

ORDINANCE NO. 2019- 43

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA ADDING ARTICLE IV TO CHAPTER 15 OF THE CLAY COUNTY CODE TO BE KNOWN AS THE CLAY COUNTY SEXUAL OFFENDER AND SEXUAL PREDATOR ACT; PROVIDING FINDINGS AND INTENT, DEFINITIONS, AND RESIDENCY REQUIREMENTS; PROVIDING FOR THE COLLECTION OF REGISTRATION FEES; PROHIBITING PRESENCE, LOITERING OR PROWLING WITHIN CHILD SAFETY ZONES WITH EXCEPTIONS; PROHIBITING PARTICIPATION IN HALLOWEEN ACTIVITIES, WITH AN EXCEPTION; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners has the utmost interest in promoting the general health, welfare and safety of the children of Clay County by reducing opportunities for sexual offenders and sexual predators to interact with children or to make use of public spaces for criminal intent; and

WHEREAS, this vital interest cannot be accomplished by a single law, but instead depends upon a cohesive and functional system of federal, state, and local laws, which must be adjusted and adapted from time to time to address new threats and circumstances as they arise; and

WHEREAS, currently the residency of sexual offenders and sexual predators in Clay County is governed by Section 775.215, Florida Statutes (2019), which prohibits certain sexual offenders and sexual predators from living within 1,000 feet of schools, child care facilities, parks and playgrounds; and

WHEREAS, due to the substantial risk to children that recidivism poses, the Board of County Commissioners believes that an extension of the residency restriction to 2,000 feet, prohibited loitering at certain locations, and Halloween restrictions would provide greater protection for the children of Clay County and strike a balance between protecting children around crucial and vulnerable areas and times while still leaving available residential housing for those restricted; and

WHEREAS, pursuant to Sections 943.0435 and 775.21, Florida Statutes, sexual offenders and sexual predators must report in person to the local sheriff's office to register their temporary or permanent address within forty eight (48) hours of release from custody, control and/or supervision of Department of Corrections, Department of Children and Family

Services or Department of Juvenile Justice; and

WHEREAS, the sexual offender and sexual predator mandatory registration process requires County resources, warranting fees being charged to the registrants.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA:

Section 1. Chapter 15 of the Clay County Code is hereby amended to create Article IV entitled "Sexual Offenders and Sexual Predators," to be inserted immediately following Sec. 15-40 thereof, and to read in its entirety as follows:

ARTICLE IV. - SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 15-41. – Title.

This Article shall be known and may be cited as the "Clay County Sexual Offender and Sexual Predator Act."

Sec. 15-42. – Findings and Intent.

(a) The Board of County Commissioners hereby finds and determines that convicted sexual offenders and sexual predators present a threat to the public safety and welfare of children and are likely to repeat their sexual offenses.

(b) It is the intent of this Article to reduce the potential risk of harm to children by limiting the opportunity for sexual offenders and sexual predators to be in contact with unsuspecting children at vulnerable times and locations in Clay County.

Sec. 15-43. – Definitions.

(a) *Child* or *children* means individuals whose chronological age is less than eighteen (18).

(b) *Child care facility* has the same meaning as provided in Section 402.302, Florida Statutes, and includes day nurseries and family day care homes, licensed by the Department of Children and Families.

(c) *Child Safety Zone* means an area three hundred (300) feet extending from schools, child care facilities, parks, playgrounds and school bus stops.

(d) *Park* has the same meaning as provided in Section 775.215, Florida Statutes, specifically all public and private property specifically designated as being used for recreational purposes and where children regularly congregate.

(e) *Participate* means actively taking part in an activity or event.

(f) *Permanent residence* has the same meaning as provided in Section 775.21, Florida Statutes, specifically a place where the person abides, lodges, or resides for 3 or more consecutive days.

(g) *Playground* has the same meaning as provided in Section 775.215, Florida Statutes, specifically a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.

(h) *School* means a public or private kindergarten, elementary, middle or secondary (high) school.

(i) *Sexual offender* has the same meaning ascribed to such term in Section 943.0435, Florida Statutes.

(j) *Sexual Predator* means a person designated as such pursuant to the criteria established in Section 775.21, Florida Statutes.

(k) *Temporary residence* has the same meaning as provided in Section 775.21, Florida Statutes, specifically a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations, for a period of 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 County, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this County.

Sec. 15.44. – Residency Requirements.

