

AUG 13 2007

ORDINANCE 752

AN ORDINANCE OF THE CITY OF DEFUNIAK SPRINGS, FLORIDA RELATING TO SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES OFFENSES AND MISCELLANEOUS PROVISIONS BY CREATING A NEW ARTICLE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2,000 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF DEFUNIAK SPRINGS; PROHIBITING OWNERS OF REAL PROPERTY FROM RENTING OR LEASING ANY PLACE, STRUCTURE, OR PART THEREOF, TRAILER OR OTHER CONVEYANCE LOCATED WITHIN 2,000 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF DEFUNIAK SPRINGS TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEFUNIAK SPRINGS, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is of Section 166.021, of the Florida Statutes and Article VIII, Section 2(b), of the Florida Constitution.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council of the City of DeFuniak Springs is concerned about the numerous recent occurrences in the State of Florida and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had originally been convicted; and

WHEREAS, the City Council of the City of DeFuniak Springs finds from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and,

WHEREAS, the City is becoming an increasingly attractive place of residence for younger families with small children; and,

WHEREAS, the City Council of the City of DeFuniak Springs desires to establish policy which provides the maximum protection of the lives and persons in the City of DeFuniak Springs; and,

WHEREAS, Sections 794.065 and 947.1405, Florida Statutes, provide for one thousand (1000) foot residence prohibitions from specified location for certain sexual offenders and sexual predators; and,

WHEREAS, Section 847.0134, Florida Statutes, provides that certain adult entertainment venues may not be located within two thousand five hundred (2,500) feet of the real property that comprises a public or private elementary school, middle school, or secondary school; except with the special approval by the County or the City; and

WHEREAS, Article VIII, Section 2(b), Florida Constitution and Section 166.021, Florida Statutes, provide the City authority to protect the health, safety and welfare of its residents;

SECTION 3. AMENDMENT OF THE CODE OF ORDINANCES PERTAINING TO OFFENSES AND MISCELLANEOUS PROVISIONS. *Code of Ordinances pertaining to offenses and miscellaneous provisions is hereby amended as follows:*

SEXUAL OFFENDERS AND SEXUAL PREDATORS

Findings and intent.

- (a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing permanent residence.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Permanent residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.

Sexual offender and sexual predator residence prohibition; penalties; exceptions.

- (a) *Prohibited location of residence.* It is unlawful for any person who has been convicted of a violation of F.S. § 794.011, 800.04, 827.071, or 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 18 years of age, to establish a permanent residence within 2,000 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (b) *Measurement of distance.* 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 nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (c) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the county jail not more than 12 months, or by both such fine and imprisonment.
- (d) *Exceptions.* A person residing within 2,000 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate does not commit a violation of this section if any of the following apply:
 - (i) The person established the permanent residence and reported and registered the residence pursuant to F.S. § 775.21, 943.0435 or 944.607, prior to _____.
 - (ii) The person was a minor when he/she committed the offense and was not convicted as an adult.
 - (iii) The person is a minor.

- (iv) The school, designated public school bus stop or day care center within 2,000 feet of the persons permanent residence was opened after the person established the permanent residence and reported and registered the residence pursuant to F.S. § 775.21, 943.0435 or 944.607.

Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

- (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence by any person prohibited from establishing such permanent residence pursuant to section of this Code, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,000 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in chapter 30 of this Code, including the provisions of chapter 30 that allow the city to seek relief as otherwise provided by law.

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES. This ordinance shall be incorporated into the City of DeFuniak Spring's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of DeFuniak Springs, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED this 13 day of August, 2007 by
the City Council of the City of DeFuniak
Springs, Florida. .

By: C. Harold Carpenter
Honorable C. Harold Carpenter, Mayor

ATTEST:

Vanessa Mitchell
City Clerk

The form and legal sufficiency of the foregoing has
been reviewed and approved by the City Land Use
Attorney.

[Signature]
City Attorney