

**ORDINANCE NO. 07-07**

**AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, RELATING TO THE RESIDENCES OF SEXUAL OFFENDERS (THOSE CONVICTED OF A VIOLATION OF SECTION 794.011, SECTION 800.04, SECTION 827.071, OR SECTION 847.0145, FLORIDA STATUTES) WITHIN THE CITY LIMITS OF THE CITY OF BELLE ISLE; AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF BELLE ISLE, FLORIDA, ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS", TO ESTABLISH SECTION 8-7 ENTITLED "SEX OFFENDER RESIDENCY PROHIBITION", PROHIBITING SEX OFFENDERS CONVICTED UNDER CERTAIN FLORIDA STATUTES WHEN THE VICTIM OF THE OFFENSE FOR WHICH THE CONVICTION RESULTED WAS LESS THAN EIGHTEEN (18) YEARS OF AGE AT THE TIME THE OFFENSE WAS COMMITTED FROM LIVING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF BELLE ISLE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Belle Isle are deeply and profoundly concerned about the unfortunate numerous occurrences within the State of Florida and the United States wherein convicted sexual offenders have been released from custody and then repeat the unlawful acts for which they had originally been convicted; and

**WHEREAS**, the City Council of the City of Belle Isle find from the available evidence that the recidivism rate for released sexual offenders is alarmingly high, especially for those who commit crimes upon children; and

**WHEREAS**, the United States Department of Justice, Bureau of Justice Statistics, published a report in November 2003 entitled Recidivism of Sex Offenders Released from Prison in 1994; and

**WHEREAS**, said report summarized findings of a survey that tracked, for three years, 9,691 male sex offenders released from 15 state prisons in 1994; and

**WHEREAS**, the following relevant facts were reported therein;

- (1) Compared to non-sex offenders released from state prisons, released sex offenders were four times more likely to be rearrested for a sex crime.
- (2) Released child molesters are more likely to be arrested for child molesting when compared with other sex offenders or to non-sex offenders.

- (3) Within the first three years following the release from prison in 1994, 3.3% of released child molesters were rearrested for another sex crime against a child. According to the report, this percentage probably undercounted actual re-arrest rates for child molestation by a few percentage points.
- (4) When released child molesters had more than one previous arrest for a sex offense against a child, the percentage of re-arrest for molesting another child rose to 7.3% who were re-arrested within three years of their 1994 release.

**WHEREAS**, the center for sex offender management, which is a collaborative effort of the Office of Justice program, the National Institution of Correction and the State Justice Institute, published a report entitled Recidivism of Sex Offenders in May 2001; and

**WHEREAS**, said report summarized numerous studies conducted around the country regarding Recidivism Among Sex Offenders; and

**WHEREAS**, the CSOM reported that a meta-analysis of 61 separate research studies found that the average sex offense recidivism rate (as evidenced by re-arrest or reconviction); was 12.7% for child molesters over a 4 to 5 year period; and

**WHEREAS**, the Florida State Legislature, pursuant to Section 775.21, the Florida Sexual Predator's Act has found that "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 are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, as many more victims than are ever reported, and are prosecuted for only a fraction of their crimes"; and

**WHEREAS**, Section 794.065, Fla. Stat., (2004), makes it "unlawful for any person who has been convicted of a violation of S. 794.011, S. 800.04, S. 827.071, or S. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, daycare center, park, or playground"; and

**WHEREAS**, Section 947.1405, Fla. Stat., (2004), provides that an inmate that has been convicted of a violation of Chapter 794, S. 800.04, S. 827.071, or S. 847.0145, and is subject to conditional release supervision, and whose victim was under the age of 18, is prohibited from living within 1,000 feet of a school, daycare center, park, playground, designated public school bus stop, or other place where children regularly congregate; and

**WHEREAS**, Section 847.0134, Fla. Stat., (2004), provides that certain adult entertainment venues may not be located within 2,500 feet of real property that comprises a public or private elementary school, middle school, or secondary school; and

**WHEREAS**, the City Council of the City of Belle Isle desires to ensure that the citizens and children of the City of Belle Isle are protected from criminal activity to the maximum extent afforded by controlling law in order to advance the public health, safety and welfare, and benefit the citizens of the City of Belle Isle to the maximum extent possible; and

**WHEREAS**, it is within the police power of the city to regulate and proscribe rules in the interest of the health, safety and general welfare of the residents of the city; and

**NOW THEREFORE BE IT ORDAINED** by the city council of the city of Belle Isle, Florida as follows:

**SECTION 1.** Chapter 8 of the Code of Ordinances of the City of Belle Isle is hereby amended to add Section 8-7 to read as follows:

**Sec. 8-7 Sex Offender Residence Prohibitions**

(a) Findings and Intent.

(1) The findings set forth in the recitals (whereas clauses) to this ordinance are hereby adopted as legislative findings.

(2) It is the intent of this ordinance to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City of Belle Isle by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing residence as provided for herein.

(3) It is the desire of the City Council of the City of Belle Isle that the Orange County School District carefully adhere to the provisions of section 947.1405(7), Fla. Stat., which relates to, among other things, the establishment and relocation of public school bus stops.

(b) Sexual Offender and Sexual Predator Distance Separation requirements.

(1) It is prohibited and unlawful for any person who has been convicted of a violation of §794.011, 800.04, 827.071, or 847.0145, Fla. Stat., when the victim of the offense for which the conviction resulted was eighteen (18) years of age or less at the time the offense was committed, to reside in a residence located within the City of Belle Isle when such residence is located within 2,500 feet of any school, day care center, park, playground, designated public school-bus stop, or other place where children regularly congregate, whether or not such school, day care center, park, playground, designated public school bus stop or other place where children regularly congregate is located within the City of Belle Isle.

(2) For purposes of determining the minimum distance separation, the 2,500 feet requirement shall be measured by following a straight line from the outer property line of the offender's residence to the nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate, whether or not such school, designated public school bus stop, day care center, park, playground or other place where children regularly congregate is within city limits

(3) Convicted means a determination of guilt which is the result of a trial or the entry of a plea of guilty or *nolo contendere*, regardless of whether adjudication is withheld.

(c) Enforcement.

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 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment.

(d) Application.

The provisions of this ordinance shall not be applied to a person residing at a prohibited location on the effective date of this ordinance such that it is not the intent of this ordinance to impair valid, existing and bona fide contract rights; provided, however, that the provisions of this ordinance shall apply upon termination of any leasehold relationship arising from a landlord-tenant relationship or the expiration of a lease. When a person who is the subject of this ordinance changes residences, this ordinance shall apply to such persons. Further, changes to property within 2,500 feet of said person's existing and established residence, provided such residence is continuous and is reported and registered pursuant to 775.21, 943.0435, or 944.607, Fla. Stat., shall not form the basis for finding that said person is in violation of this section.

**SECTION 2. SEVERABILITY.** If any word, phrase, sentence, clause or other portion of this Ordinance is determined to be invalid, void, or unconstitutional, the remainder of this Ordinance shall remain in effect.

**SECTION 3.** This ordinance shall become effective immediately upon its passage and adoption.

FIRST READING: held this \_\_\_\_ day of \_\_\_\_\_, 2007

SECOND READING: held this \_\_\_\_ day of \_\_\_\_\_, 2007

	<b>YES</b>	<b>NO</b>	<b>ABSENT</b>
Thomas G. Petruzzi	_____	_____	_____
Trudy Prince	_____	_____	_____
Charles Scott	_____	_____	_____
Larry Ady	_____	_____	_____
Harvey Readey	_____	_____	_____
Lydia Pisano	_____	_____	_____
Eric Spaulding	_____	_____	_____

ATTEST:

\_\_\_\_\_  
William G. Brooks, Mayor

\_\_\_\_\_  
Belinda Bateman, MMC, City Clerk

STATE OF FLORIDA  
COUNTY OF ORANGE

I, BELINDA L. BATEMAN, CITY CLERK of the City of Belle Isle do hereby attest that the above and foregoing ordinance was duly and legally adopted by the Belle Isle City Council, in session assembled, on the \_\_\_\_\_ day of June, 2007, at which session a quorum of members were present.

\_\_\_\_\_  
Belinda L. Bateman, City Clerk