

ORDINANCE NO. 11-2005

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, CHAPTER 14, ENTITLED "MISCELLANEOUS", ARTICLE I, "IN GENERAL", TO CREATE NEW CODE SECTION 14-12, TO BE ENTITLED "SEXUAL PREDATOR AND SEXUAL OFFENDER REGULATIONS; DEFINITIONS"; CREATING NEW CODE SECTION 14-13, TO BE ENTITLED "SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCY PROHIBITIONS", TO PROVIDE A SEPARATION REQUIREMENT OF 2500 FEET FROM THE RESIDENCES OF SEXUAL OFFENDERS AND PREDATORS AND CERTAIN PERMITTED USES; CREATING NEW CODE SECTION 14-14, TO BE ENTITLED "RENTAL OF REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND PREDATORS PROHIBITED"; CREATING NEW CODE SECTION 14-15, TO BE ENTITLED "AN ANNUAL REGISTRATION OF PRIVATE SCHOOL BUS STOPS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to miscellaneous regulations and offenses, which have been codified at Chapter 14, Article I, of the Code of Ordinances; and

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 are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes; and

WHEREAS, the high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provides the Town Commission with sufficient justification to enact regulations and restrictions regarding where sexual offenders and sexual predators may temporarily and permanently reside within the Town; and

WHEREAS, the Town Commission has determined that it is in the best interests of the Town and its residents, to adopt certain regulations pertaining to where sexual offenders and sexual predators may reside within the Town limits; and

WHEREAS, Town staff has recommended to the Town Commission that new Sections 14-12, 14-13, 14-14, and 14-15 of Chapter 14, Article I, be created to provide requirements to prohibit registered sexual offenders and sexual predators from residing within 2500 feet of certain uses and locations within the Town, and to provide for the annual registration of private school bus stops; and

WHEREAS, the Town Commission has reviewed the recommendations of the Town staff and has determined that creating new Sections 14-12, 14-13, 14-14, and 14-15 of Chapter 14, Article I, of the Town's Code of Ordinances is necessary to further the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the findings of fact of the Town Commission.

Section 2. Chapter 14, Article I, Sections 14-12, 14-13, 14-14, and 14-15 of the Code of Ordinances of the Town of Lake Park, Florida are hereby created to read as follows:

Sec. 14-12. Sexual Predator and Sexual Offender Regulations; Definitions.

Definitions. The following words, terms and phrases, when used in sections 14-13 through 14-15 of this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Conviction means a determination of guilt which is the result of a trial of the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

Permanent residence means a place where a person abides, resides, lodges for fourteen (14) or more consecutive days, and which includes, motor vehicles, trailers, mobile homes, manufactured homes, vessels, live-aboard vessels, houseboats..

Private bus stop means a location where private school students from more than one residence are picked up and/or dropped off during transportation to and from a private school, including private day care centers.

Temporary residence means a place where person abides, resides, or lodges for a period of fourteen (14) days or more in the aggregate, during any calendar year, and which is not the person=s permanent residence, or a place where a person routinely abides, resides, or lodges for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person=s permanent residence, and which includes, motor vehicles, trailers, mobile homes, manufactured homes, vessels, live-aboard vessels, houseboats.

Sec. 14-13. Sexual Offender and Sexual Predator Residency Prohibitions.

- (1) It is unlawful for any person who has been convicted of a violation of sections 794.011, Fla. Stat. (sexual battery@), 800.04, Fla. Stat. (lewd or lascivious offenses committed upon or in the presence of person less than 18 years of age), 827.027, Fla. Stat. (sexual performance by a child@) or 847.0145, Fla. Stat. (Abuying or selling minors), regardless of whether adjudication has been withheld, and in which case the victim of the offense was less than 18 years of age, (hereinafter referred to as sexual offender or sexual predator), to establish a permanent residence or temporary residence within 2500 feet of any public or private school, designated

public school bus stop or sign, private school bus stop (including day care centers) registered pursuant to section 14-15, public library, day care center, park, playground, community center, day camp, or other place where children regularly congregate. However, a sexual predator or sexual offender who resides within 2,500 feet of any school, designated public school bus stop or sign, private school bus stop registered pursuant to this section, public library, day care center, park or playground, community day care centers, is not in violation of this section if:

- (A) the person established the permanent residence prior to October 5, 2005 (the effective date of this ordinance); or
 - (B) the person was a minor when he/she committed the offense and was not convicted as an adult; or
 - 8) the person is a minor; or
 - (D) the school designated public school bus stop or sign, private school bus stop or sign, public library, day care center, park, playground or community day camp or other places where children regularly congregate within 2,500 feet of the person=s permanent or temporary residence was opened and/or established after the person established the permanent or temporary residence.
- (2) For purposes of determining the minimum distance separation, the 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 designated public school bus stop or sign, private school bus stop regulations pursuant to this section, public library, day care center, park, playground, community center, day camp, or other place where children regularly congregate.

Sec. 14-14. Rental of Real Property to Certain Sexual Offenders and Sexual Predators Prohibited.

- (1) It is unlawful to lease, rent, or otherwise convey any dwelling to any person prohibited from establishing such permanent residence or temporary residence pursuant to section 14-13 of this article, if such dwelling, or part thereof, is going to be used as a permanent residence or temporary residence of the person, and the dwelling is located within 2500 feet of any school, designated public school bus stop or sign, private school bus stop registered pursuant to section 14-15, public library, day care center, park, playground, community center, day camp, or other place where children regularly congregate.
- (2) A property owner or property manager=s failure to comply with the requirements of this section shall constitute a violation of this section, and shall subject the property owner, property manager or other person or entity in the care, custody or control of

the real property to enforcement proceedings as authorized by this code and chapter 162, Fla. Stat.

Sec. 14-15. Annual Registration of Private School Bus Stops.

- (1) The prohibition from establishing a residence near a private school bus stop as set forth in this article, shall only apply to those private school bus stops that are registered with the town pursuant to this section.
- (2) Any private school, including day care centers, that enrolls children within the town, may register the location of its bus stops, with the Palm Beach County Sheriff=s Office through the town, and may amend such registration by filing the locations, as amended, with the town manager. The registration, or amended registration, as applicable, shall be effective for a single school year from the date of filing through August 1 following the school year.

Section 3. Severability. If any section, subsection, sentence, clause, phrase 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 thereof.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 21st day of September, 2005, the foregoing ORDINANCE was offered by Commissioner Balius who moved its approval. The motion was seconded by Commissioner, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	_____
VICE MAYOR PAUL GARRETSON	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER ED DALY	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____

Upon Second Reading this 5th day of Oct., 2005, the foregoing ORDINANCE was offered by Commissioner Daly who moved its adoption. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

	AYE	NAY	
MAYOR PAUL CASTRO	<u>X</u>	_____	
VICE MAYOR PAUL GARRETSON	_____	_____	Absent
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____	
COMMISSIONER ED DALY	<u>X</u>	_____	
COMMISSIONER JEFF CAREY	<u>X</u>	_____	

The Mayor thereupon declared Ordinance No. 11-2005 duly passed and adopted this 5th day of Oct., 2005.

TOWN OF LAKE PARK, FLORIDA

BY: Paul Castro
Mayor Paul Castro

ATTEST:

Stephanie Thomas

Stephanie Thomas
Town Clerk

Approved as to form and legal sufficiency:
Thomas J. Baird
Thomas J. Baird, Town Attorney

