

ORDINANCE NO. 2568

AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA PERTAINING TO THE SUBJECT OF OFFENSES, AMENDING SECTION 17-35 "DEFINITIONS" OF ARTICLE III OF CHAPTER 17 TO APPLY CHANGES SET FORTH IN CHAPTER 2018-105, LAWS OF FLORIDA TO THE DEFINITIONS OF PERMANENT AND TEMPORARY RESIDENCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA:

SECTION 1. Section 17-35. "Definitions" of Article III of Chapter 17 of the Code of Ordinances of the City of Plantation is hereby amended to read as follows:

ARTICLE III.

SEXUAL OFFENDERS

Sec. 17-35. Definitions.

(a) 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:

(1) "*Child Care Facility*" includes any licensed child care center which provides child care for five (5) or more children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The locations of Child Care Facilities shall be determined in accordance with the business tax receipt on file with the City, or in accordance with City records. The following are not included:

- a. Public schools and nonpublic schools and their integral programs, except as provided in Section 402.3025, Florida Statutes;
- b. Summer camps having children in full-time residence;
- c. Summer day camps;
- d. Bible schools normally conducted during vacation periods; and
- e. Operators of transient establishments, as defined in Chapter 509, Florida Statutes, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of Chapter 435, Florida Statutes.

(2) "*Offender*" means a person who has been convicted of a violation of §§ 794.011, 800.04, 827.071, 847.0135(5), or 847.0145, Florida Statutes as may be

amended from time to time, or a violation of a similar law of another jurisdiction (regardless of whether adjudication has been withheld) in which the victim of the offense was less than sixteen (16) years of age, or a person who meets the criteria of §775.21(4), Fla. Stat. ~~(2016)~~ (2018) as may be amended from time to time.

(3) *“Park”* means: (i) a tract of land as shown and designated in the City’s Comprehensive Plan as a park, or (ii) an area or tract of land shown and designated on any development’s Site Plan, or as provided for in the Homeowners or Condominium Association’s governing documents recorded in the Broward County Public Records, or as may be otherwise identified by the zoning division, as being devoted primarily to recreational purposes. Such areas may be public or private, are usually planted and landscaped, and may or may not include community buildings and structures, swimming facilities, tennis courts, ball fields, basketball courts, areas for outdoor games, recreational areas utilized by children, or a playground as defined below. The definition of *“Park”* also includes Multi Use Recreational Trails (MURTs) and linear parks.

(4) *“Permanent Residence”* means a place within the City where a person abides, lodges, or resides for ~~five (5)~~ three (3) or more consecutive days.

(5) *“Playground”* means an area of land devoted to active recreational purposes for the primary use of preschool and elementary school age children. Such areas are usually equipped with play apparatus. The playground can be for public use or private use (i.e. created by a Homeowners Association or Condominium Association for private use), and shall be as shown or designated in Site Plans on file with the City, or in Association governing documents recorded in the Broward County Public Records, or shown or designated in accordance with City records. A play area within a lot used for a private residence shall not be considered a playground.

(6) *“Public or Private School”* shall include those public or private schools, or both, that are located: (i) inside of Plantation, and (ii), outside of the City’s municipal boundary and within Two Thousand Five Hundred Feet (2500’) of the City’s municipal boundary.

(7) *“Temporary Residence”* means places within the City where a person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations, for a period of ~~five (5)~~ three (3) 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.

(b) In enacting this Article III, the City makes the following statements of intent and relies upon the following studies and findings:

(1) The Mayor and City Council of the City of Plantation are deeply concerned about the recent occurrences of crime in our State by registered convicted sex offenders and view this Ordinance as necessary for providing protection to children.

(2) The City is a place of residence for families with small children, and the City's recreation areas are used by children residing within Plantation and by children from other communities.

(3) The City of Plantation desires to enact legislation which provides protection for children using Public or Private Schools, Child Care Facilities, libraries, Parks, and Playgrounds.

(4) The United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS), studied the recidivism of sex offenders released since 1994 and found the following:

- a. Within three (3) years following their release, 5.3% of sex offenders (men who had committed rape or sexual assault) were rearrested for another sex crime;
- b. On average the 9,691 sex offenders served less than half of their 8-year sentence;
- c. Compared to non-sex offenders released from state prisons, released sex offenders were four (4) times more likely to be rearrested for a sex crime;
- d. Of the released sex offenders, 3.5% were reconvicted for a sex crime within the three (3) year follow-up period, 24% were reconvicted for a new offense and 38.6% were returned to prison, either because they received another prison sentence or because of a parole violation; and,
- e. The 9,691 released sex offenders studied included 4,295 men who were in prison for child molesting.

(5) The Washington State Institute for Public Policy published its findings of high recidivism rates among 417 released sexual predators and determined that 57% of the predators re-offended within six (6) years of being released from prison. The study further showed that felony sex offenses were the crimes of choice for the sex offenders, and that approximately 180 of the "recidivists" committed crimes "considered precursors to child molestation".

(6) The Colorado Bureau of Investigation has assembled the following relevant statistics:

- a. In 2003, there were approximately 455,000 registered sex offenders in United States.
- b. As of 1997, approximately 234,000 of sex offenders in the United States are under correctional supervision.
- c. At least half of convicted child molesters report that they also have been sexually assaulted as a child.

- d. Over 80% of convicted adult rapists report that they have molested children.
- e. Approximately one-third (1/3) of sex offenders report assaulting both males and females.
- f. Most convicted sex offenders have committed many, many assaults before they are caught.
- g. Most sex offenders report that they have committed multiple types of sexual assault.
- h. Over two-thirds (2/3) of offenders who reported committing incest also said they assaulted victims outside the family.
- i. Studies of victims have found that less than 30% of sex crimes are reported to law enforcement.
- j. Young victims who know or are related to the perpetrator are least likely to report the crime to authorities.
- k. Most offenders commit multiple crimes against multiple types of victims with whom they have varying types of relationships (adults, children, male, female, known and unknown).
- l. Sex offenders rarely commit a single type of offense. Many offenders have no official criminal record or sex crime history of any kind.
- m. There is no such thing as a "typical" sex offender, however all tend to be manipulative, deceptive, and secretive. Sex offenders come from all backgrounds, ages, income levels, and professions.
- n. Sex offenders usually do not commit their crimes impulsively. They usually carefully plan their crimes

(7) The City acknowledges and adopts the State's legislative findings in the Florida Sexual Predators Act, particularly §775.21(3)(a), Fla. Stat. (~~2016~~) (2018), and the finding in §775.21(3)(c), Fla. Stat. (~~2016~~) (2018), that government has a compelling interest to protect the public from sexual predators.

(8) §§775.215 and 947.1405, Fla. Stat. (~~2016~~) (2018), provide for one thousand (1000) foot residence prohibitions from specified locations for certain sexual offenders.

(9) Many local communities have adopted and are enforcing ordinances that increase substantially the one-thousand (1,000) foot prohibition referenced above, and Plantation is concerned that without an Ordinance being adopted by the City, persons subject to the laws of these other communities will migrate to and concentrate in Plantation.

(10) Because of the many communities within Florida adopting differing standards concerning this subject, ~~it is likely that~~ perhaps national, state, or perhaps county preemptive law on the subject will be adopted; accordingly, the City wishes to provide a sunset provision to this Article.

(11) §847.0134, Fla. Stat. ~~(2016)~~ (2018), provides that certain adult entertainment venues may not be located within Two Thousand Five Hundred Feet (2,500') of the real property that comprises a public or private elementary school, middle school, or secondary school.

(12) Article VIII, Section 2(b), Florida Constitution and §166.021, Fla. Stat. ~~(2016)~~ (2018), and the City's Charter provide the City authority to enact this Article and thereby protect the public's health, safety and welfare.

SECTION 2. SAVINGS CLAUSE

Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 3. EFFECTIVE DATE:

This Ordinance shall take effect immediately upon passage on second reading by the City Council and signature by the Mayor.

PASSED ON FIRST READING by the City Council this 11th day of July, 2018.

PASSED AND ADOPTED ON SECOND READING by the City Council this 25th day of July, 2018.

SIGNED by the Mayor this 27 day of July, 2018.

Diane Peltier Bendekow
MAYOR

ATTEST: *Susan K. Slattery*
CITY CLERK

[1047]9002-11001,v2

REQUESTED BY: _____
DEPT. OK: _____
ADMIN. OK: _____
ATTY. OK: *Donald Hurry*
AS TO FORM ONLY

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Ordinance was received by the Office of the City Clerk and entered into the Public Record this 27th day of July, 2018.

Susan K. Slattery
Susan Slattery, City Clerk