

Sex Offender Premises Restrictions

Jamie Markham

Associate Professor of Public Law &
Government

September 2016

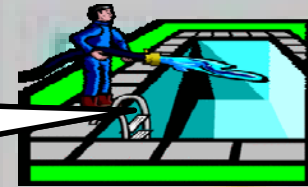


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Pool



Church

Chick-Fil-A



Library



School

Park

Playground



**Children's
Museum**



Sex Offender Restrictions

- Residence restriction
- Premises restrictions
- Other possible restrictions

Sex Offender Restrictions

- **Residence restriction**
- Premises restrictions
- Other possible restrictions

Residence restriction

- Class G felony for registrant to reside within 1,000 feet of a “school” or “child care center”

Residence restriction

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- Exceptions:
 - Change in use of property after registrant established residence
 - Residence established before 8/16/2006

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 - Residence established before 8/16/2006

Residence restriction

- School:
 - Public or nonpublic
 - Does not include home schools or institutions of higher education

Residence restriction

- Child care center
 - As defined by G.S. 110-86(3): “Where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving *child care*”
 - *Child care* excludes, among other things:
 - Certain in-home arrangements
 - Drop-in and short-term care at gyms, churches, etc.
 - Vacation bible school

Residence restriction

- 1,000 feet
 - Property line to property line, as the crow flies

Sex Offender Restrictions

- Residence restriction
- **Premises restrictions**
- Other possible restrictions

Original Version (2008)

Premises restrictions

Certain registrants cannot “knowingly be”:

- On premises of place intended primarily for use, care, or supervision of minors
- Within 300 ft of locations intended primarily for use, care, or supervision of minors, when located on premises not intended for such use
- Any place where minors gather for regularly scheduled educational, recreational, or social programs

On the premises of any place intended primarily for use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.



Within 300 ft of locations intended primarily for use, care, or supervision of minors, when located on premises not intended for such use, including places described in subdivision (1) that are located in malls, shopping centers, or other property open to public



**Any place where minors gather for
regularly scheduled educational,
recreational, or social programs**



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Premises restrictions:

Applicability

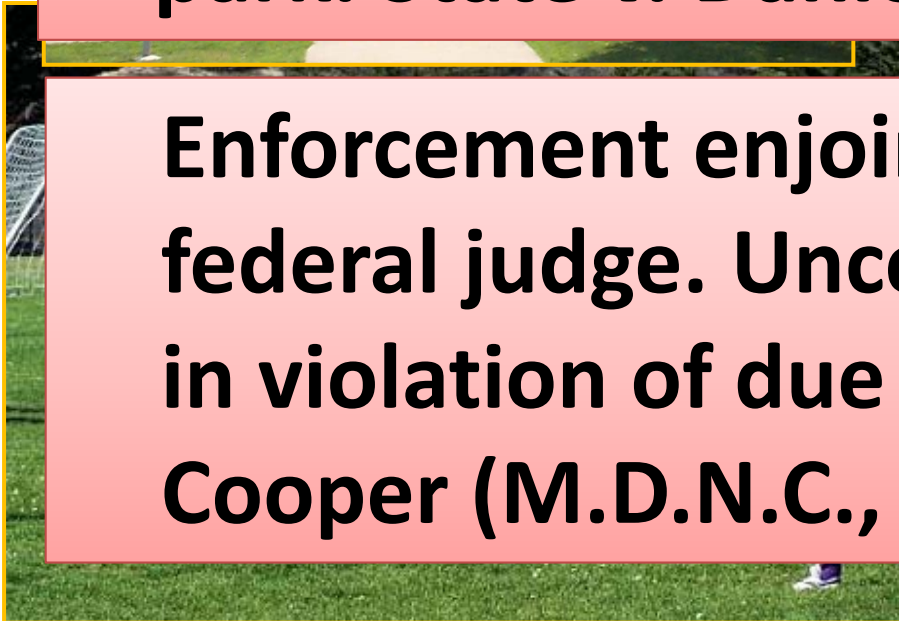
- **Any offense in Article 7B of Ch. 14 (or substantially similar)**
 - Rape
 - Sexual offense
 - Sexual activity with a student
 - Sexual battery
- **Offense with victim under age 16**
 - Indecent liberties with a child
 - Child abuse (sexual act)

Any place where minors gather for regularly scheduled educational, recreational, or social programs

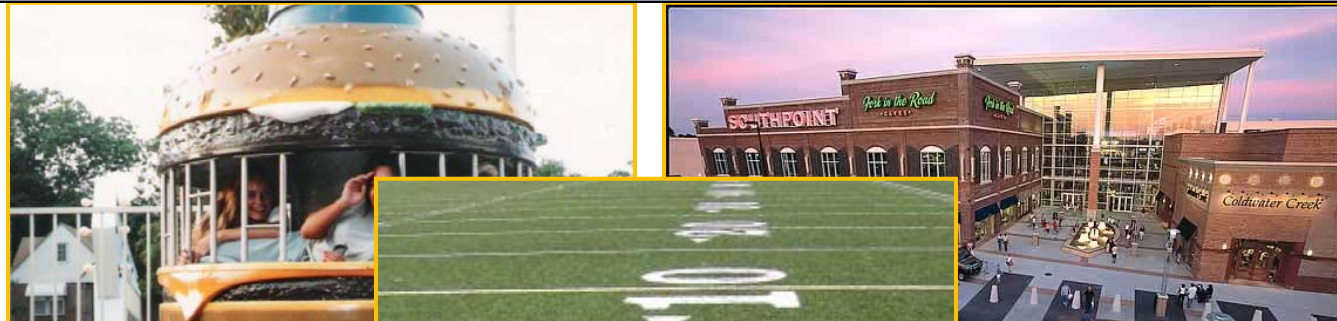


Deemed “unconstitutionally vague” as applied to defendant visiting a public park. State v. Daniels (2012).

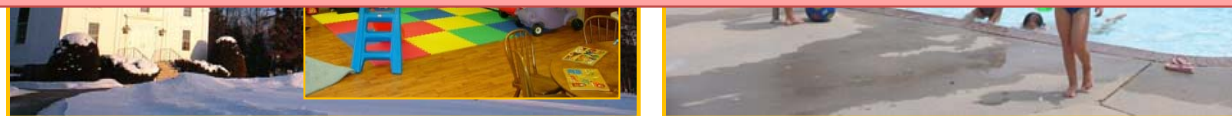
Enforcement enjoined statewide by federal judge. Unconstitutionally vague in violation of due process. Does v. Cooper (M.D.N.C., Dec. 2015)



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Enforcement enjoined statewide by federal judge. Unconstitutionally overbroad under First Amendment. Does v. Cooper (M.D.N.C., Apr. 2015)



North Carolina Criminal Law

A UNC School of Government Blog

Federal Judge Enjoins 300-Foot Rule for Sex Offenders

Posted on Apr. 28, 2016, 3:24 pm by [Jamie Markham](#) • [2 comments](#)



The North Carolina law making it a felony for some sex offenders to go within 300 feet of certain locations intended for children is unconstitutionally overbroad under the First Amendment. Last week, a federal judge permanently enjoined all North Carolina district attorneys from enforcing the law.

Today's post picks up where [this prior post](#) left off. It is the latest chapter in Doe v. Cooper. Sex offenders filed suit challenging the 300-foot restrictions of

Recall that there are three types of places certain registered sex offenders may not go under G.S. 14-208.18. They are set out in subdivisions (a)(1), (a)(2), and (a)(3) of that section:

(a)(1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's

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Revised Version (2016)

North Carolina Criminal Law

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Sex Offender Premises Restrictions Revised in Response to *Doe v. Cooper*



Posted on [Jul. 28, 2016, 3:18 pm](#) by [Jamie Markham](#) • [7 comments](#)



The General Assembly amended G.S. 14-208.18, the law that makes it a Class H felony for certain registered sex offenders to go certain places. The changes are a response to *Doe v. Cooper*, a federal case in which the trial judge enjoined every district attorney in the state from enforcing the parts of the law he found to be unconstitutional. Today's post takes a look at the revised law.

As a reminder, the prior version of G.S. 14-208.18 set out three types of places that certain registered sex offenders may not go. Those types of places were described in three statutory subdivisions, (a)(1), (a)(2), and (a)(3), which said that covered offenders could not knowingly be:

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-102
HOUSE BILL 1021**

AN ACT TO AMEND THE LAW REGARDING SEX OFFENDERS ON
PREMISES TO ADDRESS THE RULING IN *DOE V. COOPER*.