(a) A sexual offender or sexual predator required to register under Section 943.0435, Florida Statutes, or a sexual predator required to register under Section 775.21, Florida Statutes, may not establish a permanent or temporary residence within 2,000 feet of any school, child care facility, park, or playground.

(b) The 2,000 feet shall be measured in a straight line from the outer boundary line of the parcel of real property upon which the residential dwelling unit of the sexual offender or sexual predator is located, to the outer boundary line of the parcel of real property upon which

the school, child care facility, park, or playground is located. The distance may not be measured by a pedestrian route or automobile route, but instead shall be measured as the shortest straight line between the two points without regard to any intervening structures or objects. Without otherwise limiting the foregoing measurement instructions, under those circumstances in which the residential dwelling unit of the restricted sexual offender or sexual predator is within a cooperative, condominium or apartment building, the parcel of real property described in this paragraph shall consist of the parcel or parcels of real property upon which the cooperative, condominium, or apartment building that contains the residential dwelling unit of the restricted sexual offender or sexual predator is located.

(c) Exceptions. The provisions of this section shall not prohibit a sexual offender or sexual predator from continuing to reside at his or her residence:

- (1) If the residence was established prior to the effective date of this Article, unless the sexual offense or a violation of probation for said offense was committed subsequent thereto.
- (2) If the person was a minor when he or she committed the sexual offense and was not convicted as an adult.
- (3) If the person is a minor.
- (4) If a school, child care facility, park, or playground is subsequently built or established within 2,000 feet of his or her established residence.

Sect. 15.45. – Collection of Registration Fees.

(a) Initial registration. When a sexual offender or sexual predator is required to register with the Clay County Sheriff's office upon release from incarceration or upon their arrival in Clay County as a temporary or permanent resident pursuant to Sections 775.21 and 943.0435, Florida Statutes, an initial registration fee of \$50.00 shall be paid to the Clay County Sheriff's office at the time of registration.

(b) Current registrants. The initial registration fee shall not apply if the sexual offender or sexual predator was initially registered prior to the passage of this Article. Current registrants will be subject to all other fees required pursuant to this section.

(c) Required updates. Any sexual offender or sexual predator that is required by state law to periodically update or otherwise validate their information based on the requirements of Sections 775.21, 943.0435 and 944.607, Florida Statutes, shall pay to the Clay County Sheriff's office a re-registration fee of \$25.00 for each required re-registration.

(d) Changes. A registrant that reports to the Clay County Sheriff's office a change, modification or addition (excluding changes made during required quarterly/bi-annual re-registrations) shall pay to the Clay County Sheriff's office a fee of \$10.00 at the time the change is reported.

(e) Failure to pay registration fees.

(1) If a sexual offender or sexual predator is unable to pay a fee at the time of the initial registration, re-registration, or address modification, the Clay County Sheriff's office shall accept such registration or modification and immediately invoice all unpaid fees with a copy of the invoice provided to the sexual offender or sexual predator for payment. All invoiced fees shall be paid within thirty (30) days of invoicing.

(2) Any portion of invoiced fees which remain unpaid after thirty (30) days may result in civil enforcement in accordance with Sections 125.01(1)(t) and 125.69(1), Florida Statutes.

(3) The Clay County Sheriff's office shall report unpaid fees in accordance with standard accounting practices and the County may seek to recover said fees in a civil action in the same manner as other money due the County.

(4) The Clay County Sheriff's office shall not require the payment of any fee from an unemancipated minor, juvenile sexual offender, or juvenile sexual predator who is less than eighteen (18) years of age, until said individual reaches eighteen (18) years of age, at which time the applicable fees shall apply. Registrations with the Clay County Sheriff upon reaching age of majority or emancipation shall constitute an initial registration.

(5) The Clay County Sheriff's office shall not require the payment of any fee from an individual whose change of address is the result of their incarceration. An incarcerated individual's initial registration and re-registration fees (quarterly or bi-annual) still apply, and shall be collected.

(f) Disposition of collected registration fees. Fees collected pursuant to this section shall be collected by the Clay County Sheriff's office and shall be used for reimbursement of expenses incurred by the Clay County Sheriff's office in the administration of this Article and/or for crime prevention, safe neighborhoods programs, training in and programs in protecting children from harm by sexual offender or sexual predators, drug abuse education and prevention programs or for other law enforcement purposes.

