

CITY OF BONIFAY, FLORIDA
ORDINANCE NO. 366

AN ORDINANCE OF THE CITY OF BONIFAY, FLORIDA; THIS ARTICLE SHALL BE REFERRED TO AS "THE CITY OF BONIFAY SEXUAL OFFENDER AND SEXUAL PREDATOR ORDINANCE," SECTION PROVIDING FOR DEFINITIONS CONSISTENT WITH SECTION 943.0435 FLORIDA STATUTES AND SECTION 775.21 FLORIDA STATUTES; SECTION PROVIDING FOR SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS; SECTION PROVIDING FOR PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; PENALTIES; SECTION PROVIDING FOR LAW ENFORCEMENT GUIDELINES; PROVIDING A TIMEFRAME IN WHICH A SEXUAL OFFENDER OR SEXUAL PREDATOR MUST VACATE A PREMISES AFTER BEING NOTIFIED OF A VIOLATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonifay, Florida (hereinafter referred to as the "City") in an effort to control and monitor the action of sexual offenders and sexual predators within the City limits, hereby enact this Ordinance No. 366; and

WHEREAS, the Mayor and City Council desire to enact this Ordinance in order to better protect the health, safety, and welfare of the City's citizens and residents; and

WHEREAS, it is the goal of the Mayor and City Council to establish a comprehensive policy which provides maximum protection to the citizens and residents of the City; and

WHEREAS, the City Council gives great weight to the input of local law enforcement authority when considering the implementation of a policy to monitor that location of sex offenders and sexual predators within the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BONIFAY, FLORIDA THAT:

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: Definitions:

- a. **Permanent residence** means a place where the person abides, lodges, or resides for fourteen or more consecutive days.
- b. **Sexual Offender** for purposes of this chapter shall be defined as provided by Section 943.0435(a), Florida Statutes, as may be amended from time to time.

- c. **Sexual Predator** for purposes of this chapter, shall be defined as a repeat sexual offender, a sexual offender who uses physical violence, a sexual offender who preys on children or as otherwise defined by Section 775.21, Florida Statutes, also known as the Florida Sexual Predators Act, as may be amended from time to time.
- d. **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.

SECTION 3: Sexual Offender and Sexual Predator Residence 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, or a similar crime in another jurisdiction, 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, child care facility, family day care home, park, playground, or any other place where children regularly congregate.
- b. It is unlawful for any person who is required to register as a sexual offender or sexual predator under the laws of the State of Florida to establish a permanent residence or temporary residence within 2500 feet of any school, designated public school bus stop, child care facility, family day care home, park, playground, or any other place where children regularly congregate.
- c. 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, child care facility, family day care home, park, playground, or any other place where children regularly congregate.
- d. **Penalties:** A person found to be in violation of this section shall be subject to arrest or issued a Notice to Appear and shall appear at the prearranged court date to answer the charge. Once notified of the residency restriction, the person shall have two (2) weeks to vacate the premises. A person who fails to vacate the premises within two (2) weeks after receiving notice of the residency restriction shall be subject to arrest.

- e. A person who violates this section shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding (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 (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months or by both fine and imprisonment.

- f. **Exceptions:** A person residing within two thousand five hundred (2,500) feet of any school, designated public school bus stop, child care facility, family day care home, park, playground, or any 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 the effective date of this ordinance.
 - ii. The person was a minor when he/she committed the offense as was not convicted as an adult.
 - iii. The person is a minor.
 - iv. The school, designated public school bus stop, child care facility, family day care home, park, playground, or any other place where children regularly congregate was opened after the person established the permanent residence.

Section 4: Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties;

- a. It is unlawful for any property owner or property manager or his or her agent, assignee, to knowingly let, rent, or allow to be occupied free of charge any place, structure, or part thereof, trailer, or other conveyance, with the knowledge, either actual or constructive, 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 any provision of this Ordinance, is such place, structure, or part thereof, trailer, or other conveyance, is located within 2500 feet of any school, designated public school bus stop, child care facility, family day care home, park, playground, or any other place where children regularly congregate.

- b. A property owner's or property manager's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner or property manager to the code enforcement provision and procedures of the City Charter that allow the City to seek relief as otherwise provided by law. A property owner or property manager shall be in violation of this Code section if they knew or should have known that an occupant of property under their control was in violation of this Ordinance. A property owner or property manager who is found to be in violation of this Ordinance section shall be issued a Notice to Appear.

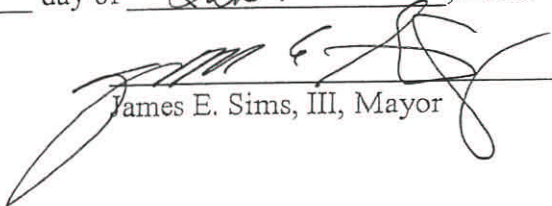
Section 5: It is the intention to the City Council of the City of Bonifay that the provisions of this Ordinance shall become and made a part of the City Charter of Bonifay, Florida and that the Sections of this Ordinance may be renumbered, re-lettered and word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

Section 6: All other Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

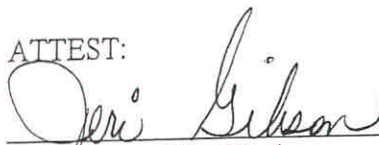
Section 7: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are to be severable.

Section 8: This Ordinance shall become effective on adoption.

PASSED AND ADOPTED this 8 day of Feb., 2010.


James E. Sims, III, Mayor

ATTEST:


Jeri Gibson, City Clerk