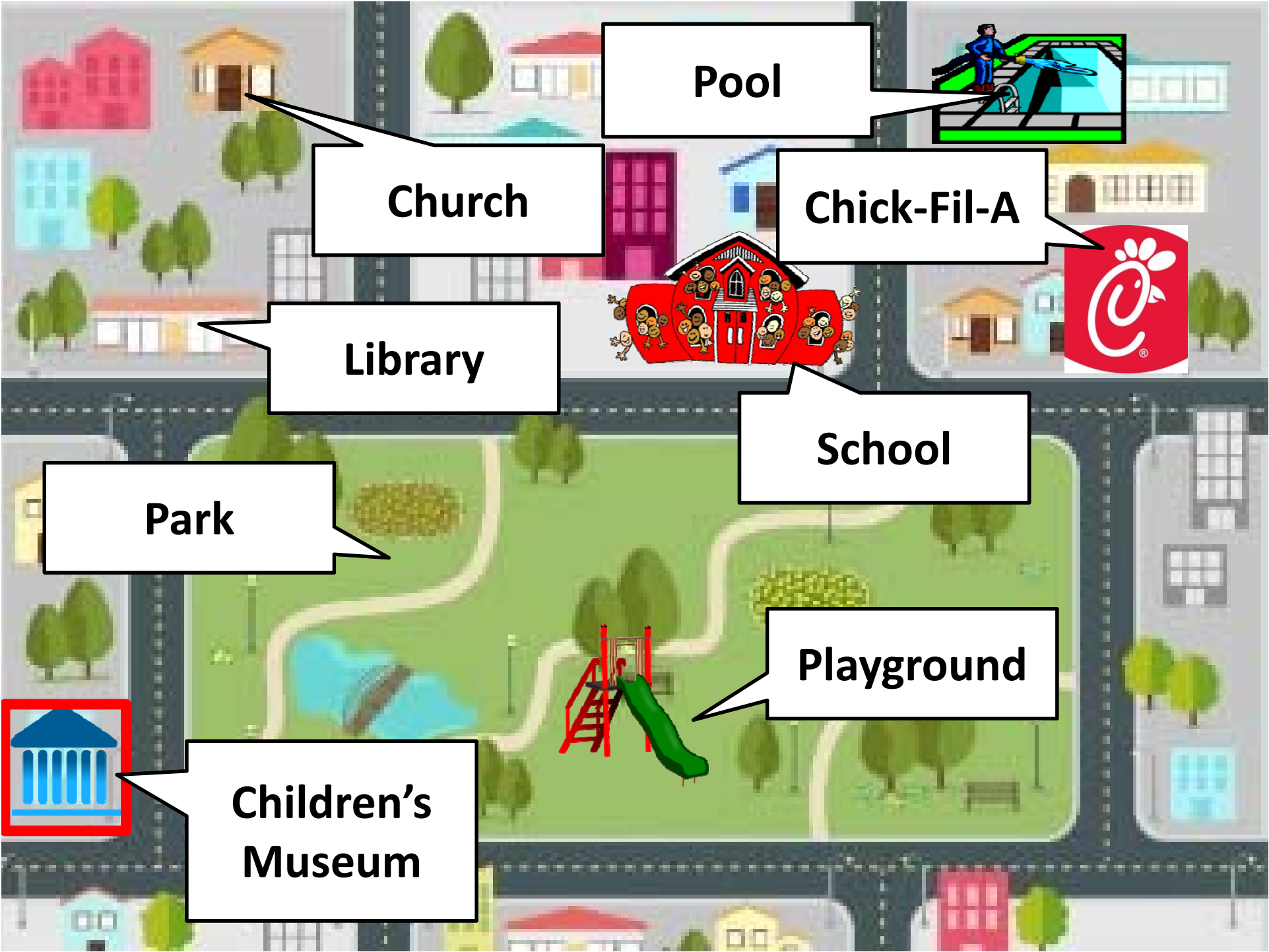
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- On the State Fairgrounds, or other fairgrounds, during the period of time each year that the fair is conducted

Premises restrictions: Revised applicability

- Any offense in Article 7B of Ch. 14 (or substantially similar)
 - 300-foot rule applies to offenders in this category only if “a finding has been made in any criminal or civil proceeding that the person presents . . . a danger to minors under the age of 18.”
- Offense with victim under age ~~16~~ 18



