

ORDINANCE NO. 21-02

AN ORDINANCE OF HOLMES COUNTY, FLORIDA, ENTITLED THE "HOLMES COUNTY SEXUAL OFFENDER/PREDATOR RESIDENCY RESTRICTION ORDINANCE"; PROVIDING FOR RESTRICTIONS AGAINST CERTAIN PROEPRTY OWNERS FROM RENTING REAL PROPERTY TO SEXUAL OFFENDERS/PREDATORS; PROVIDING FOR THE RESIDENCY RESTRICTIONS APPLICABLE TO CONVICTED SEXUAL OFFENDERS/PREDATORS INVOLVING MINOR VICTIMS; PROVIDING FOR ENFORCEMENT AND PENALTIES; CONTAINING SEVERABILITY AND CONFLICT CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Holmes County Board of County Commissioners (hereinafter "Board") recognizes a concern among the citizens of the County regarding convicted sexual offenders/predators who have victimized minor children, residing near children and places where children normally congregate within the County; and

WHEREAS, other municipalities and counties in Northwest Florida have defined their sexual offender/predator residency restrictions; and as a result of other counties providing for their residency restrictions, convicted sexual offenders/predators may seek to move into Holmes County to establish residency due to the lack of current Holmes County residency restrictions; and

WHEREAS, the Board has an interest in protecting its citizens, in particular children, who may be unaware of the presence of convicted sexual offenders/predators; and

WHEREAS, the County finds that restrictions, as particularly set forth herein, will serve to promote the health, safety and welfare of the County and thus serve a valid public purpose; and

WHEREAS, the Board has the authority to amend and adopt Ordinances pursuant to Article VIII of the Constitution of the State of Florida and Florida Statutes, Chapter 166; and

WHEREAS, the Board hereby incorporates by reference herein all of the findings set forth above as findings of the Board.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Holmes County, Florida, the following:

1. **DEFINITIONS.** The following words, terms and phrases shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning:

"Convicted" or "Conviction" 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. A conviction for a similar offense includes, but is not limited to, a conviction by a Federal or military tribunal, including court-martial conducted by the Armed Forces of the United States, and a conviction in any state of the United States or other jurisdiction which resulted in the imposition of a sanction. A sanction includes, but is not limited to, a fine, court costs, costs of prosecution, probation, community control, parole, conditional release, controlled release or incarceration in a state prison, federal prison, private correctional facility, jail, or local detention facility.

"Park" means an area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, often owned, set apart, and managed by Holmes County.

"Permanent Residence" means a place where the person abides, lodges or resides for five (5) or more consecutive days.

"Temporary Residence" means a place where the person abides, lodges or resides for a period of five (5) days in the aggregate during the 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 address.

2. **RESTRICTIONS AS TO PERSONS CONVICTED**

A. It is unlawful for any person who has been convicted at any time of a violation of Sections 794.011, 800.04, 827.071, 847.0135 or 847.0145, Florida Statutes, or any similar offense in another jurisdiction in which the victim of the offense was less than sixteen (16) years of age, to establish or maintain a permanent residence or temporary residence in Holmes County within two thousand five hundred (2,500) feet of any school, designated public school bus stop, daycare center, park (including linear parks), playground or other place in Holmes County where children regularly congregate.

B. **Penalties.** A person who violates Section 2 of this Ordinance 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 for a violation of this Section, such person shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for a term not exceeding twelve (12) months, or by both such fine and imprisonment.

Once notified of the residency restrictions, the person shall have two (2) weeks to permanently vacate the premises. A person who fails to permanently vacate the premises within two (2) weeks after receiving the notice commits a separate violation of this Section and shall be subject to arrest and shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for a term not exceeding twelve (12) months, or by both such fine and imprisonment, and, in addition, shall be subject to any other relief sought by the County, including legal action, to remove the person from the subject premises.

C. Application to Persons Convicted. The provision of Section 2 of this Ordinance shall apply to person residing in Holmes County as well as persons entering the County and persons changing residences within the County, Changes to other property within two thousand five-hundred (2,500) feet of said person's existing and established residence, provided such residence is continuous and is reported and registered pursuant to Florida law, shall not form the basis for finding that said person is in violation of Section 2; provided, however, that the provisions of this Ordinance shall apply upon the termination of any leasehold or landlord-tenant relationship, or the expiration of a lease.

3. RESTRICTIONS AS TO PROPERTY OWNERS, PROPERTY MANAGERS, AGENTS OR ASSIGNEES.

A. It is unlawful for any property owner, property manager, or his or her agent or assignee to knowingly let, rent or allow to be occupied free of charge any property, place, structure, or part hereof, trailer, or other conveyance, with the knowledge, either actual or constructive, that it will be used as a permanent or temporary residence by any person prohibited from establishing such a residence pursuant to any provision of this Ordinance if such property, 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, daycare center, park (including linear parks), playground or other place within Holmes County where children regularly congregate.

B. Penalties. A person who violates Section 3 of this Ordinance shall be issued a notice to appear in Court, and, upon first conviction, 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 for a violation of this Section, such person shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for a term not exceeding twelve (12) months, or by both such fine and imprisonment. In addition to the penalties set forth above, a person violating this Section shall also be subject to other legal action and relief sought by the County as otherwise provided by law.

4. **SEVERABILITY AND CONFLICTS.** If any word, phrase, sentence, clause or other portion of this Ordinance is held, for any reason, to be unconstitutional, void, or invalid, the validity of the remaining portions of the Ordinance shall not be affected thereby and shall remain in full force and effect. This Ordinance shall control over any other Ordinance of Holmes County in conflict herewith unless otherwise noted herein.

5. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon passage and adoption.


PASSED AND ADOPTED by a vote of 5 (yea) to 0 (nay) by the Board of County Commissioner of Holmes County, Florida, after due public notice and publication and on Motion, Second and discussions, during the regularly scheduled meeting of the Board held on the 18th day of May, 2021.

**BOARD OF COUNTY COMMISSIONERS
OF HOLMES COUNTY, FLORIDA**



Earl Stafford, Chairman

ATTEST:



Sam Bailey, Clerk of Court