

*@ City of Oviedo*

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RECORDING FEES 14.00

RECORDED BY G Harford

ORDINANCE NO. 1386

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA, AMENDING PARTS OF ORDINANCE NO. 1315, WHICH AMENDED ORDINANCE NO. 1310 RELATING TO THE RESIDENCES OF SEXUAL PREDATORS/OFFENDERS INCLUDING, BUT NOT LIMITED TO, VIOLATIONS OF SECTION 794.011, SECTION 800.04, SECTION 827.071, OR SECTION 847.0145, *FLORIDA STATUTES*, REGARDLESS OF WHETHER ADJUDICATION HAS BEEN WITHHELD, WHEN THE VICTIM OF THE OFFENSE FOR WHICH THE CONVICTION RESULTED WAS SIXTEEN (16) YEARS OF AGE OR LESS AT THE TIME THE OFFENSE WAS COMMITTED) WITHIN THE CITY LIMITS OF THE CITY OF OVIEDO; PROVIDING FOR AFFIRMATION OF LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PROHIBITION AGAINST CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM LIVING WITHIN THE CITY OF OVIEDO WHEN THEIR RESIDENCE LIES WITHIN 2,500 FEET OF SPECIFIED LOCATIONS (SCHOOLS, PRE-KINDERGARTEN THROUGH GRADE 12, STATE LICENSED DAY CARE CENTERS, PUBLIC AND PRIVATELY DESIGNATED PARKS (SUCH AS RECREATIONAL OPEN SPACES AND MINIPARKS), PUBLIC LIBRARY AND CHURCHES OR HOUSES OF WORSHIP); PROVIDING FOR A PROHIBITION RELATING TO SEXUAL PREDATORS; PROHIBITING THE RENTING OF RESIDENCES TO PERSONS WHO ARE SUBJECT TO THE SEPARATION REQUIREMENTS; PROVIDING FOR APPLICABILITY/EFFECT UPON CURRENT RESIDENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor, Chairman and members of the City Council of the City of Oviedo enacted Ordinance No. 1310 on June 6, 2005 and Ordinance No. 1315 on August 1, 2005; and

WHEREAS, the City Council of the City of Oviedo ratifies and affirms the legislative findings and intent and substance relating to and of Ordinance No. 1310 and Ordinance No. 1315; and

WHEREAS, the City Council of the City of Oviedo has determined that it would be prudent and in the public interest to amend certain provisions of Ordinance No. 1310 and to add supplemental provisions providing additional provisions to Ordinance No. 1310 to ensure that the controlling requirements of law are adhered in the text of this Ordinance and that the procedures and provisions of this Ordinance and Ordinance No. 1310, as amended by Ordinance No. 1315, comport with the essential requirements of substantive and procedural law; and

WHEREAS, words with underlined type shall constitute additions to the text of

Ordinance No. 1315 and ~~strike through~~ shall constitute deletions to the original text of Ordinance No. 1315; and

**WHEREAS**, the City of Oviedo has complied with all requirements and procedures of Florida law in processing, noticing and advertising this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS:**

**SECTION 1. DEFINITIONS.**

Section 2(a) and 2(b) of City of Oviedo Ordinance No. 1315 are hereby amended to read as follows:

(a). Permanent residence shall have the meaning as defined in Section 775.21, as amended, The Florida Sexual Predators Act means a place where a person abides, lodges, or resides for a period of fourteen (14) or more consecutive days.

(b). Temporary residence shall have the meaning as defined in Section 775.21, as amended, The Florida Sexual Predators Act means a place where a 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 which is not the person's permanent residence.

...

**SECTION 2. PROHIBITED RESIDENCES OF SEXUAL OFFENDERS.**

Section 3 of City of Oviedo Ordinance No. 1315 is hereby amended to read as follows:

"(a). It is prohibited and unlawful for any person who has been deemed a sexual predator under the provisions of Section 775.21, Florida Statutes, or has been convicted of a violation of an offense that provides for the assignment of such status under Florida law to include, but not be limited to, Section 794.011,<sup>1</sup> Section 800.04,<sup>2</sup> Section 827.071,<sup>3</sup> or Section 847.0145,<sup>4</sup> Florida Statutes, regardless of whether adjudication has been withheld (the term convicted to include not only the listed Florida statutory provisions, but, also, a conviction of a similar offense with similar elements of proof by a Federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and, further, includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any State of the United States or other jurisdiction), when the victim of the offense for which the conviction resulted was less than

<sup>1</sup> Sexual battery.

<sup>2</sup> Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

<sup>3</sup> Sexual performance by a child.

