



Florida Action Committee, Inc.
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Boynton Beach, FL 33437
www.floridaactioncommittee.org

October 3, 2019

Hendry County Sheriff's Office
Attn: Sex Offender Registration
101 S Bridge Street
LaBelle, FL 33935

Second Request

4.27.20

7:08AM

2nd Response

See attached Co Ord
1-14-7-56

municode.com for updates

Sgt B. Wearer

RE: HURRICANE/EMERGENCY PREPAREDNESS

To Whom It May Concern:

The Florida Action Committee (FAC) is a not-for profit, public safety organization that advocates for effective sex offender policies that follow empirical research and best practices. Our membership of approximately 2,000 individuals, is comprised of persons required to register as sex offenders and predators ("registrants"), their families, treatment providers, researchers and other stakeholders.

Florida is particularly susceptible to hurricanes and each year we have members across the state who are notified to evacuate but, due to their registration status, discover they are not welcome in emergency shelters. These individuals are forced to weigh the risk of a criminal sanction against the risk to their safety.

To help our members better prepare for an emergency without the risk of running afoul of the laws, we are writing to the Sheriffs of each County to ascertain what provisions have been made for registrants in the event of a hurricane or other natural disaster. We intend to consolidate this information into a resource manual to assist registrants and their families in the event of another hurricane. Our goal is to ensure *everyone* has access to safe shelter during a storm.

Kindly reply to this letter informing us of the following: (1) Where can registrants evacuate to during a hurricane or natural disaster? (2) If separate provisions are made for registrants on probation vs. registrants not on probation, what are they? (3) If specific shelters have been designated for registrants, what is/are the location of those shelters? (4) Will registrants be separated from their family if seeking shelter in a designated location? (5) If an evacuation lasts 3 or more days such that the evacuation location becomes a "temporary residence" pursuant to F.S. §943.0435, are your registration locations open during the hurricane or natural disaster, to enable a registrant to comply with the in-person registration requirement? If not; what provisions are made for compliance? (5) Who can a registrant contact for more information during an emergency?

I look forward to receiving this information promptly so that it can be disseminated before the end of hurricane season.

Sincerely,

/s/

Gail Colletta, President

gail@floridaactioncommittee.org

ARTICLE III. - SEXUAL PREDATOR AND SEXUAL OFFENDER RESIDENCY RESTRICTIONS

Sec. 1-14.7-56. - Title.

This article shall be known as the Sexual Predator and Sexual Offender Residency Restrictions Ordinance.

(Ord. No. 2005-27, § 2, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-57. - Prohibition; findings and intent.

- (a) Sexual predators and sexual offenders present an extreme threat to the public safety. Such persons are extremely likely to use physical violence and to repeat their offenses, and most 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 predator and sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (b) It is the intent of this article to serve and to protect the county's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the county by creating areas around locations where children regularly congregate in concentrated numbers wherein sexual predators and sexual offenders are prohibited from establishing permanent, temporary or transient residence and wherein sexual predators and sexual offenders are prohibited from being present, loitering or prowling.

(Ord. No. 2005-27, § 3, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-58. - 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:

Child means a person younger than 18 years of age.

Received this on _____/_____/_____

Name _____ Ref S/O _____

Address _____

Day care center means any family or child care facility registered with or licensed by the state pursuant to F.S.(2011) ch. 402, as may be amended in the future. For the purposes of this chapter, a day care center includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility. It is the intent to include all areas reasonably included in and part of the facility.

Park means a publicly owned or operated area used or available for the public's use as a recreational facility.

Permanent residence means a place where the person abides, lodges, or resides for five or more consecutive days.

Playground means an established or dedicated outdoor area for public 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 apparatuses and slides.

Public school bus stop means locations or areas established by the county school board where school children are picked up for transportation to school or dropped off after school.

School means any public or private school as defined in F.S.(2011) §§ 1000.04(1) and 1002.01, as may be amended in the future, excluding facilities dedicated exclusively to the education of adults.

Sexual offender means any person required to register as a sexual offender pursuant to F.S. §§ 943.0435 or 944.607, (2011), as may be amended in the future.

Sexual predator means any person required to register as a sexual predator pursuant to F.S. (2011) § 775.21, as may be amended in the future.

Temporary public shelter means any public or private building or facility which is offered to individuals and families who are homeless or who evacuate their homes or a hotel, motel, or other place of temporary residence as a result of any storm, flood, hurricane, tornado, explosion, fire, or other incident of any nature as a place to stay for the duration of the disaster.

Temporary residence means a place where the person abides, lodges, or resides for a period of five 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 four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Transient residence means a place or county where a person lives, remains, or is located for a period of five 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.

(Ord. No. 2005-27, § 3, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-59. - Restrictions; penalties; exceptions.

