

**AN ORDINANCE CREATING A NEW DIVISION (DIVISION 4. SEXUAL PREDATORS AND SEXUAL OFFENDERS) IN ARTICLE II (OFFENSES INVOLVING PUBLIC SAFETY) OF CHAPTER 66 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE PASCO COUNTY CODE OF ORDINANCES; PROHIBITING SEXUAL PREDATORS AND SEXUAL OFFENDERS FROM RESIDING WITHIN 2500 FEET OF SPECIFIED LOCATIONS; CREATING DEFINITIONS; CREATING A CHILD SAFETY ZONE PROHIBITING SEXUAL PREDATORS AND SEXUAL OFFENDERS FROM BEING PRESENT IN OR WITHIN 300 FEET OF SPECIFIED LOCATIONS WHEN CHILDREN ARE PRESENT; REGULATING CONDUCT ON HALLOWEEN; PROVIDING EXCEPTIONS; PROVIDING FOR APPLICABILITY IN UNINCORPORATED PASCO COUNTY AND IN MUNICIPALITIES; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR TRANSMISSION OF ORDINANCE TO DEPARTMENT OF STATE AND AN EFFECTIVE DATE.**

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**WHEREAS**, The Board of County Commissioners of Pasco County, Florida, hereby finds and determines that sexual offenders who prey on children present an extreme threat to the public safety; and

**WHEREAS**, It is the intent of this article to reduce the potential risk of harm to children of the community by limiting the opportunity for sexual predators and sexual offenders to be in contact with unsuspecting children in locations that are primarily designed for use by children, are primarily used by children, or are customary gathering places for children; and

**WHEREAS**, Current Florida State Law prohibits sexual predators and sexual offenders from residing within 1000 feet of specified locations; and

**WHEREAS**, The Board of County Commissioners finds this distance to be too small and intends to expand the distance to 2500 feet and to include Public Libraries to the list of specified places; and

**WHEREAS**, This article is not intended to interfere with an offender's ability to continue to reside in his or her current residence, provided that current residence is a legal residence under the county's zoning regulations, and the offender has complied with the registration requirements of the State of Florida. This article is not intended to interfere with an offender's ability to participate in his or her own children's or grandchildren's activities occurring at school and at other recreational type facilities, and is also not intended to interfere with an offender's ability to attend religious services, conduct business with the government, or attend school if a minor; and

**WHEREAS**, Pasco County has a compelling interest in protecting children from predatory sexual activity, and the following regulations will serve to protect the health, safety, and welfare of its citizens.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Pasco County, Florida, as follows:

**SECTION 1. AUTHORITY.**

This Ordinance is enacted pursuant to Chapter 125, Florida Statutes (2014), and under the home rule powers of the County.

**SECTION 2. LEGISLATIVE FINDINGS OF FACT.**

The foregoing WHEREAS clauses are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 3. AMENDMENT TO CHAPTER 66, ARTICLE II OF THE PASCO COUNTY CODE OF ORDINANCES.**

Chapter 66 (Offenses and Miscellaneous Provisions), Article II. Offenses Involving Public Safety, of the Pasco County Code, shall be amended by creating a new Division 4. Sexual Predators and Sexual Offenders, as follows:

**DIVISION 4. SEXUAL PREDATORS AND SEXUAL OFFENDERS**

**Sec. 66-61. Definitions.**

As used in this Division, the following terms mean:

*“Business or transient facilities”* means businesses and locations that are or may be temporary as to their current location that are primarily designed for use by children, are primarily used by children, or are customary gathering places for children. This includes, but is not limited to, child care facilities, video arcades, fairs, transient carnivals, transient zoos, and school bus stops.

*“Child,” “children,” or “minor”* means individuals whose chronological age is under sixteen (16) years.

*“Child care facility”* has the same meaning as provided in Section 402.302, Florida Statutes.

*“Convicted” or “conviction”* means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether or not adjudication is withheld. A conviction for a similar offense includes, but is not limited to: a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

*“Park”* means all public and private property specifically designated as being used for recreational purposes and where children regularly congregate.

*“Playground”* means a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.

*“Permanent residence”* means a place where the person abides, lodges, or resides for 5 or more consecutive days.

*“Permanent or stationary facilities”* means any school, playground, YMCA and YWCA facility, PACE facility, Boys and Girls Club facility, youth camp ground, park, youth sports facility, skate park or rink, amusement park, indoor recreational facility, public zoo, water park, public swimming pool, or similar locations and facilities, whether publicly- or privately-owned, primarily designed for use by children, are primarily used by children, or are customary gathering places for children.

*“Public beach”* means any beach located within the territorial boundaries of Pasco County which:

- a. Is below the mean high-water lines;
- b. Is owned by Pasco County or the State of Florida;
- c. Has arisen upon it a right of customary use by the public; or
- d. Has arisen upon it a public easement, prescriptive or otherwise; or
- e. Is the foreshore of tidal navigable waters (the land between the high and low water marks) and is owned by the State of Florida.

*“Reside”* means to abide or lodge in a place (1) for five (5) or more consecutive days; or (2) for a period of five (5) or more days in the aggregate during any calendar year.

*“Residence”* means a temporary, permanent, transient residence.

*“Sexual offense”* means a conviction under Section 794.011, 800.04, 827.071, 847.0135(5) or 847.0145, Florida Statutes, or a similar law of another jurisdiction, and in which the victim or apparent victim of the sexual offense was less than sixteen (16) years of age, or a conviction

under Section 943.0435, 775.21, or 944.607. The term excludes conviction under Section 794.011(10), Florida Statutes.

“*Safety zone*” means on, or within three hundred (300) feet of, the specified location.

“*School*” has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), a public school as described in s. 402.3025(1), and the Florida School for the Deaf and the Blind, but does not include facilities dedicated exclusively to the education of adults.

“*School Bus Stop*” means all locations where children congregate for transportation to schools (as defined in this ordinance), and which are publicly identified by Pasco County, Florida on its website. The locations identified on the county’s website shall also be available to the public in response to phone inquiries to designated Pasco Sheriff’s Office personnel.

“*Sexual predator*” has the same meaning as provided in Section 775.21, Florida Statutes, excluding persons who have been removed from the requirement to register as a sexual predator.

“*Sexual offender*” has the same meaning as provided in Section 943.0435, Florida Statutes, excluding persons who have been removed from the requirement to register as a sexual offender.

“*Temporary residence*” means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person’s permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

“*Transient residence*” means a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

**Sec. 66-62. Residency restrictions.**

- (a) A person who has been convicted of a sexual offense may not reside within 2,500 feet of any school, child care facility, park, public library, or playground.
- (b) Exemptions. This subsection does not apply to any person who:
  - 1. lives in a residence that he or she established and registered pursuant to Sections 775.21, 943.0435 or 944.607, Florida Statutes, prior to the effective date of this ordinance;
    - (a) The person shall not be deemed to have established a residence or registered said residence for the purposes of this section if the residence

is an illegal residential use of the property under the county's zoning code(s); and

(b) This exception does not apply if the person is convicted of a subsequent sexual offense after establishment of the school, child care facility, park, public library, or playground.

2. was convicted of a violation of Section 794.011, 800.04, 827.071, 847.0135(5), or 847.0145, Florida Statutes, for an offense that occurred before October 1, 2004;
3. was convicted of an offense in another jurisdiction that is similar to a violation of Section 794.011, 800.04, 827.071, 847.0135(5), or 847.0145, Florida Statutes, for an offense that occurred before May 26, 2010;
4. has been removed from the legal requirement to register as a sexual offender or sexual predator;
5. was a minor when he or she committed the offense and was not convicted as an adult; or
6. is a minor.

(c) The 2,500 foot distance shall be measured in a straight line from the outer boundary of the real property that comprises an offender's residence to the nearest boundary line of the real property that comprises a school, child care facility, park, public library, or playground. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight line distance between the two points.

**Sec. 66-63. Child safety zones.**

(a) Prohibition. A sexual predator or sexual offender is prohibited from being on or within the safety zone during such times a child or children are present at the following locations:

1. Permanent or stationary facilities as defined in this ordinance;
2. Public beaches as defined in this ordinance;
3. Business or transient facilities as defined in this ordinance.

(b)

Exceptions. The prohibition established above does not apply under any the following circumstances.

1. A single trip while traveling past or through a safety zone while en route to another destination.
2. Traveling to or from, or being at, a religious service.

3. Traveling to or from, or being at, a government building for the purpose of conducting official business.
  4. The offender's residence is located in a safety zone or the offender is traveling to or from his or her residence, as long as the residence is in compliance with county's zoning codes and the offender has met the registration requirements of state law.
  5. Presence at, or traveling to and from, a safety zone the purposes of voting or registering during the hours designated for the voting or registration process, but only for the time required to complete the voting or registration process.
  6. Presence at, or traveling to and from, a school or child care facility (1) in compliance with 856.022(b); (2) to drop off or pick up a friend or relative's child, with the permission of the child's parent or legal guardian; or (3) while attending a function for his or her own child, grandchild, or a friend or relative's child with permission of the child's parent or legal guardian. Offenders must provide written notification to the appropriate official the offender's intent to attend; and, remain under the direct supervision of a school/facility official during the event. The sexual predator or sexual offender may not remain in the safety zone any longer than is reasonably necessary to accomplish the task.
  7. For all other locations within a safety zone not otherwise addressed in this section, the sexual predator or sexual offender may be present in or travel through a safety zone when he or she is the parent, grandparent, or legal guardian of a child who is present at the location.
- (c) The location of the safety zone distance shall be measured in a straight line from the outer boundary of the prohibited location for a 300-foot radius. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight line distance between the two points.

**Sec. 66-64. Prohibitions and requirements for Sexual Offenders and Sexual Predators on Halloween.**

- (a) On October thirty-first of each year or any other day upon which Halloween is celebrated, a sexual offender or sexual predator:
1. Is prohibited from giving or seeking to give treats to children;
  2. Shall avoid all Halloween related contact with children;
  3. (Except for lighting otherwise provided on a year-round-basis by or to a sexual offender or sexual predator for the purpose of security or walkway or hallway illumination) shall leave all outside residential lighting off during the evening hours after 5 p.m., and

4. shall not exhibit exterior Halloween-type decorations at his or her residence.
- (b) Halloween events or practices in which the sexual offender or sexual predator is the parent, grandparent, or guardian of the child or children involved, and where no non-familial children are present, are exempt from this section.

#### **SECTION 4. APPLICABILITY AND EXEMPTIONS.**

This Article and Division shall be applicable in both the unincorporated and incorporated areas of Pasco County, except to the extent that a municipality has adopted or adopts its own Ordinance in conflict with this Ordinance. To the extent that this Ordinance is applicable within a municipality, the County and the municipality shall have concurrent authority and jurisdiction to apply and enforce the Ordinance within the entirety of their jurisdictional boundaries. In addition to law enforcement officers who have the authority to enforce these provisions within their jurisdictions, municipal code compliance officers are specifically authorized and designated to enforce these provisions within the city limits of their jurisdiction to the extent such authorization/designation is required by law. County code compliance officers may enforce these provisions within the municipalities, and/or the county attorney's office may prosecute violations, pursuant to a valid interlocal agreement.

#### **SECTION 5. REPEALER.**

Any Ordinance provisions in conflict herewith are hereby repealed only to the extent of such conflict.

#### **SECTION 6. SEVERABILITY.**

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained

said section, subsection, sentence, clause, or provisions and shall not be affected by such holding. In the event any state or federal law is enacted that is more restrictive in nature as to where a sexual predator or sexual offender may physically be located, then those portions of this article that conflict with the state or federal law will cease to be in effect. In addition, this article will automatically sunset upon the effective date of any state or federal law that preempts other regulations related to the subject matter and restrictions contained in this article.

**SECTION 7. INCLUSION IN CODE.**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 8. EFFECTIVE DATE.**

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

**ADOPTED** with a quorum present and voting this \_\_\_\_day of April, 2015.

( S E A L )

BOARD OF COUNTY COMMISSIONERS  
OF PASCO COUNTY, FLORIDA

ATTEST:

By: \_\_\_\_\_  
PAULA S O'NEIL, Ph.D.  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
THEODORE SCHRADER, CHAIRMAN