

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 Town Village
(Select one.)

of Owego _____

Local Law No. 2 of the year 2014

A local law Restricting the residency of sex offenders
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Owego _____ as follows:

VILLAGE OF OWEGO LOCAL LAW NO. 2 OF THE YEAR 2014

THE SEX OFFENDER RESIDENCY RESTRICTIONS LAW

Be it enacted by the Board of Trustees of the Village of Owego as follows:

Section 1. Title.

This Chapter shall be known as the "Sex Offender Residency Restrictions Law."

Section 2. Authority and Legislative Intent.

This chapter is hereby adopted and enacted pursuant to Section 10 of 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 Rule Law also authorizes local governments to adopt local laws regulating the protection, order, conduct, safety, health and well-being of persons within the local municipality. This chapter is also adopted and enacted pursuant to Section 4-412 of the New York State Village Law and Article IX of the New York State Constitution. It is the intent of the Village of Owego 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.

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

Section 3. Purpose.

The Village Board finds that level two and level three sex offenders pose a significant threat to the health and safety of the community, especially children whose age and inexperience make them particularly vulnerable. In order to safeguard and protect the health, safety and welfare of the children of the Village of Owego, it is hereby declared that the residence of certain convicted sex offenders must be restricted to help minimize the possibility of contact between such sex offenders and the children of the Village of Owego.

Section 4. Definitions.

CHILD DAYCARE CENTER: Any licensed establishment where a child or children are cared for on a regular basis and such service is provided away from the child's residence for less than twenty-four hours per day by someone other than the parent, step-parent, guardian, or a relative of the child, whether public, private or parochial, and whether or not such service is provided for compensation of any kind. Daycare centers shall include licensed after-school programs and daycare programs. For the purpose of this chapter, the term "Child Daycare Center" shall not apply to services provided in a private dwelling, unless such dwelling is duly licensed by the appropriate agency to provide such service.

COMMUNITY CENTER a building, including attached structures and grounds, open to the public that is established and primarily used as a gathering place for a variety of social, educational enrichment, and community service activities, including but not limited to domestic violence shelters.

LEVEL THREE SEX OFFENDER: A person who is designated as a Level Three Sex Offender pursuant to Subdivision 6 of Section 168-1 of the New York State Correction Law.

LEVEL TWO SEX OFFENDER: A person who is designated as a Level Two Sex Offender pursuant to Subdivision 6 of Section 168-1 of the New York State Correction Law.

LIBRARY: a structure and associated grounds, whether publically or privately owned, which is primarily used for the keeping of literary, musical, artistic, or reference materials, such as books, manuscripts, recordings, computers, or films, for use but not for sale.

PARK: Any active and passive public land designated for recreational or athletic activities by the Village of Owego, County of Tioga, State of New York, the United States of America or other governmental subdivision, and located within the Village of Owego.

PLACE OF WORSHIP: a room, set of rooms, or building established and primarily used by a congregation, society, or other assemblage of persons who are accustomed to stately meet for divine worship or other religious observances.

PLAYGROUND: an improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, internal pathways, internal land forms, vegetation, and related structures, but shall not include playgrounds or playground equipment constructed upon one, two and three-family residential real property

RESIDENCY: a place where a person regularly sleeps, which may include more than one location, and may be mobile or transitory.

SCHOOL: Any portion of private or public land, buildings or structures utilized primarily for public or private education, as defined by the New York State Department of Education and/or the New York State Education Law, and includes but is not limited to, pre-schools, kindergartens and nursery schools, elementary, primary, intermediate, junior high, middle and secondary schools, high schools, vocational, and special education schools.

Section 5. Prohibited Conduct.

- A. It shall be unlawful for any Level Two Sex Offender or Level Three Sex Offender to establish Residency in the Village of Owego within one thousand (1,000) feet of the property line of any Child Daycare Center, Community Center, Library, Place of Worship, Park, Playground or School.
- B. It shall be unlawful for any property owner or person, corporation, organization or other entity in charge of property, to knowingly or recklessly rent, lease, or sublease property for Residency to a Level Two Sex Offender or Level Three Sex Offender, or otherwise permit or allow such Level Two Sex Offender or Level Three Sex Offender to establish Residency at his or her property, if the property is in the Village of Owego and within one thousand (1,000) feet of the property line of any Child Daycare Center, Community Center, Library, Place of Worship, Park, Playground or School. For purposes of this subsection, renting, leasing or subleasing property, or otherwise allowing Residency, to a Level Two Sex Offender or Level Three Sex Offender who is on the New York State Division of Criminal Justice Public Registry of Sex Offenders shall constitute a rebuttable presumption of knowing or reckless conduct.

Section 6. Exemptions.

- A. The Residency restrictions set forth in Section 5 of this chapter shall not apply to Level Two Sex Offenders and Level Three Sex Offenders who have established Residency prior to the effective date of this law.
- B. The Residency restrictions set forth in Section 5 of this chapter shall not apply if the Child Daycare Center, Community Center, Library, Place of Worship, Park, Playground or School is newly located and the Level Two Sex Offender or Level Three Sex Offender has already established Residency which would, by virtue of the location of the new facility, be prohibited by this chapter.
- C. Notwithstanding subsections A and B of this Section, the renewal or extension of any lease, sublease or other contract, or the purchase of previously rented property, shall be considered the establishment of a new Residency and the exemptions set forth in those subsections shall not apply. Upon said establishment of new Residency, the Chief of Police shall provide written notice to the Level Two Sex Offender or Level Three Sex Offender, and to the property owner, to permanently discontinue said Residency within thirty (30) days. The notice shall be mailed, by certified or registered mail return receipt requested, and

by regular mail. Proof that the Level Two Sex Offender or Level Three Sex Offender has permanently discontinued said Residency shall be submitted by the Level Two Sex Offender or Level Three Sex Offender, and by the property owner, to the Chief of Police within sixty (60) days of said notice.

- D. In no event shall the Residency restrictions set forth in Section 5 of this chapter be enforceable if they are in direct conflict with any Order of a Court of competent jurisdiction, including any restriction established by parole, probation or conditional discharge.

Section 7. Penalty and Enforcement.

- A. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a violation and subject to a fine of not less than \$250 or imprisonment for a period of 15 days, or both. Each day such violation continues shall constitute a separate offense.
- B. In addition to the penalties set forth in subsection 7.A., the Village may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of the provisions of this chapter.
- C. Village police officers, or any legally authorized representative(s) of the Village, as well as any federal, state or county law enforcement officer, are authorized to enforce this chapter, and are authorized to issue appearance tickets for violations of the same.

Section 8. Separability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 9. Remainder

Except as hereinabove amended, the remainder of the Code of the Village of Owego shall remain in full force and effect.

Section 10. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with 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. 2 of 2014 of the ~~County~~(City)(Town)(Village) of Owego was duly passed by the Board of Trustees on August 18 2014, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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.)

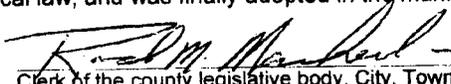
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 _____ above.



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

Date: Augst 18, 2014

(Seal)