(a) *Prohibited residences of sexual offenders and sexual predators.*

- (1) *Prohibitions.* It is prohibited and unlawful for any sexual offender or sexual predator to abide, lodge, or reside in a permanent, temporary or transient residence located within the unincorporated county when such residence is located within 2,500 feet of any school, day care center, park, playground, public school bus stop, or public library regardless of whether the school, day care center, park, playground, public school bus stop, or public library lies within the unincorporated county.
- (2) *Exceptions.* A sexual offender or sexual predator abiding, lodging or residing in a permanent, temporary or transient residence within 2,500 feet of any school, day care center, park, playground, public school bus stop, or public library does not commit a violation of this section provided the sexual offender or sexual predator is in full compliance with his or her probation, parole, or conditional release, and does not commit another sexual offense, and is in compliance with the residency restrictions in state law, if any of the following apply:
 - a. The person is a sexual offender and on the effective date of the ordinance amendment from which this article is derived, the person resided in Hendry County; provided, however, that the provisions of this article shall apply upon final termination, including lawful extensions or renewals, of any leasehold relationship arising from a landlord-tenant

relationship. When a person who is the subject of this article changes residences, this article shall fully apply to such person, regardless of when he or she established residency in Hendry County.

- b. The person is a sexual predator and, on November 8, 2005, the person resided in the same place in which he or she resides when this article is applied to him or her; provided, however, that the provisions of this article shall apply upon final termination, including lawful extensions or renewals, of any leasehold relationship arising from a landlord-tenant relationship. When a person who is the subject of this article changes residences, this article shall fully apply to such person, regardless of when he or she established residency in Hendry County.
- c. The sexual offender or sexual predator is under the age of 18.
- d. The school, day care center, park, playground, public school bus stop, or public library was opened or established after the sexual offender or sexual predator established the permanent residence; and the residence was reported and registered pursuant to F.S. §§ 775.21, 943.0435, 944.607, or 985.4815.

(b) *Restriction of certain activities of sexual offenders and sexual predators.*

- (1) No sexual offender or sexual predator shall be present, loiter or prowl on the premises of any school, day care center, park or playground except to:
 - a. Attend as a registered student at any school. To be entitled to the benefit of this exception, the sexual offender or sexual predator shall have previously notified the Hendry County Sheriff's Office of his/her school registration;
 - b. Attend to familial responsibilities or parental obligations (where parental rights have not been terminated) regarding his or her legal children, stepchildren or grandchildren in accordance with rules and regulations of such facilities;
 - c. Be gainfully employed or as part of duties imposed by gainful employment, except as restricted by state law.
- (2) No sexual offender or sexual predator shall during school days be present, loiter or prowl within a 100-foot buffer zone of any public school bus stop as designated by the county school board except:

- a. As necessary to drop off or pick up the sexual offender or sexual predator's own child, stepchild, or grandchild;
- b. If such person's lawful residence, business or employment is lawfully located within the 100-foot buffer zone;
- c. When lawfully traveling upon a public or private roadway within the 100-foot buffer zone; and
- d. Coming to a child's aid in the event of a safety or medical emergency.

At no time shall a sexual offender or sexual predator have any physical contact or communicate in any manner with any child who is not his or her own child, stepchild or grandchild at any designated public school bus stop.

A law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to explain his or her presence in the area and the purpose thereof. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have authorized the person to be in the area pursuant to one of the exceptions listed above.

- (c) *Measurement of distance.* For purposes of measuring separation of a residence from a school, day care center, park, playground, public school bus stop, or public library, all distances shall be measured from the outermost property line of the parcel upon which the residence is located running in a direct line to the outermost property line of the school, day care center, park, playground, public school bus stop, or public library. For example, if the residence is located in a generally southwesterly direction from a park, then the measurement would be from the northeast corner of the residential parcel to the southwest corner of the park. For purposes of measuring the buffer zone described in subsection (b)(2) above, measurements shall be a 100-foot circle around the public school bus stop.
- (d) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00 or by 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 to exceed \$1,000.00 or imprisonment in the county jail not more than 12 months, or by both such fine and imprisonment.

(Ord. No. 2005-27, § 4, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-60. - Property owner and tenant restrictions; penalties.

- (a) It is unlawful for the owner or tenant of any place, structure, or part thereof, trailer or other conveyance, to allow a sexual offender or sexual predator to occupy such place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence, temporary residence or transient residence by any person restricted from establishing such permanent residence, temporary residence or transient residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of any school, public library, day care center, park, playground, or public school bus stop.
- (b) *Penalties.* A property owner's or tenant's failure to comply with provisions of this section shall constitute a violation of the Hendry County Code, and shall subject the property owner or tenant to the code enforcement provisions and procedures as provided for by county ordinance.

(Ord. No. 2005-27, § 5, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-61. - Temporary shelter in the event of a disaster.

In the event of a natural or manmade disaster, no sexual predator or sexual offender may use the facilities of any temporary public shelter established for such natural or manmade disaster, but shall be allowed temporary shelter in the county jail, including any public areas of such jail. A violation of this section of this article shall constitute a misdemeanor of the first degree and be punishable as provided for by law.

(Ord. No. 2005-27, § 6, 11-8-2005; Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-62. - Application.

This chapter shall apply in the unincorporated county.

(Ord. No. 2012-04, § 1, 2-28-2012)

Sec. 1-14.7-63. - Enforcement.

The provisions of this chapter that have criminal penalties shall be enforced by the Hendry County Sheriff's Office or other law enforcement agency having jurisdiction. The provisions of this chapter relating to property owner and tenant responsibilities shall be enforced by county code enforcement staff.

(Ord. No. 2012-04, § 1, 2-28-2012)

Secs. 1-14.7-64—1-14.7-70. - Reserved.