ORDINANCE NO. 2010-02

AN ORDINANCE OF GULF COUNTY, FLORIDA, ("COUNTY") RELATED TO SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; REPEALING GULF COUNTY ORDINANCE NO. 2006-19 PROVIDING FOR PENALTIES; PROVIDING FOR EXCEPTION, PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS, PROVIDING FOR PENALTIES, PROVIDING FOR A REPEALER, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF GULF COUNTY, FLORIDA:

WHEREAS, the County 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 County finds that from available evidence the recidivism rate for release sex offenders is alarmingly high, especially for those who commit their crimes on children; and,

WHEREAS, the County is becoming an increasingly attractive place of residence of families with small children, and

WHEREAS, the County desires to establish a policy which provides the maximum protection for the lives of persons in the county, and

WHEREAS, Florida Statute Section 775.215 and 947.1405, provides for a residence prohibition from specified locations for certain sexual offenders and sexual predators; and

WHEREAS, Section 125.01 Florida Statutes gives the County the authority to protect the health, safety and welfare of its residence;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE GULF COUNTY BOARD OF COUNTY COMMISSIONERS, as follows:

1. 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 the 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 typically. This makes the cost of sexual offender victimization to the society at large, extremely exorbitant.

2. It is the intent of this Ordinance to promote, protect and improve the health, safety and welfare of the county's citizens by creating areas around locations where children regularly congregate in concentrated numbers, and where certain sexual

offenders and sexual predators are prohibited from establishing a temporary or a permanent residence.

3. The following words, terms and phrases when used in this Ordinance shall have the meanings ascribed to them in this Ordinance, except where the context clearly indicates a different meaning:

> "Permanent Residence" means a place where the person abides, lodges, or resides for fourteen or more consecutive days.
>
> "Temporary Residence" means a place where the person abides, lodges, or resides for a period of fourteen or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where the person routinely abides, loges, or resides for a period of four or more consecutive, or non-consecutive days in any month and which is not the person's permanent resident.

4. It is unlawful for any person who has been convicted of a violation of Florida Statute Section 794.011, 800.04, 827.071, 827.135(5) or 847.0145, Florida Statutes, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen years of age to establish a permanent residence or temporary residence within one thousand (1,000) feet of any school, daycare center, park, playground, public library, public ballfield, or any other place where children regularly congregate.

5. For 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 the nearest outer line of a school, designated public bus stop, daycare center, park, playground, public library, public ballfield, or any other place where children regularly congregate.

6. A person who violates this Ordinance 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.

7. A person residing within one thousand (1,000) feet of any school, designated daycare center, park, playground, public library, public ballfield, or any other place where children regularly congregate does not commit a violation of this Section if any of the following apply:

   A. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Florida Statute 775.21, 943.0435, or 944.607, prior to the effective date of this Ordinance.

   B. The person was a minor when he/she committed the offense and was not convicted as an adult.

C. The person is a minor.

D. The school, designated daycare center, or public library or public ballfield within one thousand (1,000) feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Florida Statute.

8. It is unlawful to let or rent any place, structure or part thereof, trailer or any 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 this Ordinance, if such place, structure or part thereof, trailer or other conveyance is located within one thousand (1,000) feet of any school, designated daycare center, park, playground, public library, public ballfield, or any other place where children regularly congregate.

9. A property owner's failure to comply with the provisions of this Section shall constitute a violation of this Ordinance, and shall subject the property owner to the Ordinance penalty provisions as provided in this Ordinance, including the provisions that allow the county to seek relief as otherwise provided by law.

10. All ordinances or parts of ordinances in conflict herewith are repealed to the extent to the extent of such conflict.

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

12. Ordinance No. 2006-19 is hereby repealed.

13. This Ordinance shall take effect upon it passage according to law.

PASSED, APPROVED AND ADOPTED at the regular meeting of the County Commission on this 24th day of August, 2010.

GULF COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Carmen McLemore, Chairman

ATTEST:

By: _____
Rebecca L. Norris, Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Gulf County Board of County Commissioners will hold a public hearing to consider adoption of an Ordinance with the following title:

AN ORDINANCE OF GULF COUNTY, FLORIDA, ("COUNTY") RELATED TO SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; REPEALING GULF COUNTY ORDINANCE NO. 2006-19 PROVIDING FOR PENALTIES; PROVIDING FOR EXCEPTION, PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS, PROVIDING FOR PENALTIES, PROVIDING FOR A REPEALER, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

The public hearing will be held during the Gulf County Board of County Commissioner's meeting on Tuesday, August 24, 2010 at 6:00 p.m. est. in the County Commissioner's meeting room in the Robert M. Moore Administration Building, Gulf County Courthouse Complex, Port St. Joe, Florida.

All interested persons may appear and be heard with respect to the proposed Ordinance. If a person decides to appeal any decisions made by the Gulf County Commission with respect to any matter considered at this hearing, he/she will need a record of the proceedings and that for such purpose he/she may need to ensure a verbatim record of the proceedings made and which would include any evidence upon which the appeal is to be based.

A copy of the proposed Ordinance is available for inspection on weekdays between the hours of 9:00 a.m. est., and 5:00 p.m. est. at the Office of the Clerk of Court, Gulf County Courthouse, 1000 C.G. Costin, Sr., Blvd., Port St. Joe, Florida, 32456.

BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA

BY: CARMEN McLEMORE, CHAIRMAN

Publication Dates: August 5, 2010 and August 12, 2010