

ORDINANCE NO. 2005-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING A NEW CHAPTER OF THE CODE OF ORDINANCES OF THE CITY OF DORAL ENTITLED "SEXUAL OFFENDERS AND SEXUAL PREDATORS" , PROVIDING FOR FINDINGS AND INTENT, DEFINITIONS, RESIDENCE PROHIBITION, PENALTIES AND EXCEPTIONS; PROVIDING THAT PROPERTY OWNERS ARE PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS AND PENALTIES; PROVIDING THAT PROPERTY OWNERS ARE PROHIBITED FROM RENTING OR LEASING ANY PLACE, STRUCTURE OR PART THEREOF, TRAILER OR OTHER CONVEYANCE LOCATED WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF DORAL TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, the City Council finds from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and

WHEREAS, the City is becoming an increasingly attractive place of residence for younger families with small children; and

WHEREAS, the City Council desires to establish policy which provides the maximum protection of the lives and persons in the City of Doral; and

WHEREAS, Sections 794.065 and 947.1405, Florida Statutes, provide for one thousand (1,000) foot residence prohibitions from specified location for certain sexual offenders and sexual predators; and

WHEREAS, Section 847.0134, Florida Statutes, provides that certain adult entertainment venues may not be located within two thousand five hundred (2,500) feet of the real property that comprises a public or private elementary school, middle school or secondary school; and

WHEREAS, Article VIII, Section 2(b), Florida Constitution and Section 166.021, Florida Statutes, provides the City Council with the authority to protect the health, safety and welfare of its residents; and

WHEREAS, the City Council of the City of Doral finds that creating a new Section entitled "Sex Offender Residency Prohibition," is in the best interests of the citizens of Doral; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. A new Chapter of the Code of Ordinances of the City of Doral, entitled "Sexual Offenders and Sexual Predators," is hereby created to read as follows:

Sec. _____ . 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 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. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this Article to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City 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. _____ . 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. _____ . Sexual offender and sexual predator residency prohibition; Penalties; Exceptions.

(a) It is unlawful for any person who has been convicted of a violation of Section 794.011, 800.04, 827.071 or 847.0145, Florida Statutes, 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 two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground or other place where children regularly congregate.

(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 nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.

(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 two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate does not commit a violation of this section if any of the following apply:

- (i) The person established the permanent residence prior to July 1, 2005.
- (ii) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (iii) The person is a minor.
- (iv) The school, designated public school bus stop or day care center within two thousand five hundred (2,500) feet of the person's permanent residence was opened after the person established the permanent residence.

Sec. _____. 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 Code, if such place, structure, or part thereof, trailer or other conveyance, is located within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.

(b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures of City Code that allow the City to seek relief as otherwise provided by law.

Section 3. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Inclusion in Code.

It is the intention of the City Council of the City of Doral, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Doral Code of Ordinances; and

that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.


Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council. A motion to approve the application was offered by Councilman Van Name, who moved its adoption. The motion was seconded by Councilwoman Ruiz and upon being put to a vote, the vote was as follows:

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| Mayor Juan Carlos Bermudez | yes |
| Vice Mayor Peter Cabrera | yes |
| Councilmember Michael DiPietro | yes |
| Councilwoman Sandra Ruiz | yes |
| Councilmember Robert Van Name | yes |

If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

PASSED AND ADOPTED upon first reading this 8th day of June, 2005.

PASSED AND ADOPTED upon second reading this 10th day of August, 2005.



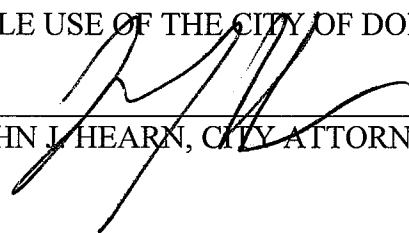
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



MERCY ARCE, ACTING CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY