

**ORDINANCE NO. O-08-05**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LANTANA, FLORIDA, AMENDING CHAPTER 13. OFFENSES. OF THE CODE OF ORDINANCES, TO CREATE AN ARTICLE I. TO BE ENTITLED "MISCELLANEOUS OFFENSES" TO INCLUDE EXISTING SECS. 13-1. THROUGH 13-6. AND TO RESERVE SECS. 13-7. THROUGH 13-20. FOR FUTURE LEGISLATION; FURTHER ADOPTING AN ENTIRELY NEW ARTICLE II. TO BE ENTITLED "SEXUAL OFFENDERS AND SEXUAL PREDATORS" PROVIDING FOR FINDINGS AND INTENT; DEFINITIONS; PROHIBITIONS, PENALTIES, AND EXCEPTIONS; AS WELL AS RENTAL REGULATIONS AS THEY RELATE TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Town Council of the Town of Lantana is deeply concerned about the numerous recent occurrences in our state and elsewhere, whereby convicted sex offenders/predators who have been released from custody repeat the unlawful acts for which they had originally been convicted; and,

**WHEREAS**, the Town Council of the Town of Lantana finds from the available evidence that the recidivism rate for released sex offenders/predators is alarmingly high, especially for those who commit their crimes on children; and,

**WHEREAS**, the Town of Lantana is a very attractive place of residence for families with small children; and,

**WHEREAS**, the Town Council of the Town of Lantana desires to establish a policy providing for the maximum protection of the lives and persons in the Town of Lantana; and,

**WHEREAS**, the Town has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Chapter 166, *Florida Statutes*, to adopt such provisions in order to protect the health, safety, and welfare of its residents; and,

**WHEREAS**, the United States 8<sup>th</sup> Circuit Court of Appeals recently issued an opinion in the case of Doe v. Miller, 405 F. 3<sup>rd</sup> 700 (8<sup>th</sup> Cir. April 29, 2005), in which the Court upheld similar residency restrictions contained in the State of Iowa Statutes, and found the restrictions to be constitutional; and,

**WHEREAS**, the Town Council finds that the creation of a Sexual Offender/Predator Residency Prohibition section of the Town Code of Ordinances to prohibit sex offenders/predators convicted of crimes under certain Florida Statutes from living within fifteen hundred feet (1,500') of specified locations in the Town of Lantana is in the best interest of the health, safety, and welfare of the residents and citizens of the Town of Lantana.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LANTANA, THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct.

**SECTION 2.** Chapter 13. "Offenses." of the Town of Lantana Code of Ordinances, is hereby amended by adding a new Article I. to include the existing Sec. 13-1. through 13-6. to be entitled "Miscellaneous." providing that Article I. of Chapter 13 shall hereafter read as follows:

Chapter 13

**OFFENSES**

**Art. I.           Miscellaneous, §§ 13-1. – 13-20.**

**Art. II.          Sexual Offenders and Sexual Predators, §§ 13-21. – 24.**

**ARTICLE I. MISCELLANEOUS**

**Secs. 13-1 – 13-6.**     (Shall remain the same as previously adopted.)

Secs. 13-7. – 13-20. Reserved.

**SECTION 3.** Chapter 13. "Offenses." of the Town of Lantana Code of Ordinances, is hereby amended by adding a new Article II. "Sexual Offenders and Sexual Predators." which shall hereafter read as follows:

**ARTICLE II. SEXUAL OFFENDERS AND SEXUAL PREDATORS.**

**Sec. 13-21. Findings and Intent.**

(a) 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. Sexual offenders/predators are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders/predators commit many offenses, 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/predator victimization to society at large, while incalculable, clearly exorbitant.

(b) it is the intent of this ordinance to serve and to protect the Town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town 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.

**Sec. 13-22. 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 fourteen (14) or more consecutive days.

*"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.

**Sec. 13-23. Prohibitions; Penalties; Exceptions.**

(a) It is unlawful for any person who has been convicted of a violation of §§794.011, 800.04, 827.071, or 847.0145, F.S., regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within fifteen hundred feet (1,500') of any school, designated public or private school bus stop, day care center, park, playground or library.

(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 the nearest outer property line of a school, designated public or private school bus stop, day care center, park, playground or library.

(c) Penalties. 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. A person residing within fifteen hundred feet (1,500') of any school, designated public or private school bus stop, day care center, park, playground or library does not commit a violation of this section if any of the following apply:

- (1) The person established the permanent residence prior to (September 26, 2005).
- (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, designated public or private school bus stop, day care center, park, playground, or library within fifteen hundred feet (1,500') of the persons permanent residence was opened after the person established the permanent residence.

**Sec. 13-24. 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 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 this Article, if such place, structure, or part thereof, trailer or other

conveyance, is located within fifteen hundred feet (1,500') of any school, designated public or private school bus stop, day care center, park, playground or library.

(b) A property owner's failure to comply with provisions of this Article shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided for in this Code of Ordinances, including the provisions that allow the Town to seek relief as otherwise provided by law; or to any other means of enforcement allowed by law.

**SECTION 4.** Each and every other section and subsection of Chapter 13. Offenses. of the Code of Ordinances of the Town of Lantana shall remain the same and in full force and effect as previously adopted.

**SECTION 5.** All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.




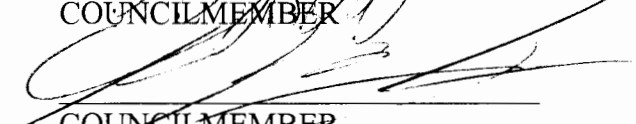
**SECTION 6.** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 7.** Specific authority is hereby given to codify this Ordinance.

**SECTION 8.** This Ordinance shall take effect immediately upon passage.

FIRST READING this 12<sup>th</sup> day of September, 2005.

SECOND AND FINAL READING this 26<sup>th</sup> day of September, 2005.

<u>        </u> Aye	<u>        </u> Nay	TOWN OF LANTANA  MAYOR
<u>        </u> Aye	<u>        </u> Nay	 COUNCILMEMBER
<u>        </u> Aye	<u>        </u> Nay	 COUNCILMEMBER
<u>        </u> Aye	<u>        </u> Nay	 COUNCILMEMBER

Aye                      Nay

*Edward W. [unclear]*  
COUNCILMEMBER

ATTEST:

(Seal)

*[Signature]*  
TOWN CLERK

Approved as to form and  
legal sufficiency.

*[Signature]*  
TOWN ATTORNEY