

AUG 13 2007

ORDINANCE 753

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 ENTERING OR OCCUPYING CITY PARKS 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; 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.

Sexual offender and sexual predator prohibition; penalties; exceptions.

- (a) *Prohibition of City Parks.* It is unlawful for any person who is required to register with the State of Florida under F.S. § 944.607 to enter or occupy any park inside the city limits.
- (b) *Exceptions.* The prohibitions and penalties contained herein shall not be applicable to any person in Chipley Park who is using either the DeFuniak Springs Public Library or the DeFuniak Springs First Presbyterian Church.
- (c) *Penalties.* A violation of this Ordinance shall constitute in a misdemeanor of the second (2nd) degree and shall be punishable as provided by the Florida Statutes for such violations.

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 in regular session 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:

Kanessa 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