Pool

Church

Chick-Fil-A

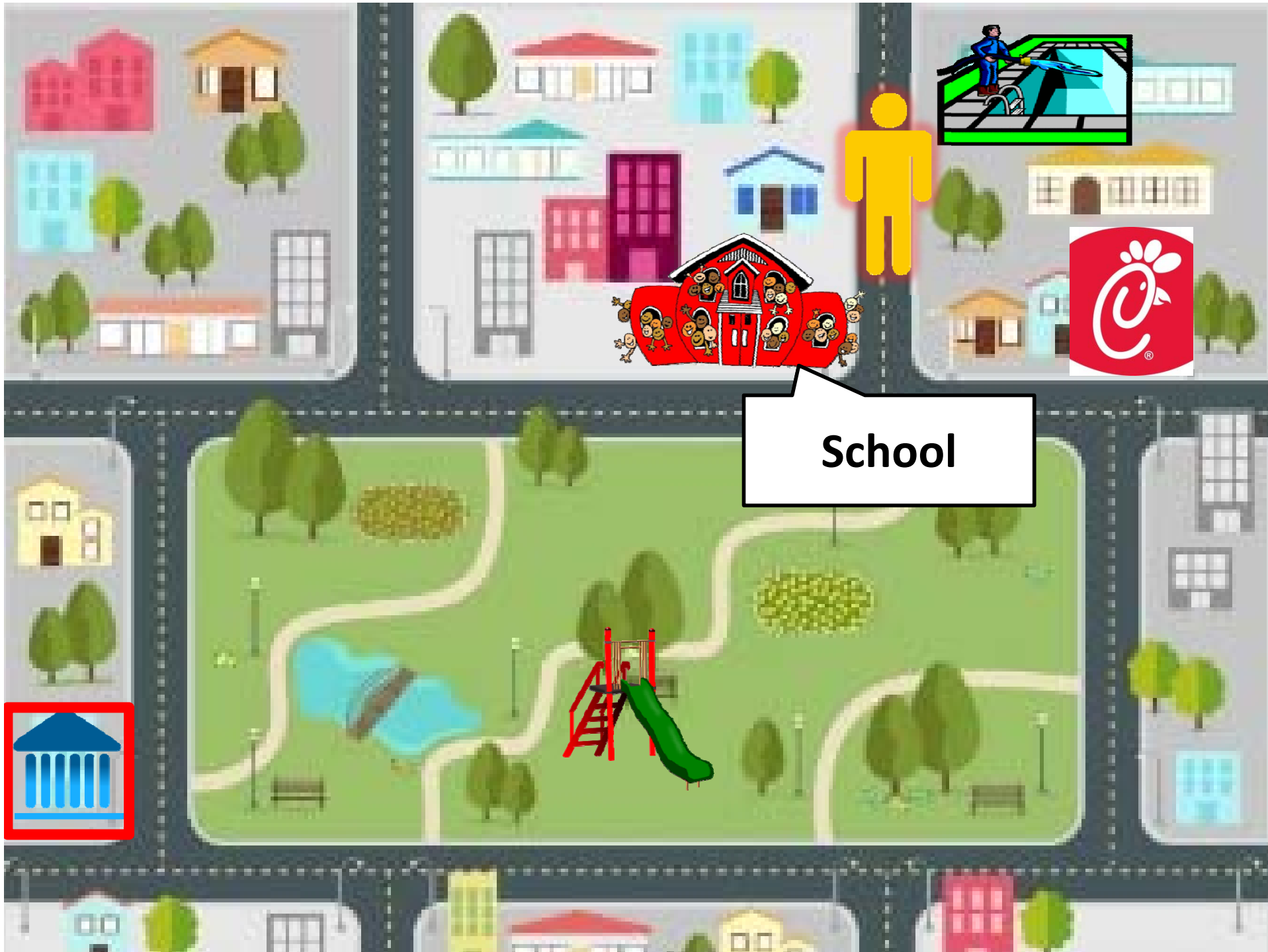
Library

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Children's
Museum



School

Premises restrictions

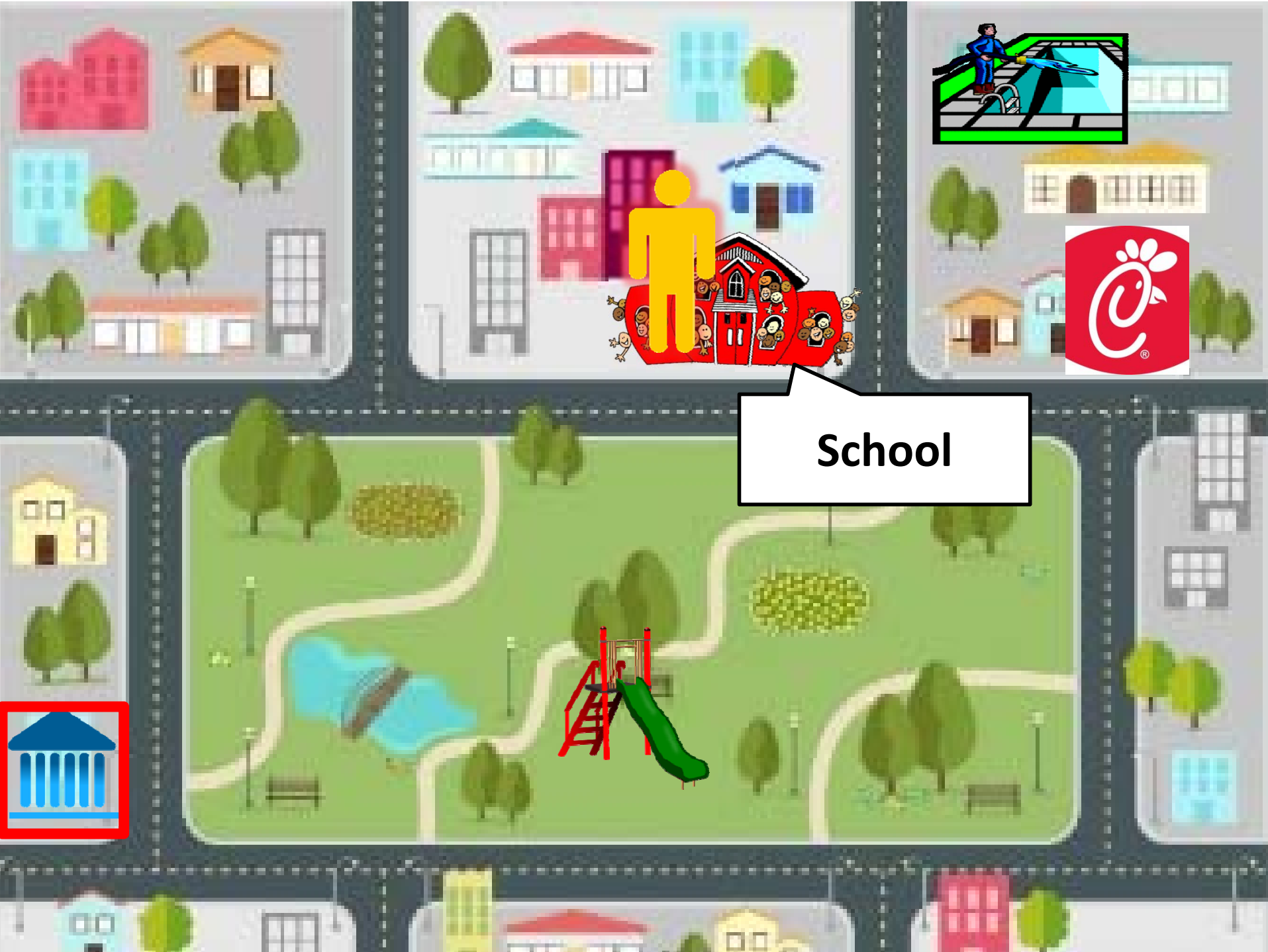
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FIND OFFENDERS NEAR YOU BY ADDRESS

