

ORDINANCE NO. 346

AN ORDINANCE OF THE CITY OF PORT ST. JOE, FLORIDA, ESTABLISHING ARTICLE V TO CHAPTER 42, ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS RELATING TO RESIDENCE RESTRICTION UPON PERSONS CONVICTED OF CERTAIN SEXUAL OFFENSES RELATIVE TO CHILDREN, PROVIDING FOR PENALTIES, PROVIDING FOR EXCEPTIONS, PROHIBITING PROPERTY OWNERS FROM RENTING (WITH IN CERTAIN AREAS) TO PERSONS CONVICTED OF CERTAIN SEXUAL OFFENSES RELATING TO CHILDREN, PROVIDING FOR PENALTIES, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORT ST. JOE, FLORIDA:

WHEREAS, The City of Port St. Joe ("City") 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 City finds from the evidence that the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and,

WHEREAS, the City is becoming an increasingly attractive place of residence for younger families with small children; and

WHEREAS, the City desires to establish a policy which provides the maximum protection for the lives and persons in the City; and.

WHEREAS, Section 794.065 and 947.1405, Fla. Stat. provides for a one thousand (1,000) foot residence prohibition from specified locations for certain sexual offenders and sexual predators; and,

WHEREAS, Article VIII, Section 2(b), Florida Constitution and Section 166.021, Fla. Stat., give the City authority to protect the health, safety and welfare of its residence;

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORT ST. JOE, FLORIDA:

SECTION 1. That Chapter 42 of the Code of the City of Port St. Joe entitled "Miscellaneous Offenses" include the following Article V:

ARTICLE V. SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 42-50. Findings and Intent

(a) 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. This makes the cost of sexual offender victimization to the society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this Article to promote, protect and improve the health, safety and welfare of the City's citizens by creating areas around locations where children regularly congregate in concentrated numbers, where certain sexual offenders and sexual predators are prohibited from establishing a temporary or a permanent residence.

Sec. 42-51. 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:

"Permanent Residence" means a place where the person abides, lodges, or resides for 14 or more consecutive days.

"Temporary Residence" means a place where the person abides, lodges, or resides for a period of 14 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 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 42-52. Sexual offender and Sexual Predator Residence Prohibition: Penalties; Exceptions.

(a) It is unlawful for any person who has been convicted of a violate of Sec. 794.011, 800.04, 827.071, or 847.0145, Fla. Stat., regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to establish a permanent residence or temporary residence within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.

(b) 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 nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.

(c) Penalties. A person who violates this ordinance 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 or shall subject a person to the Code Enforcement provision and procedures as provided in the Code.

(d) Exceptions. A person residing within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate does not commit a violation of this section if any of the following apply:

(i) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Sec. 775.21, 943.0435 or 944.607, Fla. Stat., prior to effective date of this Ordinance.

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

(iii) The person is a minor.

(iv) The school, designated public school bus stop or day care center within two thousand five hundred (2,500) 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 Sec. 775.21, 943.0435 or 944.607, Fla. Stat.

Sec. 42-53. Property Owners Prohibited from Renting Real Property To Certain Sexual Offenders and Sexual Predators; Penalties.

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other premise with actual knowledge

1) That the place, structure or part thereof, trailer or other premise will be used as a permanent or temporary residence;

2) That a person is prohibited from establishing such permanent or temporary residence pursuant to Section _____; and

3) That the place, structure or part thereof, trailer, or other premise is located within two thousand five hundred (2,500) feet of any school, designated public school bus stop, licensed day care center, park, playground or other place where children regularly congregate.

(b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in this Code, including the provisions that allow the City to seek relief as otherwise provided by law.

SECTION 2. REPEALER

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

SECTION 3. SEVERABILITY

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

SECTION 4. EFFECTIVE DATE


This Ordinance shall take effect upon its passage.

This Ordinance was adopted in open regular meeting after its second reading this 20th day of June, 2006, after due notice in accordance with Florida Law.

**THE CITY OF PORT ST. JOE BOARD
OF CITY COMMISSIONERS**



Frank Pate, Mayor

Attest: 
Pauline Pendarvis
City Clerk