<sup>4</sup> Selling or buying of minors.

sixteen (16) years of age or less at the time the offense was committed, to establish a permanent residence or temporary residence located within the City of Oviedo when such residence is located within two thousand five-hundred (2,500) feet of any school (pre-kindergarten through grade 12), State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship regardless of whether the school, State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship lies within the City Limits of the City of Oviedo, another municipality or unincorporated Seminole County.

(b). 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 permanent residence or temporary residence to the nearest outer property line of the school (pre-kindergarten through grade 12), State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship.

(c). A person residing within two thousand five-hundred (2,500) feet of any school (pre-kindergarten through grade 12), State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship does not commit a violation of Ordinance Number 1310, as amended by Ordinance No. 1315 and this Ordinance, if any of the following apply:

(1). The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Section 775.21,<sup>5</sup> 943.0435<sup>6</sup> or 944.607,<sup>7</sup> *Florida Statutes*, prior to June 6, 2005<sup>8</sup>.

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

(3). The person is a minor.

(4). The school, State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Section 775.21,<sup>9</sup> 943.0435<sup>10</sup> or 944.607<sup>11</sup>, *Florida Statutes*.”

**SECTION 3. PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS.**

<sup>5</sup> The Florida Sexual Predators Act.

<sup>6</sup> Registration of Sexual Offenders.

<sup>7</sup> Notification of Department of Law Enforcement of Information on Sexual Offenders.

<sup>8</sup> The effective date of Ordinance No. 1310.

<sup>9</sup> The Florida Sexual Predators Act.

<sup>10</sup> Registration of Sexual Offenders.

<sup>11</sup> Notification of Department of Law Enforcement of Information on Sexual Offenders.

Section 4 of Ordinance No. 1315 is amended to read as follows:

(a). It is prohibited and unlawful for any owner or lessor to let or rent 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 or temporary residence pursuant to Ordinance No. 1310, as amended by Ordinance No. 1315 and this Ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within two thousand five-hundred (2,500) feet of any school, pre-kindergarten through grade 12, State licensed day care center, public or privately designated park (such as miniparks and recreational open spaces), public library or church or house of worship regardless of whether the school pre-kindergarten through grade 12, State licensed day care center, public park (such as miniparks and recreational open spaces), public library or church or house of worship lies within the City Limits of the City of Oviedo, another municipality or unincorporated Seminole County.

(b). Prior to letting, renting or leasing any place, structure, or part thereof, trailer or other conveyance for use as a permanent or temporary residence that is located within two thousand-five hundred (2,500) feet of a school, (pre-kindergarten through grade 12), State licensed day care center, public or privately designated park (such as mini-parks and recreational open spaces), public library, or church or house of worship, regardless of whether the school (pre-kindergarten through grade 12), State licensed day care center, public park (such as mini-parks and recreational open spaces), public library, or church or house of worship lies within the City Limits of the City of Oviedo, another municipality or unincorporated Seminole County, and annually thereafter if a rental agreement is entered into, the owner or lessor shall obtain confirmation of a nationwide search from the Florida Department of Law Enforcement that the prospective renter, lessee or adult resident is not a registered sexual offender or sexual predator as defined or determined by State law. A person may use the Florida Department of Law Enforcement Sexual Offender (<http://www.fdle.state.fl.us/>) and the National Sex Offender Public Registry (<http://www.nsopr.gov/>) databases for the purposes of this Subsection.

**SECTION 4. CONFLICTS.** All Ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 5. SEVERABILITY.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION 6. PENALTIES.** The City may pursue any enforcement action or legal remedy available under controlling State law and any legal remedy available to the City to include, but not be limited to, a fine not exceeding \$500.00 unless otherwise authorized by State law or by imprisonment for a term not exceeding sixty (60) days unless otherwise authorized by State law, or by both such fine and imprisonment.

**SECTION 7. CODIFICATION.** The provisions of this Ordinance shall be codified as

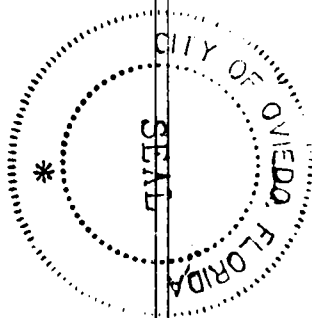
and become and be made a part of the Code of Ordinances of the City of Oviedo. The Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 4, 5, 6, 7 and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its enactment.

FIRST READING: October 2, 2006

SECOND READING: October 16, 2006

PASSED AND ADOPTED this 16th day of October, 2006.



[Signature]  
DOMINIC PERSAMPIERE  
CHAIRMAN of the City Council of the  
City of Oviedo, Florida

[Signature]  
THOMAS G. WALTERS  
MAYOR of the City of Oviedo, Florida

ATTEST:  
[Signature]  
BARBARA J. BARBOUR  
CITY CLERK