

**SUWANNEE COUNTY FLORIDA**  
**ORDINANCE NO. 2007-14**

**AN ORDINANCE RELATING TO SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROVIDING FOR FINDINGS AND INTENT, DEFINITIONS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM RESIDING WITHIN 2500 FEET OF ANY SCHOOL, DAYCARE CENTER, PARK, PLAYGROUND, BUS STOP, OR PUBLIC LIBRARY; PROVIDING EXCEPTIONS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM BEING PRESENT, LOITERING OR PROWLING ON THE PREMISES OF ANY SCHOOL, DAYCARE CENTER, PARK, OR PLAYGROUND EXCEPT AS PROVIDED; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM BEING PRESENT, LOITERING OR PROWLING WITHIN A 100-FOOT BUFFER ZONE OF ANY SCHOOL BUS STOP, EXCEPT AS PROVIDED; REQUIRING LAW ENFORCEMENT OFFICERS TO AFFORD AN OPPORTUNITY TO EXPLAIN PRESENCE IN A PROHIBITED AREA; PROVIDING FOR MEASUREMENT OF DISTANCES, REQUIRING DECLARATION BY SEXUAL OFFENDERS AND SEXUAL PREDATORS UNDER CERTAIN CIRCUMSTANCES; REQUIRING PHOTO IDENTIFICATION; PROHIBITING PROPERTY OWNERS FROM RENTING TO SEXUAL OFFENDERS AND SEXUAL PREDATORS PROPERTY THAT LIES WITHIN 2500 FEET OF A SCHOOL, DAYCARE, PARK, PLAYGROUND, BUS STOP OR PUBLIC LIBRARY; PROVIDING FOR COMMUNITY AND PUBLIC NOTIFICATION; PROVIDING PENALTIES; PROVIDING FOR APPLICATION IN THE AREA IN SUWANNEE COUNTY, LIVE OAK AND THE TOWN OF BRANFORD; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** THE Board of County Commissioners notes that there has been numerous occurrences within the State of Florida and the United States

where convicted sexual offenders and predators are released from custody and thereafter commit similar crimes; and

**WHEREAS**, it appears that the recidivism rate for sexual offenders and sexual predators is alarmingly high, especially for those who commit crimes upon children; and

**WHEREAS**, the Legislature has found and determined that sexual offenders and sexual predators present an extreme threat to public safety; are extremely likely to use physical violence and to repeat their offenses; commit many offenses and have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes(See F.S. 775.21(3)(a)); and

**WHEREAS**, the Legislature has found and determined that protection of the public from sexual offenders, particularly those who have committed offenses against minors, is a paramount governmental interest (See F.S. 944.606 (2)); and

**WHEREAS**, Florida law prohibits certain sexual predators and sexual offenders from residing within 1000 feet of any school, day care center, park, playground, or designated public school bus stop(See F.S. 794.065 and 947.1405); and

**WHEREAS**, the Florida Legislature passed House Bill 1877, commonly

known as the "Jessica Lunsford Act," which was approved by Governor Jeb Bush on May 2<sup>nd</sup>, 2005, and codified as Chapter 2005-28, Laws of Florida; and

**WHEREAS**, the "Jessica Lunsford Act" will likely increase the number of offenders who will be designated as sexual offenders or predators and will require electronic monitoring of certain offenders and predators and will otherwise strengthen the State's efforts to control the cancer of child sexual victimization; and

**WHEREAS**, the "Jessica Lunsford Act" will likely increase the number of offenders who will be designated as sexual offenders or sexual predators and will require electronic monitoring of certain offenders and predators and will otherwise strengthen the State's efforts to control the cancer of child sexual victimization; and

**WHEREAS**, Suwannee County is a family-oriented community which highly values its children and is a place that families with young children find highly desirable; and

**WHEREAS**, schools, day care centers, parks, playgrounds, and designated public school bus stops are places within Suwannee County that children are frequently and regularly located and involved in activities; and

**WHEREAS**, Suwannee County has a substantial and compelling interest

in maintaining the quality of life and protecting the health, safety and welfare of citizens at schools, daycare centers, parks, playgrounds, and public school bus stops to engage in positive educational, economic and social activities, and has a substantial and compelling interest in allowing the citizens to gainfully and productively use and enjoy the facilities in these areas and communities without victimization at the hands of a sexual offender or sexual predator; and

**WHEREAS,** individuals have a significant interest in being able to travel and associate freely in all areas of Suwannee County, except during times of a public safety emergency, such as natural or manmade disasters; and

**WHEREAS,** it is in the public interest to exclude certain sexual offenders and sexual predators from the areas surrounding schools, daycare centers, playgrounds, and public bus stops; and

**WHEREAS,** certain exceptions must be made to the blanket prohibition against sexual offenders and sexual predators traveling to, through and being in the area of schools, daycare centers, parks, playgrounds, and public school bus stops; and

**WHEREAS,** Suwannee County desires to ensure that the citizens of

the county 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 Suwannee County to the maximum extent possible; and

**WHEREAS,** the County is not prohibited from acting on the subject matter of this Ordinance and the provisions of the Ordinance are not preempted by and are consistent with State law; and

**WHEREAS,** this Ordinance is enacted under the general home rule and law enforcement powers of Suwannee County and is not a zoning Ordinance or a land development regulation; and

**WHEREAS,** Suwannee County has complied with all requirements and procedures of Florida law in processing, noticing and advertising this Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF  
COUNTY COMMISSIONERS OF SUWANNEE COUNTY, FLORIDA:**

**Section 1. Legislative Findings.** The above recitals represent the Legislative findings of the Board supporting the need for this Ordinance.

**Section 2. Definitions.**

“Child” – A person younger than 18 years of age.

“Day Care Center” –Any family or child care facility registered with or licensed by the State of Florida pursuant to Chapter 402, F.S. For the purposes of the Ordinance, a day care center includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility. It is the intent to include all areas reasonably included in and part of the facility.

“Park” –A publicly owned or operated area used or available for the public’s use as a recreational facility, including, by way of example and not limitation, linear parks and the state, county and municipal recreational trails systems.

“Permanent Residence” –A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

“Playground” –An established or dedicated outdoor area for public recreation and play, including, by way of example and not limitation, soccer fields, baseball diamonds, football fields and locations with outdoor equipment, such as, by way of example and not limitation, swing sets, climbing apparatus and slides.

“Public School Bus Stop” –Locations or areas established by the Suwannee County School Board where school children are generally picked up for transportation to school or dropped off after school.

“School” –Any public or private school as defined in F.S. 1000.04 (1) and F.S. 1002.01(2004), excluding facilities dedicated exclusively to the education of adults.

“Sexual Offender” –As defined in F.S. 944.606(1) and for purposes of this Ordinance, whose victim was, at the time of the offense, less than sixteen (16) years of age.

“Sexual Predator” –As defined in F.S.775.21, as may be amended in the future.

“Temporary Residence” –Any place where a person may abide, lodge or reside for a period of fourteen (14) or more days in the aggregate during any calendar year and that is not that person’s Permanent Residence; or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person’s permanent residence.

“Temporary Shelter” –Any public or private building or facility which is offered to individuals and families who are homeless or who evacuate their homes or a hotel, motel, or other place of temporary residence as a result of any storm, flood, hurricane, tornado, explosion, fire, or other incident of any nature as a place to reside, rest, sleep, or eat.

### **Section 3. Sexual Offenders and Sexual Predators.**

#### **Section 3.1 Prohibited Residences of Sexual Offenders and**

**Sexual Predators.** It is prohibited and unlawful for any sexual offender or sexual predator to abide, lodge, or reside in a permanent or temporary residence located within unincorporated Suwannee County when such residence is located within 2500 feet of any school, day care center, park, playground, bus stop, or public library regardless of whether the school, day care center, playground, park or public library lies within the jurisdictional limits of Suwannee County.

A sexual offender or sexual predator abiding, lodging or residing in a permanent or temporary residence within 2500 feet of any school, day care center, park, playground, school bus stop, or public library does not commit a violation of this section provided the sexual predator or sexual offender is in full compliance with probation, parole, or conditional release, and does not commit another sexual offense, and is in compliance with the residency restrictions, if any of the following apply:

- (a) The provisions of the Ordinance shall not be applied to persons residing at a prohibited location on the effective date of this Ordinance such that it is not the intent of the Ordinance to impair valid, existing and bona fide contract rights, provided however that the provisions of the Ordinance shall apply upon final termination, including lawful extensions or renewals of any leasehold relationship arising from a landlord tenant relationship upon the expiration of a lease. When a person who is the subject of this

Ordinance changes residences, the Ordinance shall fully apply to such persons.

- (b) The sexual offender or sexual predator was a minor when committing the offense causing the designation as a sexual predator or sexual offender and was not sentenced as an adult for that offense.
- (c) The sexual offender or sexual predator is under the age of eighteen (18).
- (d) The school, day care center, park, playground, school bus stop, or public library was opened or established after the sexual offender or sexual predator established the permanent residence; and the residence was reported and registered pursuant to Florida Statutes, Section 775.21, Section 943.0435, or Section 944.607.

### **Section 3.2 Restriction of Certain Activities of Sexual Offenders and Sexual Predators**

- (1) No sexual offender or sexual predator shall be present, loiter or prowl on the premises of any school, daycare, park, playground, or bus stop except to:
  - (a) Attend as a registered student at any school;
  - (b) Attend to familial responsibilities or parental obligations (where parental rights have not been terminated) regarding their legal children, stepchildren or grandchildren in accordance with rules and regulations of such facilities;
  - (c) Be gainfully employed or as part of duties imposed by gainful employment; and
- (2) No sexual offender or sexual predator shall during school days be present, loiter or prowl within a 100 foot buffer zone of any public school bus stop as designated by the Suwannee County School Board except:
  - (a) As necessary to drop off or pick up the sexual offender or sexual predator's own child, stepchild, or grandchild;
  - (b) Such person's lawful residence, business or employment is lawfully located within the 100-foot buffer zone;

- (c) When lawfully traveling upon a public or private roadway within the 100-foot buffer zone; and
- (d) Coming to a child's aid in the event of a safety or medical emergency.

At no time shall a Sexual Offender or Sexual Predator have any physical contact or communicate in any manner with any child who is not their own child, stepchild or grandchild at any designated public school bus stop.

A law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to explain his or her presence in the area and the purpose thereof. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have authorized the person to be in the area pursuant to one of the exceptions listed above.

**Section 3.3 Measurement of Distance.** For purposes of measuring separation of a residence from a school, day care center, park, playground, or public school bus stop, all distances shall be measured from the outermost property line of the parcel upon which the residence is located running in a direct line to the outermost property line of the school, day care center, park, playground, or public bus stop. For example, if the residence is located in a generally southwesterly directive from a park, then the measurement

would be from the northeast corner of the residential parcel to the southwest corner of the park. For all other purposes, measurements shall run from the outermost property line of the school, day care center, park, playground or public school bus stop.

**Section 3.4 Required Declaration of Status as a Sexual Offender or Sexual Predator.**

(1) Any person who is required by Florida law to register as a sexual predator or sexual offender and who utilizes or intends to utilize a temporary shelter provided by any public or private entity and established as a result of any emergency or incident or threatened emergency or incident shall, immediately upon entering the shelter, notify the individual or individuals operating the shelter that he or she is a registered sexual offender or sexual predator. The sexual predator or sexual offender may be assigned to a temporary shelter specifically designated for use by sexual predators and sexual offenders.

(a) The County may designate a public building, a jail, or other correctional facility as a temporary shelter to be utilized by sexual predators and sexual offenders.

(b) The Sheriff shall assign law enforcement personnel to be present at the temporary shelter.

(c) Nothing in the Ordinance shall be construed to provide or require temporary shelter to non-Suwannee County residents. non-Suwannee County residents will notify the Suwannee County Sheriff's Office before registration at the shelter or within one (1) hour of being present at the shelter.

(d) Failure of a Sexual Offender or Sexual Predator to make notification as required in above sections shall constitute a violation of this ordinance punishable as provided herein.

(2) The temporary shelter may post in a conspicuous place at the shelter a notice of this Ordinance and its requirements whereupon all persons entering the temporary shelter shall be presumed to have adequate notice of requirements of this Ordinance.

(3) A sexual offender or sexual predator attending any school or day care function, must declare his or her status as a sexual offender or sexual predator with the school principal or other appropriate person immediately upon entering the school property or daycare facility.

**Section 3.5 Photo Identification Card.** All persons required by Florida law to be registered as a sexual offender or sexual predator shall carry at all times a valid Florida Drivers License or Florida Identification

card. Such card shall include offenders name, date of birth, current address and picture.