**Sect. 15.46. – Prohibited Presence, Loitering or Prowling at Certain Locations;
Exceptions.**

(a) It is prohibited for a sexual offender or sexual predator to be on or within a Child Safety Zone. Upon registration at the Clay County Sheriff's office, the sexual offender or sexual predator shall receive a list of public and private areas that are considered to be within a Child Safety Zone of Clay County. The Clay County Sheriff's office shall develop a list of locations within the Child Safety Zone and shall update the list annually. At time of registration, the sexual offender or sexual predator shall sign and certify that he or she has received the list of the Child Safety Zone areas from the Clay County Sheriff's office, and such list shall serve as notice to the sexual offender or sexual predator.

(b) Exceptions. This prohibition does not apply to:

(1) A sexual offender or sexual predator who is in the process of dropping off or picking up his or her own child or a friend or relative's child (with the permission of the child's parent or legal guardian) from locations within a Child Safety Zone or while attending an activity with his or her own child or a friend or relative's child (with the permission of the child's parent or legal guardian) or when attending an adults only function.

(2) A sexual offender or sexual predator who is on a prohibited location if it is a voting or voter registration location and he or she is present for the purposes of voting or registering during the hours designated for the voting or registration process, but only for the time required to complete the voting or registration process.

(3) Traveling to or from or being at a government building for the purpose of conducting official business.

(4) Single trips while traveling past a location specified in this section while enroute to another destination.

(5) Traveling to or from or attendance at religious services.

(6) A minor sexual offender or sexual predator enrolled in a Clay County public or private school in grades one (1) through twelve (12), while attending school or when present at his or her designated bus stop for transport to the school where he or she is enrolled.

(c) For the purposes of determining the minimum distance separation requirement, distance shall be measured by following a straight line from the outer property line of the area primarily designed for use by, or that is primarily used by children.

(d) For all activities involving the dropping off or picking up of a child or children, or attending an activity involving a child or children or traveling, attending services, or conducting official business as authorized above, the sexual offender or sexual predator may not remain or loiter any longer than is reasonably necessary to accomplish the task.

Sect. 15.47. – Prohibited Halloween Activity: Exception.

(a) It is unlawful for any sexual offender or sexual predator to participate in a Halloween event involving children, such as: distributing candy to children or other items to children on Halloween; or wearing costumes for the primary purpose of entertaining or attracting children.

(b) Any person designated a sexual offender or sexual predator shall be required on October thirty-first of each year to:

- (1) Avoid all Halloween-related contact with children;
- (2) Leave all outside residential lighting off during the evening hours after 5 p.m.; and
- (3) Exhibit no exterior decorations on his or her residence to attract or entice children to the residence.

(c) Exception. Halloween events in which the sexual offender or sexual predator is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this section.

Sect. 15.48. – Penalties.

The failure of a sexual offender or sexual predator to comply with the terms of this Article shall constitute a misdemeanor of the second degree, punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed 60 days, or by both such fine and imprisonment.

Sect. 15.49. - Applicability.

This Article shall be effective in the unincorporated area of Clay County, Florida.

Section 2. Severability. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

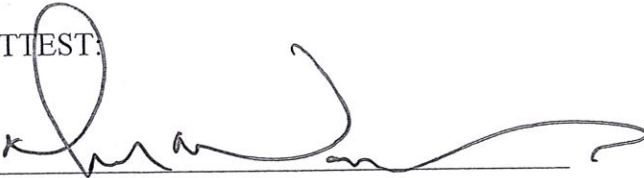
Section 3. Effective Date. This ordinance shall be effective as prescribed by Florida general law.

DULY ADOPTED by the Board of County Commissioners of Clay County, Florida, this
12th day of NOVEMBER, 2019.

BOARD OF COUNTY COMMISSIONERS
CLAY COUNTY, FLORIDA

BY: Mike Cella
Mike Cella
Its Chairman

ATTEST:



Howard Wanamaker
County Manager and Clerk of the
Board of County Commissioners

I hereby certify that this document consisting of 8 page[s] and further identified as
Ordinance No. 2019-43 is
a true and correct copy of the original maintained in the custody of Howard Wanamaker,
County Manager and Ex-Officio Clerk of the Board of County Commissioners of Clay
County, Florida, this 14th day of November, 2019

By: Daniel Littlejohn Deputy Clerk
[Not Valid without the seal of the Board]