

ORDINANCE NO. 2007 - 08

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING ARTICLE 15 "GENERAL PROVISIONS" OF THE TOWN'S UNIFIED LAND DEVELOPMENT CODE BY CREATING SECTION 015-130, ENTITLED "SEX OFFENDER RESIDENCY PROHIBITION"; PROHIBITING SEX OFFENDERS CONVICTED UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2,500 FEET OF SPECIFIED LOCATIONS WITHIN THE TOWN OF SOUTHWEST RANCHES; PROVIDING FOR PENALTIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR RENTAL RESTRICTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety; and

WHEREAS, sexual offenders and sexual predators are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders and sexual predators commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes, which makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant; and

WHEREAS, the Town of Southwest Ranches is deeply concerned about the location of sex offenders within its community; and

WHEREAS, the Southwest Ranches Town Council believes it is of the utmost importance to provide its children with safe areas in which to congregate and therefore, the Southwest Ranches Town Council desires to establish a policy that will provide greater protections to children against the dangers posed by registered sex offenders; and

WHEREAS, it is the intent of this Ordinance to serve the Town's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2. The Town hereby amends Article 15 "General Provisions" of the Town's Unified Land Development Code by creating Section 05-130, Entitled "Sex Offender Residency Prohibition".

Section 3. Article 15 of the Unified Land Development Code of the Town of Southwest Ranches shall be amended to read as follows:

ARTICLE 15. GENERAL PROVISIONS

Sec. 015-130. Sex offender residency prohibition

- (A) Definitions. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) Permanent residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
 - (2) Temporary residence means a place where the person abides, lodges, or resides for a period of fourteen (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 four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
 - (3) Park means an area of land set aside for public use or maintained for recreational and ornamental purposes, usually consisting of grass, trees, paths, trails, sports fields, playgrounds, picnic areas and/or other features for amusement and relaxation.
 - (4) Sexual offender, for purposes of this section, shall be defined as provided by F.S. § 943.0435(a), as may be amended from time to time.
 - (5) Sexual predator, for purposes of this section, shall be defined as a repeat sexual offender, a sexual offender who uses physical violence, a sexual offender who preys on children or as otherwise defined by F.S. § 775.21, also known as The Florida Sexual Predators Act, as may be amended from time to time.

(B) Sexual offender and sexual predator residence prohibition.

- (1) It is unlawful for any sexual offender or sexual predator, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, as that term was applied and used by the state in which the person was convicted, to establish a permanent residence or temporary residence within two thousand five hundred (2,500) feet of any school, designated school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (2) It is unlawful for any person who is required to register as a sexual offender, to establish a permanent residence or temporary within two thousand five hundred (2,500) feet of any school, designated school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (3) 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 property line of a school, designated school bus stop, day care center, park, playground, or other place where children regularly congregate.

(C) Penalties.

- (1) A person found to be in violation of this section shall be subject to arrest or issued a notice to appear and shall appear at the prearranged court date to answer the charge. Once notified of the residency restriction, the person shall have two (2) weeks to vacate the premises. A person who fails to vacate the premises within two (2) weeks after receiving notice of the residency restriction shall be subject to arrest.
- (2) A person who violates this section shall be punished by a fine not exceeding five hundred dollars (\$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 one thousand dollars (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months, or by both such fine and imprisonment.

(D) Exceptions.

(1) A person residing within two thousand five hundred (2,500) feet of any school, designated 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:

a. The registered person established the permanent residence prior to July 12, 2007.

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 and is not emancipated.

d. The school, designated 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.

(E) Property owners and property managers prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

(1) It is unlawful for any property owner or property manager or his or her agent or assignee to knowingly let, rent, or allow to be occupied free of charge any place, structure, or part thereof, trailer or 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 of temporary residence pursuant to any provision of this Code, if such place, structure, or part thereof, trailer or other conveyance, is located within two thousand five hundred (2,500) feet of any school, designated school bus stop, day care center, park, playground, or other place where children regularly congregate.

Section 4. Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 5. Inclusion. It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town of Southwest Code of Ordinances; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Severability. If any portion of this Ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property or circumstance.

Section 7. Effective Date. This Ordinance shall be effective immediately upon its adoption.

PASSED ON FIRST READING this 14TH day of June, 2007 on a motion made by Council Member Blanton and seconded by Council Member Knight.

PASSED AND ADOPTED ON SECOND READING this 12th day of July, 2007, on a motion made by Council Member Jeff Nelson and seconded by Vice Mayor Don Maines.

Fink	<u>Y</u>	Ayes	<u>4</u>
Maines	<u>Y</u>	Nays	<u>0</u>
Breitkreuz	<u>Y</u>	Absent	<u>1</u>
Knight	<u>ABSENT</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		



Mecca Fink, Mayor

Attest:



Susan A. Owens, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney