

ORDINANCE NO.: 2023 - __

AN ORDINANCE AMENDING ARTICLE XIV OF CHAPTER 21 OF THE HERNANDO COUNTY CODE TO PROHIBIT DISPLAY OF HALLOWEEN DECORATIONS OR OTHER DISPLAYS OR DECORATIONS AS DESCRIBED IN THIS ORDINANCE ON THE EXTERIOR OF ANY SEXUAL OFFENDER OR SEXUAL PREDATOR RESIDENCE, VEHICLE, OR VESSEL, OR ON ANY PROPERTY LEASED, RENTED, OWNED, OR OCCUPIED BY A SEXUAL OFFENDER OR SEXUAL PREDATOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, sexual offenders and sexual predators, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders and sexual predators is a paramount governmental interest. Sexual offenders and sexual predators have reduced expectations of privacy because of the public's interest in public safety and in the effective operation of government. The designation of a person as a sexual offender or a sexual predator is not a sentence or punishment, but is simply the status of the offender which is the result of a conviction for having committed certain crimes; and,

1 WHEREAS, it is the intent of this ordinance to serve the county's compelling interest to
2 promote, protect and improve the health, safety and welfare of the citizens of the county by creating
3 areas around locations where children regularly congregate in concentrated numbers wherein certain
4 sexual offenders and sexual predators are prohibited from establishing temporary or permanent
5 residences; and,

6 WHEREAS, it is the further intent of this ordinance to serve a public purpose by promoting,
7 protecting, and improving the health, safety, and welfare of the citizens of Hernando County by
8 creating areas around locations where senior citizens reside or regularly congregate wherein sexual
9 offenders and sexual predators are prohibited from establishing temporary or permanent residences;
10 and,

11 WHEREAS, the following amendments to Chapter 21, Article XIV of the Hernando County
12 Code are suggested in order to provide clarity as to what displays and decorations are prohibited so
13 as to minimize or prevent attacks on children premised on decorations or costumes that attract,
14 entice, or lure children into vulnerable areas or circumstances while also conforming to First
15 Amendment rights.

16 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
17 COMMISSIONERS OF HERNANDO COUNTY:

18 **Section 1. Incorporation of Legislative Findings.**

19 The findings set forth in the forgoing recitals (whereas clauses) to this article are hereby
20 adopted as additional legislative findings.

1 **Section 2. Protection from Sexual Offenders and Sexual Predators. Article XIV of**
2 **Chapter 21 of the Hernando County Code is amended as follows:**

3 **ARTICLE XIV. PROTECTION FROM SEXUAL OFFENDERS AND**
4 **SEXUAL PREDATORS**

5 **Sec. 21-221. Definitions.**

6 As used in this article, the following words and terms shall have the meaning
7 ascribed thereto:

8 *Child, children, or minor* shall mean individuals whose chronological age is
9 less than 18 years.

10 *Child care facility* shall have the same meaning as provided for in Fla. Stat.
11 § 402.302(2), as it may be amended. For purposes of this article, a child care facility
12 includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory
13 buildings and all outdoor areas of the facility. It is the intent to include all areas
14 reasonably included in and part of the facility.

15 ~~*Display means any decoration including, but not be limited to, lighting,*~~
16 ~~*figurines, posters, artwork, crystals, bales of hay, scarecrows, etc., which is visible*~~
17 ~~*to the public in plain view and is primarily targeted toward children.*~~

18 *Long Term Care Facility* shall have the same meaning as is provided for
19 “Facility” in Fla. Stat. § 400.021(7), as it may be amended.

1 *Non-Familial Children* means those children who are not related to the
2 Sexual Offender or Sexual Predator through biological means, marriage, or adoption.

3 *Nursing Home Facility* shall have the same meaning as provided for in Fla.
4 Stat. § 400.021(12), as it may be amended.

5 *Park* shall have the same meaning as is provided for in Fla. Stat. §
6 775.215(1)(b), as it may be amended.

7 *Participate* means to attend, take part in, or cooperate with the organization
8 of an event.

9 *Permanent Residence* shall have the same meaning as provided for in Fla.
10 Stat. § 775.21(2)(k), as it may be amended.

11 *Playground* shall have the same meaning as is provided for in Fla. Stat. §
12 775.215(1)(c), as it may be amended.

13 *Practices* means to carry out or perform any particular activity or method that
14 may celebrate or recognize a particular season, customs or beliefs.

15 *Public Shelter* means any shelter specifically designated by Hernando County
16 or any municipality to house persons in times prior to, during and after the threat or
17 occurrence of disaster.

18 *Religious Institution* shall have the same meaning as is provided for in Fla.
19 Stat. § 205.022(1)(a), as it may be amended.

1 *School* shall have the same meaning as is provided for in Fla. Stat. §
2 775.215(1)(d), as it may be amended.

3 *School Official* means a principal, a school resource officer, a teacher or any
4 other employee of the school, the superintendent of schools, a member of the school
5 board, a child care facility owner, or a child care provider.

6 *Sexual Offender* shall have the same meaning as is provided for in Fla. Stat.
7 § 944.606(1)(f), as it may be amended.

8 *Sexual Predator* means a person who a court of competent jurisdiction has
9 designated as a sexual predator pursuant to Fla. Stat. § 775.21(5), as it may be
10 amended.

11 *Sexual Predator and Sexual Offender Shelter* means any shelter officially
12 designated by Hernando County or any municipality that is designated to house
13 sexual predators or sexual offenders in times prior to, during and after the threat or
14 occurrence of disaster.

15 *Temporary Residence* shall have the same meaning as provided for in Fla.
16 Stat. § 775.21(2)(n), as it may be amended.

17 *Transient Residence* shall have the same meaning as provided for in Fla. Stat.
18 § 775.21(2)(o), as it may be amended.

19 **Sec. 21-222. Prohibited Residences of Sexual Offenders and Sexual Predators.**

1 It is prohibited and unlawful for any sexual offender, sexual predator, or a
2 person who has been convicted of a violation of Fla. Stat. §§ 794.011, 800.04,
3 827.071, or 847.0145, as they may be amended, regardless of whether adjudication
4 has been withheld, in which the victim of the offense for which conviction resulted
5 was 16 years of age or less at the time the offense was committed, to establish a
6 permanent residence, temporary residence, or a transitory residence within 2,500 feet
7 of any school, child care facility, park, playground, public library, long term care
8 facility, nursing home facility, or religious institution, regardless of whether the
9 school, child care facility, park, playground, public library, long term care facility,
10 nursing home facility, or religious institution lies within unincorporated Hernando
11 County.

12 **Sec. 21-223. Measurement of Distance.**

13 For purposes of measuring separation of a residence from a school, child care
14 facility, park, playground, public library, long term care facility, nursing home
15 facility, or religious institution, all distances shall be measured from the outermost
16 property line of the parcel upon which the residence is located running in a direct line
17 to the outermost property line of the school, child care facility, park or playground,
18 public library, long term care facility, nursing home facility, or religious institution.
19 For example, if the residence is located in a generally southwesterly direction from
20 a park, then the measurement would be from the northeast corner of the residential

1 parcel to the southwest corner of the park. For all other purposes, measurements shall
2 run from the outermost property line of the school, child care facility, park or
3 playground, public library, long term care facility, nursing home facility, or religious
4 institution.

5 **Sec. 21-224. Exceptions.**

6 A sexual offender or sexual predator residing within 2,500 feet of any school,
7 public library, child care facility, park, playground, public library, long term care
8 facility, nursing home facility, or religious institution does not commit a violation of
9 this Article if any of the following apply:

10 (a) The person established the permanent residence prior to the
11 effective date of the ordinance from which this article derives.

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

14 (c) The person is a minor.

15 (d) The school, child care facility, park, playground, public library,
16 long term care facility, nursing home facility, or religious institution situated within
17 2,500 feet of the person's permanent residence was opened after the person
18 established the permanent residence and reported and registered the residence
19 pursuant to Fla. Stat. §§ 775.21, 943.0435, or 944.607, as they may be amended.

