LOCAL LAW NO. 3 OF 2007
COUNTY OF OTSEGO, NEW YORK

A LOCAL LAW ESTABLISHING “CHILD SAFETY ZONES”
IN OTSEGO COUNTY

BE IT ENACTED by the Board of Representatives of the County of Otsego as follows:

SECTION 1. LEGISLATIVE INTENT AND PURPOSE

A. The Otsego County Board of Representatives 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 center or public swimming pools.

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

C. The Otsego County Board of Representatives further determines that it is in the best interests of the health, safety and welfare of the residents of Otsego 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.

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

SECTION 2. DEFINITIONS

A. For purposes of this local law, the term sex offender shall mean a person who has been convicted of a sexual offense as defined in paragraph 1 of section 168-a of the New York State Corrections Law, and has been designated a Level 2 or Level 3 Sex Offender by the New York State Division of Criminal Justice Services.

B. The term childcare facility shall mean a licensed and/or registered nursery, 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 within one thousand (1,000) feet of the real property comprising a public or private, elementary, middle or high school, designated school bus stop, child care facility or licensed day care provider home, playground, public or private youth center or public swimming pool, and public or commercial recreational facility clearly designed to attract children.

F. The Sex Offender Management Committee shall mean that committee designated by the Board of Representatives having jurisdiction over the administration of the provisions herein, and shall consist of the District Attorney, Director of Probation, Commissioner of the Department of Social Services, Director of Community Services, the County Attorney, Chairs of the Human Services and Public Safety and Legal Affairs Committees, and such other professional and administrative personnel as the Board may hereafter deem necessary or advisable.

SECTION 3. 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 4. EXCEPTIONS

A sex offender as herein defined entering or remaining within a child safety zone does not commit a violation of this 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 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 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.

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.

D. The sex offender only intermittently or sporadically enters a child safety zone for the purpose of work. However, this exception does not apply to an individual who initiates and 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 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 purpose of exercising the right to vote. However, this exception does not apply to an individual who initiates or maintains contact with a minor in that child safety zone.

H. The sex offender has applied for and has received a waiver, in whole or in part, from the restrictions contained herein from the Sex Offender Management Committee.

SECTION 5. PROHIBITION

Any person who resides or lives in a “Child Safety Zone” as defined in Section 2 (E.), shall have six months from receipt of written notice of the prohibition set forth herein to move. Failure to move location, which is in compliance with this section within that time period, shall constitute a violation of this section.

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 (3) months in jail.
A second or subsequent violation shall be a Class A Misdemeanor, punishable by a fine of up to $1,000.00 and imprisonment of up to one (1) year in jail.

SECTION 7. CESSATION OF RESTRICTIONS

The restrictions outlined in Section 3 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, The 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 of this local law in the office of the New York Secretary of State.
RESOLUTION NO. 209–2007

RESOLUTION - ADOPTING A LOCAL LAW FOR THE YEAR 2007
(A LOCAL LAW ESTABLISHING "CHILD SAFETY ZONES" IN
OTSEGO COUNTY)

ROTHENBERGER, LAGUNA, MCCARTY

WHEREAS, there was duly presented to the Board of Representatives of the County of Otsego at a regular meeting duly held in the Meeting Room of the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on July 5, 2007 a local law for the year 2007 entitled "A Local Law Establishing "Child Safety Zones" In Otsego County"; and

WHEREAS, a public hearing was duly held on the proposed Local Law at the Meeting Room for the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on the 18th day of July, 2007 at 7:30 p.m., at which time all interested persons were heard; now, therefore, be it

RESOLVED, that a local law of the County of Otsego for the year 2007, as above set forth, be and the same is hereby adopted.

STATE OF NEW YORK : SS
COUNTY OF OTSEGO :

I, Laura A. Child, Clerk of the Board of Representatives of Otsego County, New York, DO HEREBY CERTIFY that I have compared the foregoing copy of resolution with the original resolution on file in my office and that the same is a true and complete copy thereof as duly adopted by said Board of Representatives while in session on the 18th day of July, 2007.

WITNESS my hand and the official seal of the Board of Representatives of Otsego County, New York, this 19th day of July, 2007.

(SEAL)

(Signature)
Clerk, Board of Representatives
Otsego County, New York