

## **Chapter 107**

### **SEX OFFENDERS**

**[HISTORY: Adopted by the Town Board of the Town of Conklin as indicated in article histories. Amendments noted where applicable.]**

#### **ARTICLE I**

##### **Restrictions on Movement**

**[Adopted 2-14-2006 by L.L. No. 1-2006]**

##### **§ 107-1. Title.**

This article shall be known as the "Law Regulating the Movement of Certain Convicted Sex Offenders in Certain Sections of the Town of Conklin."

##### **§ 107-2. Statutory authority.**

This article is hereby adopted and enacted pursuant to the authority conferred by the New York State 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 State Constitution or any general law of New York State. The New York State Municipal Home Rule 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. This article is adopted in recognition of the recently enacted Chapter 544 of the Laws (of the State of New York) of 2005, which prohibits certain sex offenders placed on conditional release or parole or probation from entering upon school grounds or other facilities where children are cared for. The Town of Conklin Town Board has determined that this article is not inconsistent with said Chapter 544 of the Laws of 2005.

##### **§ 107-3. Purpose.**

In order to safeguard and protect the health, safety and welfare of the children of the Town of Conklin, and in particular to protect the children of the Town of Conklin from access by convicted sex offenders who may be present in the Town, it is hereby declared that the movement of certain convicted sex offenders must be regulated, consistent with recently enacted state law, particularly in the areas of school grounds and facilities where children are cared for.

##### **§ 107-4. Definitions**

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

**FACILITY OR INSTITUTION PRIMARILY USED FOR THE CARE OR TREATMENT OF PERSONS UNDER THE AGE OF 18** — Any facility or institution primarily used for the care or treatment of persons under the age of 18 while one or more of such persons under the age of 18 are present, including but not limited to day-care centers licensed, certified or otherwise

sanctioned by the State of New York and/or a political subdivision of the State of New York.

**LEVEL TWO SEX OFFENDERS** — A person who:

- A. Is convicted of an offense defined in Article 130, 235 or 263 of the New York State Penal Law and the victim of the offense was a person under the age of 18 at the time of the offense, or is designated as a Level Two sex offender pursuant to Subdivision 6 of § 168-1 of the New York State Correction Law; and
- B. By reason of his or her conviction for the offense, the person:
  - (1) Receives a sentence of probation or conditional discharge on or after September 1, 2005; or
  - (2) Is released on parole or a conditional release pursuant to Subdivision 1 or 2 or Subdivision 14 of § 259-c of the New York State Executive Law on or after September 1, 2005; or
  - (3) Is conditionally released pursuant to § 70.40 of the New York State Penal Law on or after September 1, 2005.

**SCHOOL GROUNDS** — 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 any area accessible to the public located within 1,000 feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within 1,000 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.

**§ 107-5. Prohibited conduct; construal of provisions.**

- A. Level Two sex offenders are hereby prohibited from knowingly entering into or upon any school grounds or any facility or institution primarily used for the care or treatment of persons under the age of 18; provided, however, that if such Level Two sex offender is a registered student or participant or an employee of such school grounds or facility or institution primarily used for the care or treatment of persons under the age of 18, or an entity contracting therewith, or has a family member enrolled in such school grounds or facility or institution primarily used for the care or treatment of persons under the age of 18, 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 or chief administrator of such school grounds or facility or institution primarily used for the care or treatment of persons under the age of 18 is obtained and for the limited purposes authorized by the probation officer or the court and superintendent or chief officer of such school grounds or facility. In addition to the foregoing, such Level Two sex offender may also lawfully enter into or upon a school grounds or facility or institution primarily used for the care or treatment of persons under the age of 18 if he or she:
  - (1) Has a medical emergency requiring immediate attention at a health-care provider; or
  - (2) Has lawful business at a federal, state or local court or governmental agency; or

- (3) Is traveling on an interstate or New-York-State-maintained roadway within the proximity of a school grounds or a facility or institution primarily used for the care or treatment of persons under the age of 18.
- B. Nothing in this article shall be construed as restricting any lawful condition of supervision that may be imposed on a sentenced Level Two sex offender.

**§ 107-6. Penalties for offenses.**

Any person who shall violate any provisions of this article, upon conviction, shall be guilty of an offense and subject to a fine of not more than \$500 nor less than \$100 or imprisonment for a period of not more than six 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 \$500 nor more than \$750 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 within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period of not more than six months, or both. Each week's continued violation shall be deemed a separate, additional violation. In addition, the Town of Conklin shall have such other remedies as are provided by law to restrain, correct or abate any violation of this article.