

ORDINANCE NO. 515

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA ("CITY"), RELATING TO THE RESIDENCE OF SEXUAL OFFENDERS/SEXUAL PREDATORS AND THOSE CONVICTED OF A VIOLATION OF 794.011, SECTION 800.04, SECTION 827.071, OR SECTION 847.0145, OF THE FLORIDA STATE STATUTES, OR THE EQUIVILANT OF SUCH STATUTES FROM OTHER STATES, REGARDLESS OF WHETHER ADJUDICATION HAS BEEN WITHHELD, WHEN THE VICTIM OF THE OFFENSE FOR WHICH THE CONVICTION RESULTED WAS LESS THAN SIXTEEN YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED AND PROHIBITING SUCH RESIDENCE AND PROHIBITNG THE RENTAL OF CERTAIN REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; AMENDING TITLE 13: GENERAL OFFENSE BY CREATING CHAPTER 133 OF THE CODE OF ORDINANCES CITY OF MEXICO BEACH, FLORIDA (ORDINANCE NO 515, AS AMENDED), TO BE ENTITLED "SEXUAL OFFENDERS/SEXUAL PREDATORS AND CREATING SECTIONS 133.01 ENTITLED "FINDINGS AND INTENT," SECTION 133.02 ENTITLED "DEFINITIONS," SECTION 133.03 ENTITLED "SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION, PENALTIES, EXCEPTION," AND SECTION 133.04 ENTITLED "PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND PREDATORS, PENALTIES" PROVIDING FOR CODIFICATION, PROVIDING FOR REPEALER, PROVIDING FOR SEVERABILTY, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF MEXICO BEACH, FLORIDA:

WHEREAS, the City is deeply concerned about the numerous occurrences in the state and elsewhere, involving convicted sex offenders who have been released from custody repeating the unlawful acts for which they had originally been convicted; and

WHEREAS, the City finds from the evidence that 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 desires to establish a policy which provides the maximum protection for the lives and persons in the City; and

WHEREAS, 794.065 and 947.1405, Fla. Stat. provide for a one thousand (1,000) foot residence prohibition from specified locations for certain sexual offenders and sexual predators; and

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

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF MEXICO BEACH, FLORIDA:

SECTION I. That Title XIII titled General Offenses and furthermore Chapter 133 entitled Sexual Offenders/Sexual Predators include the following.

SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec 133.01 Findings and Intent

- (a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators and present an extreme threat to public safety. Sexual offenders are likely to use physical violence to repeat their offenses, and most sexual offenders commit many offenses, and 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 promote, protect, and improve the health, safety and welfare of the City's citizens by creating areas around locations where children regularly congregate in concentrated numbers, where certain sexual offenders and sexual predators are prohibited from establishing a temporary or permanent residence.

Sec 133.02 Definitions

The following words, term, 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:

- (a) "*Permanent residence*", means a place where a person abides, lodges, or resides for 14 or more consecutive days.

- (b) "*Temporary residence*" means a place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 133.03. Sexual Offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

- (a) It is unlawful for any person who has been convicted of a violation of FSS 794.011, 800.04, 827.071, or 847.0145, Fla. Stat., or the equivalence of such statutes from other states, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to establish a permanent residence or temporary residence within 2500 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (b) For the 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 or temporary residence to nearest 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 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 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 2500 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 or temporary residence and reported and registered the residence pursuant to 775.21, 943.0435 or 944.607, Fla. Stat., prior to the adopted and effective date of this ordinance.
- 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 was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to 775.21, 943.0435 or 944.607, Fla. Stat.
- v. The person has received a pardon and provides the city with certified copies of such pardon

Sec. 133.04 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 or structure, or part thereof, trailer or other conveyance, with the knowledge, that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to Sec 133.04 of this Code, if such place, structure, or part thereof, trailer or other conveyance, is located within two thousand five hundred (2500) 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 this Code, including the provisions that allow the City to seek relief as otherwise provided by law.

SECTION 2. REPEALER

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY

If any section, subsection or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. CODIFICATION

The provisions of this ordinance shall become and be made part of the Code of the City. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect upon its passage.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the City Council on the 9th day of May, 2006.

CITY OF MEXICO BEACH, FLORIDA

By: 

Chuck Risinger
Mayor

ATTEST:



Deborah McLeod
City Clerk