20 **Sec. 21-225. Application of Article; Existing Contracts.**

1 The provisions of this article shall operate prospectively and shall not apply
2 to persons residing at a prohibited location on the effective date of the ordinance
3 from which this article derives, such that it is not the intent of this article to impair
4 valid, existing and bona fide contract rights; provided, the provisions of this article
5 shall apply upon termination of any leasehold relationship arising from a landlord-
6 tenant relationship upon the expiration of a lease. When a person who is the subject
7 of this article changes residences, this article shall fully apply to such persons.

8 **Sec. 21-226. Travel on Highways and Toll Roads.**

9 Nothing herein shall prohibit any person from traveling on those roads
10 currently included within the Florida Intrastate Highway System located within the
11 county.

12 **Sec. 21-227. Temporary Emergency Shelters.**

13 (a) Any person who is required by Florida law to register as a sexual
14 predator or sexual offender and who utilizes or intends to utilize a temporary shelter
15 provided by any public or private entity and established as a result of any emergency
16 or incident or threatened emergency or incident shall, immediately upon entering the
17 shelter, notify the individual or individuals operating the shelter that he or she is a
18 registered sexual predator or sexual offender. The sexual predator or sexual offender
19 shall be assigned to a temporary shelter specifically designated for use by sexual
20 predators and sexual offenders.

1 (b) The county may designate a public building or a jail or other
2 correctional facility as a temporary shelter to be utilized by sexual predators and
3 sexual offenders.

4 (c) Failure of a sexual predator or sexual offender to make notification
5 as required in this section shall constitute a violation of this article punishable as
6 provided herein.

7 **Sec. 21-228. Registration Fee.**

8 A person who is required by Florida law to register as a sexual offender or
9 predator shall pay to the Sheriff's Office upon registration an amount as set by the
10 Hernando County Sheriff, per registration, for the purpose of covering the costs
11 associated with the identification and regulation of sexual offenders or predators.
12 Persons required to register with local law enforcement shall register and remit the
13 registration fee twice per year. The initial registration fee for first time sexual
14 offender and predator registrants shall be waived.

15 **Sec. 21-229. Prohibited Holiday and Seasonal Event Activities for Sexual**
16 **Offenders and Sexual Predators; Exceptions.**

17 (a) It is unlawful for any Sexual Offender or Sexual Predator to
18 participate in any practice or event, including, but not limited to, any event related
19 to a nationally or locally recognized holiday or seasonal event, if such practice or
20 event is primarily targeted toward non-familial children.

1 (b) It is unlawful for any Sexual Offender or Sexual Predator to wear
2 costumes, clothing, make-up, mask or anything that would alter a person's appearance
3 in the presence of any non-familial child if such altered appearance could or would
4 entice, attract or lure a child to congregate around, or move closer to, that person.

5 (c) Any person designated a Sexual Offender or Sexual Predator shall:

6 (1) Avoid all Halloween related contact with children;

7 ~~(2) From 6:00 a.m. to 11:59 p.m., on October 31 (or any other day~~
8 ~~on which Halloween is celebrated) post a sign at his or her residence, including a~~
9 ~~vessel, or vehicle, stating, "No candy or treats here." Such signs shall be in letters at~~
10 ~~least two inches high and shall be legible on the property leased, rented, owned or~~
11 ~~occupied by the Sexual Offender or Sexual Predator, and clearly visible from the~~
12 ~~street, waterway, or any property that is open to public access. The signs may be~~
13 ~~removed after 11:59 p.m. on October 31, or the day on which Halloween is~~
14 ~~celebrated.~~

15 ~~(3)~~(2) Except for lighting provided on a year-round basis by the
16 owner or manager of a multi-family residential unit for the purpose of security or
17 walkway or hallway illumination, leave all outside residential lighting off during the
18 evening hours after 5:00 p.m. on October 31 (or any other day on which Halloween
19 is celebrated).

1 ~~(4)~~(3) Not place or allow any the following displays or decorations,
2 including but not limited to displays or decorations for any nationally or locally
3 recognized holiday or seasonal event or practice, to be visible from the exterior of
4 any Sexual Offender's or Sexual Predator's residence, including a vehicle or vessel,
5 or on any property which is leased, rented, owned or occupied by such person; ~~if~~
6 ~~such display is primarily targeted to entice, attract, or lure a child onto any residence~~
7 ~~or property, or onto or nearer to any vehicle or vessel rented, owned or occupied by~~
8 ~~such person. Enforcement of this section shall not be limited to the actual calendar~~
9 ~~date of any given nationally or locally recognized holiday or seasonal event or~~
10 ~~practice~~ inflatables, holograms, projections, displays over six feet in height,
11 interactive displays, decorations or displays that include a fictitious character,
12 decorations or displays that line a walkway or path to a door of the residence, or
13 lights that are not affixed to the residence, except that there may be one lighted
14 display not affixed to the residence if it meets the requirements listed here.
15 Enforcement of this section shall not be limited to the actual calendar date of any
16 given nationally or locally recognized holiday or seasonal event or practice.

17 (d) The following is a list of exemptions for Sexual Offenders or Sexual
18 Predators from this section. During any nationally or locally recognized holiday or
19 seasonal event or practice:

1 (1) The Sexual Offender or Sexual Predator may attend if such
2 person is the parent or guardian of the child or children involved and only those
3 familial children are present;

4 (2) The Sexual Offender or Sexual Predator may attend if the
5 event is held in a location such as a personal residence which would not be attracting
6 or enticing to non-familial children to attend (prohibited locations include, but are not
7 limited to family gatherings in parks, pools, or other locations or places where
8 children could be lured); or

9 (3) The Sexual Offender or Sexual Predator is not present at the
10 event location although such location may be owned, leased, rented or occupied by
11 such person.

12 **Section 21-230. Restriction of Certain Activities of Sexual Offenders and Sexual**
13 **Predators.**

14 No sexual offender or sexual predator shall enter into or remain within the
15 1,000-foot buffer zone surrounding any school, child care facility, park, playground,
16 public library, long term care facility, nursing home facility, or religious institution
17 except to:

18 (a) Conduct official government business at a Hernando County
19 government office or a local municipality government office. When a sexual offender
20 or sexual predator enters upon Hernando County government property or local

1 municipality government property pursuant to this subsection, the sexual offender or
2 sexual predator shall promptly depart from the property without any undue delay or
3 loitering on premises after completing official government business. For the purposes
4 of this subsection, the terms “Hernando County government office” and “local
5 municipality government office” do not include school property.

6 (b) Attend a scheduled interview or meeting with a social service provider
7 licensed by the state;

8 (c) Comply with a request or court order from the judiciary, a correctional
9 facility or a law enforcement entity;

10 (d) Attend a scheduled meeting or interview with criminal justice
11 personnel at a criminal justice facility;

12 (e) Attend a bona fide educational institution as a registered student;

13 (f) Attend a scheduled or emergency health care visit with a licensed
14 physician;

15 (g) As a result of fulfilling legally allowable duties imposed by gainful
16 employment;

17 (h) Transport children within their legal custody to and from school or
18 daycare without any undue delay or loitering on premises;

1 (i) Seek refuge in a public shelter that has been officially designated by
2 the county or any municipality to house sexual offenders or sexual predators during
3 times of impending natural disasters or acts of terrorism;

4 (j) Attend a scheduled legal consultation meeting with an attorney who
5 is recognized as a licensed member of the bar of the state;

6 (k) Attend a church service or function;

7 (l) Vote at a designated polling place within his or her district, obtain a
8 vote-by-mail ballot from the supervisor of elections, or deliver a vote-by-mail ballot
9 to a secure drop box of the supervisor of elections or office of the supervisor of
10 elections;

