

ORDINANCE NO. C-19-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 16 - MISCELLANEOUS PROVISIONS AND OFFENSES, ARTICLE VI – SEXUAL OFFENDERS AND SEXUAL PREDATORS, SECTION 16-126 ENTITLED “DEFINITIONS” AND SECTION 16-127 ENTITLED “SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS,” OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN A CERTAIN DISTANCE OF SPECIFIED LOCATIONS WITHIN THE CITY OF FORT LAUDERDALE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 2, 2007, the City Commission enacted Sections 16-125 through 16-128 of the Code of Ordinances of the City of Fort Lauderdale, which created residency restrictions for individuals convicted of certain sexual offenses involving children under the age of sixteen (16); and

WHEREAS, the Governor on March 23, 2018, signed into law Chapter 2018-105 which, in part, amends the definitions of “permanent residence”, “temporary residence”, and “transient residence”; and

WHEREAS, the City Commission finds that amending Sections 16-126 (Definitions) and 16-127 (Sexual Offender and Sexual Predator Residence Prohibition; Penalties; Exceptions) of the Code of Ordinances of the City of Fort Lauderdale is necessary to conform the residency restrictions contained therein with the applicable United States and Florida Constitutional provisions and State law; and

WHEREAS, the City Commission also finds that amending Sections 16-126 and 16-127 of the Code of Ordinances of the City of Fort Lauderdale is necessary to have consistency with State law.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 16 - Miscellaneous Provisions and Offences, Article VI - Sexual

Offenders and Sexual Predators, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

ARTICLE VI. - SEXUAL OFFENDERS AND SEXUAL PREDATORS

...

Sec. 16-126. - 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:

- (1) "*Park*" means a publicly owned or operated area used or available for the public's use as a recreational facility, including by way of example and not limitation, water parks, linear parks and county recreational trails systems.
- (2) "*Permanent residence*" means a place where the person abides, lodges or resides for ~~fourteen (14)~~ three (3) or more consecutive days.
- (3) "*Playground*" means an established or dedicated outdoor area for recreation and play, including by way of example and not limitation, soccer fields, baseball diamonds, football fields and locations with outdoor equipment such as, by way of example and not limitation, swing sets, climbing apparatus and slides.
- (4) "*Temporary residence*" means a place where the person abides, lodges or resides, including but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of ~~fourteen (14)~~ 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 city, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this city ~~a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.~~
- (5) "*Transient residence*" means a place where the person lives, remains, or is located for a period of three (3) or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address.

The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

Sec. 16-127. - Sexual offender and sexual predator residence prohibition; penalties; exceptions.

- (a) [Residence] It is unlawful for any person who has been convicted of a violation of F.S. ~~§§ 794.011, 800.04, 827.071, 847.0145, 787.01, 787.02 or 787.025, Florida Statutes, as may be amended from time to time, or convicted of a similar felony sexual offense in any other state, federal court of military tribunal in the United States regardless of whether adjudication has been withheld, in which the victim of the~~ is required to register as a sexual predator or offender as defined in Sections 775.21, 943.0435, and 944.607, Florida Statutes, as may be amended from time to time, whose offense was committed against a person ~~was~~ less than sixteen (16) years of age, to establish a permanent residence, ~~or temporary residence, or transient residence~~ within ~~1400~~ 1000 feet of any of the following:
- (1) any school where the majority of the population attending are students less than 16 years of age;
 - (2) ~~designated public school bus stop;~~
 - (3) child day care facility as defined in the ~~e~~City's Unified Land Development Regulations where the majority of the population attending are students less than 16 years of age;
 - (4) park or playground.
- (b) For purposes of determining the minimum distance separation the distance shall be measured by following a straight line from the outer most property line of the permanent residence, ~~or temporary residence, or transient residence~~ to the nearest outer most property line of any school, ~~public school bus stop, child day care facility, park, or playground as described in subsection (a) or other place where children regularly congregate.~~
- (c) Penalty. A person who violates this section and ~~whose conviction under Sections 794.011, 800.04, 827.071, 847.0145, 787.01, 787.02 or 787.025, Florida Statutes, as may be amended from time to time, was classified as a~~

~~felony of the third degree, second degree, first degree, or higher,~~ shall be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding sixty (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 for not more than twelve (12) months, or by both such fine and imprisonment.

- (d) Exceptions. A person residing within ~~4400~~ 1000 feet of any school, ~~designated public school bus stop~~, child day care facility, park or playground, each as defined in subsection (a), does not commit a violation of this Article if any of the following apply:
- (1) The person subject to the provisions of this Article committed the qualifying offense, ~~established the permanent residence or temporary residence and reported and registered the residence pursuant to Sections 775.21, 943.0435, or 944.607, Florida Statutes, as may be amended from time to time, prior to October 1, 2004 the effective date of this article.~~
 - (2) The person was a minor when he/she committed the qualifying offense and was not convicted as an adult.
 - (3) The person is a minor.
 - (4) the school, ~~designated public school bus stop~~ or child day care facility park or playground within ~~4400~~ 1000 feet of the person's ~~permanent residence~~ was opened after the person established the permanent residence, or temporary residence, or transient residence and reported and registered the residence pursuant to Sections 775.21, 943.0435 or 944.607, Florida Statutes, as may be amended from time to time.
 - (5) The sexual predator or offender has received a pardon or has had a conviction set aside in a post-conviction proceeding for the offense that met the criteria for classifying the person as a sexual predator or offender for purposes of registration.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this ____ day of _____, 2019.

PASSED SECOND READING this ____ day of _____, 2019.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI