

Chapter 167

SEX OFFENDERS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton 11-25-2008 STM by Art. 3. Amendments noted where applicable.]

§ 167-1. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CAMP — Any facility or operation falling within the definition of "recreational camp for children" set forth in 105 CMR 430.020, including but not limited to any such which promotes or advertises itself as a camp, and, without limiting the foregoing, shall also include real estate used by or for, or advertised as, so-called Nature's Classroom (including the Hill Top Conference Center and the Prindle Pond Conference Center), Joslin Diabetes Camp, Bement Camp and Conference Center, Camp Foskett of the YMCA, presently on Daniels Road, the Capen Hill Nature Sanctuary located off Route 20, and the Holy Virgin Mary Spiritual Vineyard, presently located at 74 Gould Road, all in Charlton, regardless of whether operated seasonally or year-round. [Added 5-2-2009 ATM by Art. 25]

DAY-CARE CENTER — An establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

ELDERLY HOUSING FACILITY — A building or buildings on the same lot containing four (4) or more dwelling units restricted to occupancy by households having one (1) or more members fifty-five (55) years of age or older.

ESTABLISHING A RESIDENCE — To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one (1) location, and may be mobile or transitory, or the establishment of a such a dwelling place or abode by means of purchasing real property or entering into a lease or rental or occupancy agreement for real property. [Amended 5-2-2009 ATM by Art. 25]

PARK — Public land designated for active or passive recreational or athletic use by the Town of Charlton, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Charlton.

PERMANENT RESIDENCE — A place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.

PRIVATELY OWNED PARK/TRUST — Any park or trust land that is not publicly owned and is designated for passive or active recreation use. (Listing available at the Town Clerk's office or the Police Station.) [Added 5-2-2009 ATM by Art. 25]

PUBLIC LIBRARY — The Charlton public library, including any branch thereof. [Added 5-2-2009 ATM by Art. 25]

SCHOOL — Any public or private educational facility that provides services to children in grades kindergarten through 12, or any one (1) or more of such grades.

SEX OFFENDER — A person who resides in, works in, or attends an institution of higher learning located in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense, or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication, or a person who has been adjudicated a sexually dangerous person under MGL c. 123A, § 14, as in force at the time of adjudication, or a person released from civil commitment pursuant to MGL c. 123A, § 9, whichever last occurs, on or after August 1, 1981.

SEX OFFENDER REGISTRY — The collected information and data that is received by the Criminal History Systems Board pursuant to MGL c. 6, §§ 178C to 178P, inclusive, as such information and data is modified or amended by the Sex Offender Registry Board or a court of competent jurisdiction pursuant to said MGL c. 6, §§ 178C to 178P, inclusive.

§ 167-2. Residency restrictions.

It is unlawful for any sex offender who is finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Massachusetts Sex Offender Registry Board, so long as so classified, to establish a permanent residence within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library.

§ 167-3. Notice to move. [Amended 5-2-2009 ATM by Art. 25]

Any Level 2 or level 3 sex offender finally classified as such by the Sex Offender Registry Board, so long as so classified, who establishes a permanent residence within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library shall be in violation of this bylaw and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this bylaw, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. Furthermore, it shall be a separate violation each day that a sex offender shall move from one (1) location in the Town of Charlton to another that is within one thousand (1,000) feet of

any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library.

§ 167-4. Violations and penalties.

Violation of this bylaw may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of Charlton, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

- A. First offense: notification to offender that he/she has thirty (30) days to move.
- B. Subsequent offense: noncriminal fine of three hundred dollars (\$300) and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal bylaw.

§ 167-5. Exceptions. [Amended 5-2-2009 ATM by Art. 25]

A person residing within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library does not commit a violation of this bylaw if any of the following apply:

- A. The person established the permanent residence and reported and registered the residence, in accordance with the regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this bylaw.
- B. The person was a minor when he/she committed the offense and was not convicted as an adult and who has not been classified or is no longer classified as a Level 2 or 3 sex offender.
- C. The person is a minor.
- D. The school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library within one thousand (1,000) feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence in accordance with the regulations of the Massachusetts Sex Offender Registry Board.
- E. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located in Charlton and within the aforementioned one-thousand-foot distance.
- F. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to MGL c. 123 located in Charlton and within the aforementioned one-thousand-foot distance.

- G. The person is a mentally ill person subject to guardianship pursuant to MGL c. 201, § 6,¹ or a mentally retarded person subject to guardianship pursuant to MGL c. 201 § 6A, residing with his/her guardian or residing within a facility or group residence licensed by the commonwealth that is professionally staffed and supervised twenty-four (24) hours a day and located in Charlton and within the aforementioned one-thousand-foot distance.

§ 167-6. Forfeiture of exceptions. [Added 5-2-2009 ATM by Art. 25]

If, either after the effective date of this bylaw or after a new school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library opens, a conviction is issued by a court against a sex offender falling within the provisions of § 167-2 of this bylaw but otherwise enjoying an exception set forth in Subsection A, B or D of § 167-5 above, that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this bylaw.

¹. Editor's Note: MGL c. 201, Guardians and Conservators, was repealed by St. 2008, c. 521, Sec. 21.