted pursuant to the New York Municipal Home Rule Law, which enables local governments to adopt local laws relating to their property, affairs, or government, so long as the local laws are not inconsistent with the New York Constitution or any general law of New York State. The New York Municipal Home Law also authorizes local governments to adopt local laws regulating the protection, order, conduct, safety, health and welfare of the persons within the local municipality. It is the intent of the County to adopt a law which is consistent with the Constitution and laws of the State of New York, as well as the Constitution of the United States.

2. Statement of Purpose.

In order to safeguard and protect the health, safety, and welfare of the children of the County of Broome, and in particular to protect the children of the County of Broome from access by convicted sex offenders who may be present in the County, it is hereby declared that the movement and residence of certain convicted sex offenders must be monitored to minimize the possibility of contact between such sex offenders and the children of the County.

3. Definitions.

A. Level Two Sex Offenders. For the purposes of this Local Law, a "Level Two Sex Offender" shall be defined as a person who: (1) is convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of the New York State Penal Law and the victim of the offense was a person under the age of eighteen at the time of the offense; or, is designated as a "level two sexual offender" pursuant to subdivision six of section 168-l of the New York State Correction Law; and (2) by reason of his or her conviction for the offense the person: (i) receives a sentence or probation or conditional discharge on or after September 1, 2005; or (ii) is released on parole or a conditional release pursuant to subdivision 14 of section 259 of the New York State Executive Law on or after September 1, 2005; or (iii) is conditionally released pursuant to section 70.40 of the New York State Penal Law on or after September 1, 2005.

B. School Grounds. For the purposes of this Local Law the term "School Grounds" shall mean: (1) any area in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school; or (2) any area accessible to such school or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such school. For the purposes of this section, an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

C. Facility or Institution Primarily used for the Care or Treatment of Persons under Age of Eighteen. For the purposes of this Local Law, the term "Facility or Institution Primarily Used for the Care or Treatment of Persons under the Age of Eighteen" shall mean: any facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, including but not limited to day care centers licensed, certified or otherwise and sanctioned by the State of New York and/or a political subdivision of the State of New York.

D. Public Park. For the purpose of this Local Law, the term "Public Park" shall mean (1) any park, open to the public and owned by a municipality organized under the State of New York; or (2) any area accessible to such Public Park or any parked automobile or other parked vehicle located within one thousand (1,000) feet of the real property boundary line comprising any such Public Park. For the purposes of this section, an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

4. Prohibited Conduct

Level Two Sex Offenders are hereby prohibited from:

a. Knowingly entering into or upon any School Grounds, any Facility or Institution Primarily Used for the Care of Treatment of Persons under the age of Eighteen, or Public Park, provided however, that if such Level Two Sex Offender is a registered student, participant or employee of such School Grounds, Facility or Institution Primarily Used for the Care or Treatment of Persons under the Age of Eighteen or Public Park, said Level Two Sex Offender may enter upon such facility only if a written authorization of his or her probation officer or the Court and the Superintendent, chief administrator or executive of such School Grounds or Facility or Institution Primarily used for the Care or Treatment of Persons under the Age of Eighteen, or Public Park is obtained for the limited purposes authorized by the probation officer or the court and superintendent, chief administrator or executive of such School Grounds, Facility or Public Park. In addition to the foregoing, such Level Two Sex Offender may also lawfully enter into or upon a School Grounds, Facility or institution Primarily Used for the Care or Treatment of Persons under the Age of Eighteen or Public Park if he or she: (i) has a medical emergency requiring immediate attention at a health care provider; or (ii) has lawful business at a federal, state or local court or governmental agency; or (iii) is traveling on an interstate or New York State maintained roadway within the proximity of a School Grounds, a Facility or Institution Primarily Used for the Care or Treatment of Persons under the Age of Eighteen or Public Park. Nothing in this Local Law shall be construed as restricting any lawful condition of supervision that may be imposed on a sentenced Level Two Sex Offender.

b. Maintaining his or her residence, either permanently or temporarily, within one thousand (1,000) feet of any School Grounds, any Facility or Institution Primarily Used for the Care or Treatment of Persons under the age of Eighteen, or Public Park.

5. Penalties and Remedies

A. Any person who shall violate any provisions of this Local Law, upon conviction shall be guilty of an offense and subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment for a period of not more than six (6) months, or both for a conviction of a first offense; for a conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than five hundred (\$500.00) nor more than seven hundred fifty dollars (\$750.00), or imprisonment for a period of not more than six months, or both; and, upon conviction of a third or subsequent offense all of which were committed with a period of five years, punishable by a fine of not less than seven hundred fifty dollars (\$750.00), nor more than one thousand dollars (\$1,000.00), or imprisonment for a period of not more than six (6) months, or both.

B. For the purposes of Section 4(B) of this Local Law, each period of continual residence for a period in excess of one week shall be considered a separate offense.

C. In addition to the penalties set forth in Section 5(A), the County shall be entitled to obtain appropriate injunctive relief in any Court of competent jurisdiction.

Section 2.

This Local Law shall become effective upon filing with the Secretary of State.