**Section 3.6 Prohibition on Rentals and Leaseholds.** Except as provided in Section 3.1, it is unlawful for a property owner to knowingly and intentionally with actual knowledge and after being made aware the person is a sexual predator or sexual offender let or rent any place, structure, or part thereof, to a sexual offender or sexual predator, with the knowledge that it will be used as a permanent or temporary residence, of such place, structure, or part thereof, is located within 2500 feet of any school, day care center, park, school bus stop, or public library. In any prosecution for a violation of this section it must be shown:

- (1) That the property owner knowingly and intentionally with actual knowledge and after being made aware the person is a sexual predator or sexual offender let or rented the premises to a person who was a registered sexual offender or sexual predator; and
- (2) The property owner had actual knowledge that the place, structure or part thereof would be used by the registered sexual predator or sexual offender as a permanent or temporary residence of property located with in a residential zoning classification.

Nothing herein shall be deemed to require the property owner to make any

independent determination whether the person is a sexual predator or sexual offender.

**Section 3.7 Community and Public Notification.** Law

Enforcement agencies within the County shall inform members of the community and the public of a sexual predator's presence in accordance with Florida Statute 775.21(7). Upon notification of the presence of a sexual predator or a sexual offender, the Sheriff of the County where the sexual offender or sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator or sexual offender in a manner deemed appropriate by the Sheriff, including but not limited to reverse 9-1-1 procedures. Within forty-eight (48) hours after receiving notification of the presence of a sexual predator, the Sheriff of the County where the sexual predator temporarily or permanently resides shall notify each licensed daycare center, elementary school, middle school and high school within a one mile radius of the temporary or permanent residence of the sexual predator. Information provided to members of the community and public regarding a sexual predator shall include:

- (1) The name of the sexual predator
- (2) A description of the sexual predator, including a photograph
- (3) the sexual predators current address, including the name of the county or municipality, if known
- (4) the circumstances of the sexual predator's offense or offenses; and

(5) whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This does not authorize the release of the name of any victim of the sexual predator.

**Section 4. Penalties.** Any person or entity who violates any provision of this Ordinance shall be subject to any and all remedies available at law, including but not limited to, the code enforcement provisions of Chapter 162, Florida Statutes.

Alternatively, or in addition thereto, any person violating any of the Provisions of Section 3 of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction, shall be punished by a fine not to exceed FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) or by imprisonment in the County jail not to exceed (60)days or by both such fine and imprisonment, or if the offender is supervised by the Department of Corrections under Conditional Release, the offender may be charged with a violation of his or her supervision and be returned to state custody.

**Section 5. Application.** This ordinance shall apply in Suwannee County, Live Oak, and The Town of Branford.

**Section 6. Enforcement.** The provisions of this ordinance may be

enforced by the Suwannee County Sheriffs Office or other law enforcement agencies having jurisdiction.

**Section 7. Conflicts.** All Ordinances, Resolutions, Land Development Regulations, or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

**Section 8. Severability.** If any section or portion of this ordinance proves to be invalid, unlawful or unconstitutional, it shall not be held to impair the validity, force or effect of any other section or part of this Ordinance.

**Section 9. Codification.** The provisions of this ordinance shall be codified as and become and be made a part of the Suwannee County Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance" or similar words, may be changed to "Section," "Article," or other appropriate word;

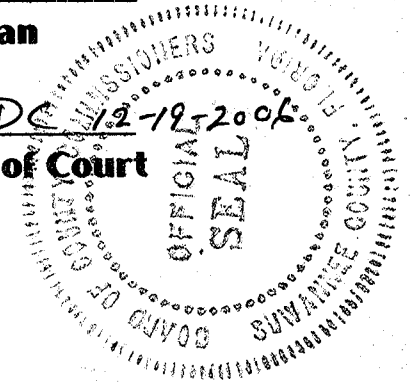
**Section 10. Effective Date.** This Ordinance shall become effective upon receipt of official acknowledgement by the Clerk of the Board of County Commissioners from the Department of the State that this Ordinance has been filed with the Department of State.

Adopted this 19 day of December 2006.

**BOARD OF COUNTY COMMISSIONERS  
SUWANNEE COUNTY FLORIDA**

BY: *Randy Hatfield*  
**Chairman**

ATTEST: *Richard R. Dasher*  
**Kenneth Dasher, Clerk of Court**



Suwannee County Ordinance No. 2007-14