

ORDINANCE 2013-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MINNEOLA, AMENDING THE CITY CODE OF ORDINANCES SECTION 46-76 ENTITLED "PROHIBITED RESIDENCES FOR SEXUAL OFFENDERS"; ADDING FLORIDA STATUTE SECTION 847.0135(5) TO THE LIST OF STATUTES DELINEATING THE CRIMES WHICH SUBJECT AN INDIVIDUAL TO CERTAIN PROHIBITED RESIDENCES AND REQUIREMENTS; AMENDING SECTION 46-77 OF THE CODE OF ORDINANCES REGARDING APPLICATION OF ARTICLE 46; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2004, the Florida Legislature passed Section 775.215, Florida Statutes, which established a prohibition on persons convicted of certain enumerated sex offenses from residing within 1,000 feet of any school, child care facility, park or playground; and

WHEREAS, the City of Minneola enacted more stringent requirements pursuant to Ordinance 2005-34; and

WHEREAS, Ordinance 2005-34 provides for prohibited residences for persons who have been convicted of violating certain statutes, and the City Council finds and determines that it is necessary to augment the list of applicable statutes to include computer pornography offenses; and

WHEREAS, the City Council desires to clarify the individuals to which Article 46 applies; and

WHEREAS, the City Council of the City of Minneola accordingly desires to amend City Code of Ordinances Section 46-76 and 46-77.

NOW THEREFORE, be it ordained by the City Council of the City of Minneola, Florida:

Section 1. **RECITALS.** The foregoing findings are incorporated herein by reference and made a part hereof.

Section 2. **PROHIBITED RESIDENCES.** Sections 46.76(b) of the City of Minneola Code of Ordinances entitled "Prohibited Residences of Sexual Offenders" are hereby amended to read as follows:

Section 46.76. Restrictions for Persons Convicted of Certain Sex Offenses.

(b) It is prohibited and unlawful for any person who has been convicted of a violation of F.S. Section 794.011 (sexual battery); F.S. 800.04 (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age); F.S. 827.071, (Sexual performance by a child); F.S. 847.0135(5) (computer pornography violations); or F.S. 847.0145, (Selling or buying of minors); or any similar law or statute from another state or jurisdiction, regardless of whether adjudication has been withheld, when the victim of the offense for which the conviction resulted was 16 years of age or less at the time the offense was committed, to reside in a residence located within the city when such residence is located within 2,500 feet of any school, school bus stop, day care center, public park, playground (such as miniparks and recreational open spaces), library or church regardless of whether the school, school bus

stop, day care center, public park, playground (such as miniparks and recreational open spaces), library or church lies within the city limits of the City of Minneola or unincorporated Lake County.

Section 3. Section 46-77 is hereby amended to read as follows:

46.77. Application of Article/Existing Contracts.

The provisions of subsection 46-76(b) and 46-76(c) shall not be applied to persons convicted of a violation of F.S. 794.011, FS 800.04, FS 827.071, or FS 847.0145 as set forth in 46-76(a) lawfully residing at a prohibited location as of July 26, 2005, such that it is not the intent of this article to impair valid, existing, and bona fide contract rights; provided, however, that the provisions of subsection 46-76(b) and 46-76(c) shall apply upon termination of any leasehold relationship arising from a landlord tenant relationship or the expiration of a lease. When a person who is the subject of this article changes residences, this article shall fully apply to such persons.

The provisions of [subsection] 46-76(c) and 46-76(d) shall not be applied to persons or entities that, as of February 7, , 2012, had entered into rental agreements directly with a convicted sexual offender convicted of a violation of FS 794.011, F.S. 800.04, F.S. 827.071, or FS 847.0145 as set forth in Section 46-76(a) for a residence in a prohibited location to a convicted sexual offender as provided in [subsection] 46-76(a) above, such that it is not the intent of this article to impair valid, existing, and bona fide contract rights. However, the provisions of subsection 46-76(c), 46-76(d), and 46-76(e) shall apply upon termination of any such leasehold relationship arising from a landlord tenant relationship or the expiration of such a lease.

The provisions of [subsection] 46-76(b), 46-76(c), and 46-76(d) shall not be applied to persons or entities that, as of October 15, 2013, had entered into rental agreements directly with a convicted sexual offender convicted of a violation of F.S. 847.0135(5) as set forth in section 46-76(a) for a residence in a prohibited location to a convicted sexual offender as provided in [subsection] 46-76(a) above, such that it is not the intent of this article to impair valid, existing, and bona fide contract rights. However, the provisions of subsection 46-76(b), 46-76(c) and 46-76(d) shall apply upon termination of any such leasehold relationship arising from a landlord tenant relationship or the expiration of such a lease.

Section 4. SEVERABILITY.

If any section or portion of a section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

Section 5. CONFLICTS.

All ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 6. INCLUSION IN THE CODE.

The provisions of this Ordinance shall become and be made a part of the City of Minneola Code of Ordinances and the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 7. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Minneola, Florida.

PASSED AND ORDAINED this 15th day of October, 2013, by the City Council of the City of Minneola, Florida.

PAT KELLEY, MAYOR

Attest:

Jan McDaniel, City Clerk

Passed First Reading 10/01/2013
Passed Second Reading 10/15/2013

Approved as to form:

Scott A. Gerken, City Attorney