11 (m) If the sexual offender or sexual predator is the parent or guardian of
12 a person under 18, years of age, provided the sexual offender or sexual predator has
13 declared his or her status as a sexual offender or sexual predator prior to entering the
14 school property, has either scheduled a set time period to enter upon the property
15 with the principal or designee or immediately notifies the principal or designee upon
16 entering the school property, and remains under direct supervision of a school official
17 or designated chaperone when present in the vicinity of children:

18 (1) Attend a scheduled conference at school with school personnel
19 to discuss the progress of his or her child academically or socially;

1 (2) Participate in scheduled child review conferences in which
2 evaluation and placement decisions may be made or considered with respect to his
3 or her child regarding special education services; or,

4 (3) Attend scheduled conferences to discuss other student issues
5 concerning his or her child such as retention and promotion.

6 (n) If the sexual offender or sexual predator lawfully resides within 1,000
7 feet of any school, child care facility, park, playground, public library, long term care
8 facility, nursing home facility, or religious institution, he or she may enter into or
9 remain within 1,000 feet of such school, child care facility, park, playground, public
10 library, long term care facility, nursing home facility, or religious institution for the
11 purposes of travel to and from his or her residence, and any other bona fide activity
12 arising from the ordinary maintenance and activities associated with such residence.

13 (o) Attend a public meeting subject to Fla. Stat. ch. 286, as it may be
14 amended; provided, that no less than 24 hours prior to entering the property for the
15 purpose of being present at a public meeting, the sexual offender or sexual predator
16 has notified the county sheriff's office, indicating the sexual offender or sexual
17 predator's intention to be present at the public meeting. The county sheriff's office
18 will forward the notification to the county administrator or the local municipality as
19 deemed appropriate. When a sexual offender or sexual predator enters upon
20 government property pursuant to this subsection the sexual offender or sexual

1 predator shall, upon adjournment of the public meeting, promptly depart from the
2 government property without any undue delay or loitering on premises. For purposes
3 of this subsection, the terms “Hernando County government property” and “local
4 municipality property” do not include school property.

5 (p) With respect to subsection (o) above, in the event a governmental
6 agency holds an emergency public meeting and the 24-hour notice provision cannot
7 be met, the sexual offender or sexual predator shall notify the county sheriff’s office
8 as soon as reasonably possible, but at a minimum, must notify law enforcement
9 present upon entering the governmental building of his or her sexual offender or
10 sexual predator status.

11 **Section 21-231. Enforcement and Remedies.**

12 (a) Administrative Enforcement. Any violation of this Article may be
13 prosecuted as described in Chapter 2, Article III, of the Hernando County Code of
14 Ordinances, as it may be amended or renumbered from time to time.

15 (b) Injunctive Relief. The county may institute a civil action in a court of
16 competent jurisdiction to seek injunctive relief to enforce compliance with this
17 Article.

18 (c) Enumeration Non-Exclusive. Enumeration of penalties, enforcement
19 and remedies herein are non-exclusive and shall not preclude any other enforcement
20 means or remedy now or hereafter available under applicable law. The county may

1 take any, all, or any combination of these actions when the circumstances warrant,
2 including more than one enforcement action.

3 **Section 3. Severability.** It is declared to be the intent of the Board of County
4 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
5 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
6 validity of the remaining portions of this ordinance.

7 **Section 4. Inclusion in the Code.** It is the intention of the Board of County Commissioners
8 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
9 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the
10 sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that
11 the word “ordinance” may be changed to “section,” “article,” or any other appropriate designation.

12 **Section 5. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
13 conflict with the provisions of this ordinance are hereby repealed.

14 **Section 6. Effective Date.** This ordinance shall take effect immediately upon receipt of
15 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
16 been filed with said office.

17 **(The Remainder of this Page Has Been Intentionally Left Blank)**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

HERNANDO COUNTY in Regular Session this _____ day of _____ 20__.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: _____
DOUGLAS CHORVAT, JR.
Clerk and Comptroller

By: _____
JOHN ALLOCCO
Chairman

Approved for Form and Legal Sufficiency



County Attorney's Office