This search allows you to find offenders near your location. Enter a North Carolina address to start mapping offenders.

Street:
City:
State:
Zip:

OFFENDER SEARCH

This search allows you to find offenders by using any of the categories below. You must enter information in at least one category.

First Name:
Last Name:
Age:
Zip Code:
City:
County:
Status:

☐ Include Alias Names
☐ Include Incarcerated Offenders

FIND OFFENDERS BY LATITUDE/LONGITUDE

This search allows you to find offenders by latitude and longitude. It may be useful in areas that may not have a physical address. The center point of Raleigh is provided as an example.

Latitude:
Longitude:



Offense 2

Offense Date:	01/06/2012	County:	ORANGE
Conviction Date:	08-07-2012	Release Date:	07-10-2015
Probation:	None	Confinement:	2Y1M
Statute:	14-202.1		
Description:	INDECENT LIBERTY MINOR		

Minimum Registration Period: LIFETIME

Offender Information

Alias Names: BURGESS,PAUL
BURGESS,PAUL D
BURGESS,PAUL DAVID JR
BURGESS,PAUL DAVID JR JR
BURGESS,PAUL JR

Scars, Marks, Tattoos: PRCD L EAR PIERCED X 2
SC L ARM 3 ACCIDENT
SC R ARM 2 ACCIDENT
TAT BACK 3 4 ACCIDENT 2 SURGERY
TAT BACK MIDDLE OF BACK TRIBAL W SWORD
TAT BACK TRIBLE

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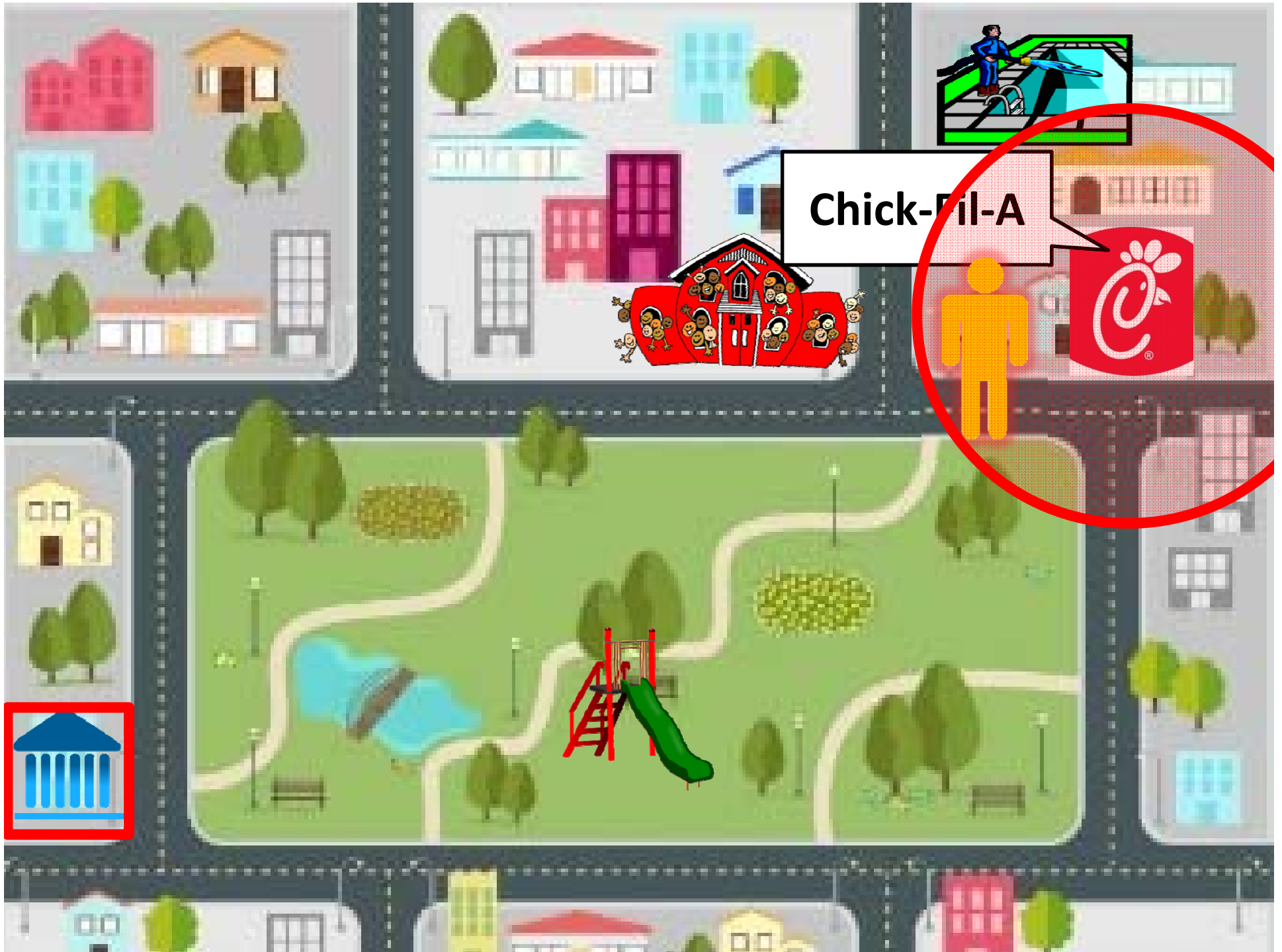




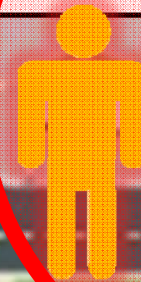
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Chick-fil-A



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BANDY,JAMES LEE

505 W WARD AV
HIGH POINT, NC 27260
SRN:023579S5



Race: B Sex: M
Height: 5' 09" Weight: 190 lbs.
Hair: BLACK
Eyes: BROWN
Birth Date: 06-06-1977
Registration Type: Aggravated
Minimum Registration Period: [LIFETIME](#)

Offender Information

Conviction Information

Offense 1

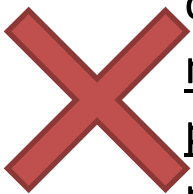
Offense Date: 09/13/2006 County: GUILFORD

Statute:	14-27.3.A.1		
Description:	RAPE 2ND DEGREE - W/FORCE		
Victim's Age:	18 AND OLDER	Offender's Age:	29

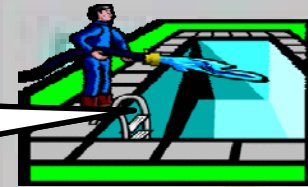
Primary Name at time of Conviction: BANDY,JAMES LEE
Alias Name(s) at time of Conviction: BANDY,JAMES L
Primary Name at time of Sentencing: BANDY,JAMES LEE

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Pool



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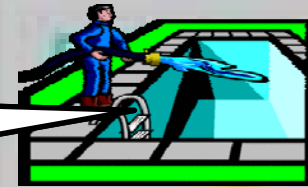
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Library

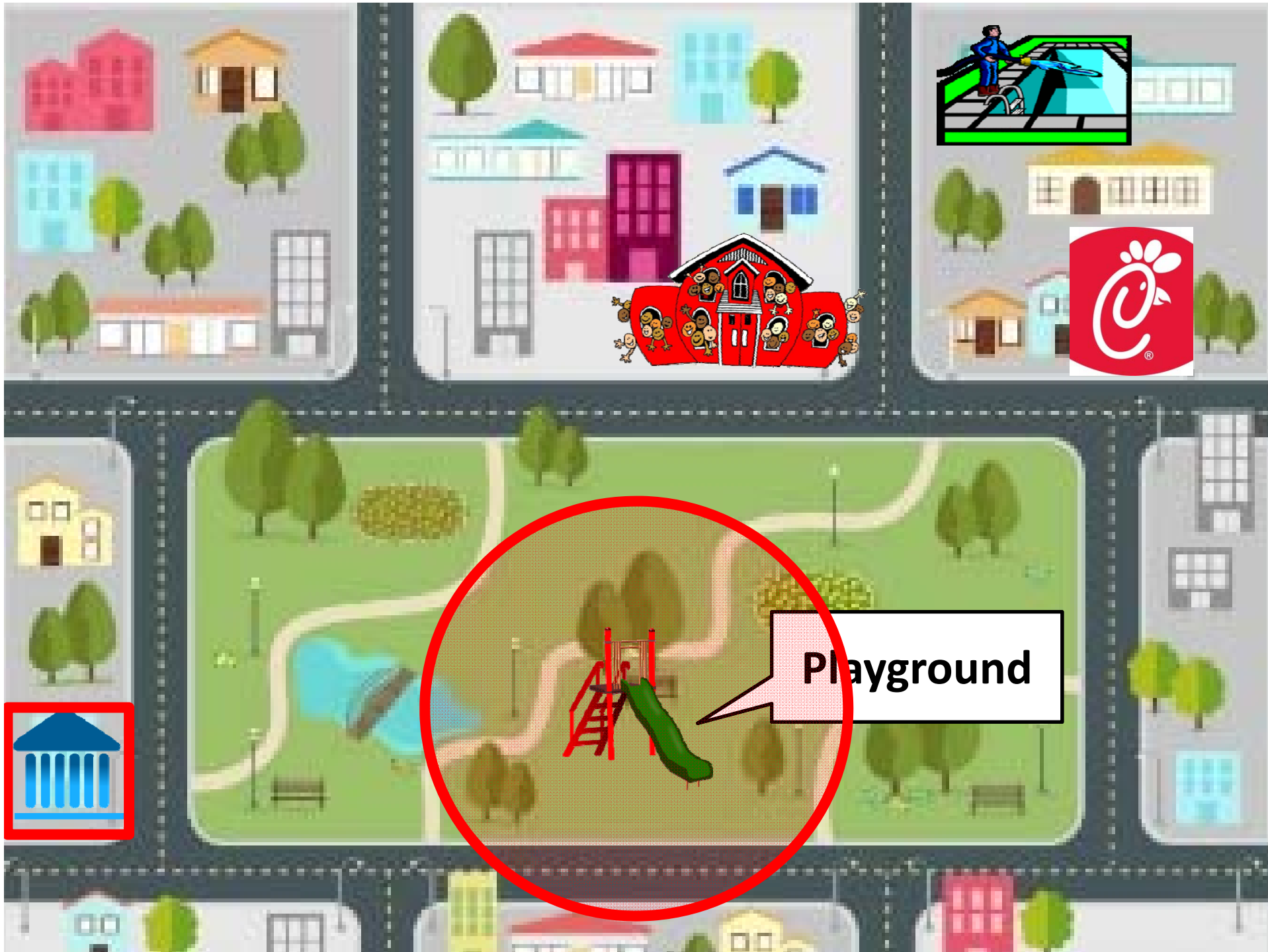


Park



**Children's
Museum**

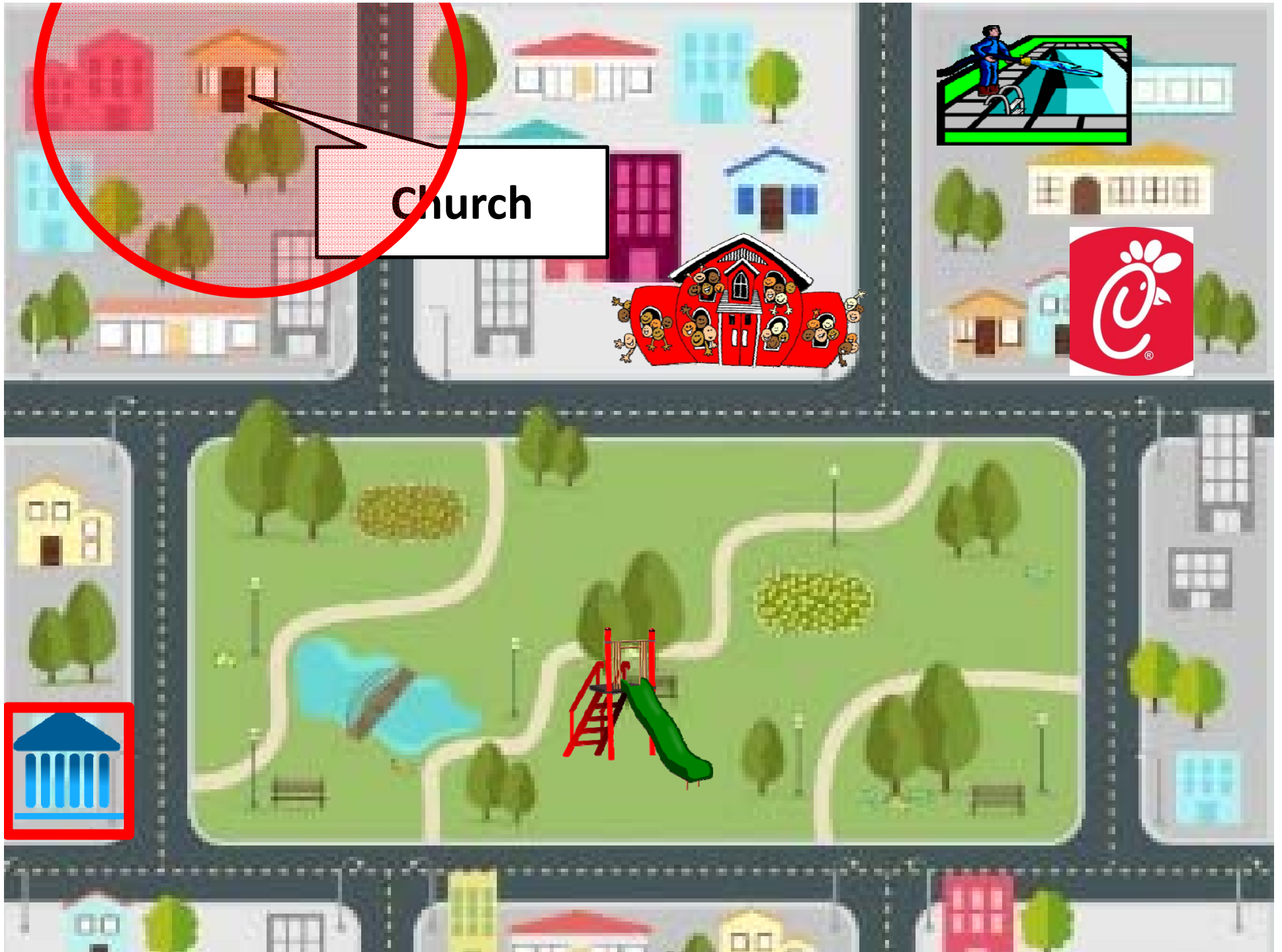




Playground

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Exceptions

- Emergency medical care
- Voting
- School attendance
- School visitation:
 - To attend conference, or
 - When requested, for other reason relating to the welfare or transportation of the child
 - Notice to principal upon arrival and departure
 - Direct supervision by school personnel

Effective Date

Effective for offenses committed on or after Sept. 1, 2016, unless either or both of the decisions of the United States District Court for the Middle District of North Carolina . . . are stayed or overturned by a higher court on appeal, in which case the appropriate portion of the prior version of the statute to which the decision pertained is again effective . . .

Sex Offender Restrictions

- Residence restriction
- Premises restrictions
- **Other possible restrictions**

Other restrictions

- Condition of probation, post-release, or parole
- Local ordinance

Sec. 11-19. - Sex offenders prohibited in public parks.



- (a) For purposes of this section the following definitions shall apply:
- (1) *Registered sex offender.* An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including but not limited to the sex offender registry established in [Chapter 14](#), Article 27A of the North Carolina General Statutes.
 - (2) *Public park.* Any publicly owned, leased, operated or maintained land which is designated by the City of Asheville as a park or recreational facility.
- (b) No registered sex offender shall enter into or upon any public park operated by the City of Asheville. Each entry into a public park, regardless of the time period between such entries, shall constitute a separate offense under this section.
- (c) A violation of this section is a misdemeanor as set forth in G.S. § 14-4.
- (d) The city manager or his or her designee shall post this regulation at the main entrance of each park within 30 days of passage of this ordinance.
- (Ord. No. 3428, § 1(a), 12/1/12)

“No registered sex offender shall enter into or upon any public park”

G.S. 160-174(b)(5)

A city ordinance shall be consistent with the Constitution and laws of North Carolina and of the United States. An ordinance is not consistent with State or federal law when:

The ordinance purports to regulate a field for which a State or federal statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation

Standley v. Town of Woodfin (2007)

“It shall constitute a general offense . . . for any person or persons registered as a sex offender . . . to knowingly enter into or on any public park owned, operated, or maintained by the Town of Woodfin.”

- **Challenged as violation of plaintiff sex offender’s due process right to intrastate travel**
- Trial court: Summary judgment for town—no constitutional violation
- Court of appeals: Affirmed
 - Dissent: Ordinance should be preempted under G.S. 160A-174(b)
- Supreme court: Affirmed
 - Preemption argument abandoned



Questions?