

ORDINANCE NO. 2023- 028

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA; AMENDING CHAPTER 19 1/4, OFFENSES, ARTICLE II, SEXUAL OFFENDERS AND SEXUAL PREDATORS, DIVISION 2, PROHIBITED HOLIDAY ACTIVITIES; SPECIFICALLY, SECTION 19 1/4-43 DEFINITIONS; SECTION 19 1/4-44 PROHIBITED HOLIDAY ACTIVITIES FOR SEXUAL OFFENDERS; EXCEPTIONS; AND SECTION 19 1/4-46 PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 1(f) of the State Constitution states that Counties not operating under county charters shall have such power of self-government as is provided by general or special law; and

WHEREAS, the Board of County Commissioners of Nassau County, have the power to carry on County government to the extent not inconsistent with general or special law pursuant to Section 125.01, Florida Statutes; and

WHEREAS, Counties may adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law; and

WHEREAS, pursuant to Sections 943.0435, 775.21, and 944.607, Florida Statutes, sexual offenders and sexual predators must report in person to the local Sheriff's Office within 48 hours of release from custody, control and/or supervision of the Department of Corrections, Department of Children and Family Services, or Department of Juvenile Justice to register their temporary or permanent address; and

WHEREAS, studies show 1 in 5 girls and 1 in 10 boys will be sexually victimized before adulthood (D. Finkelhor, "Current Information on the Scope and Nature of Child Sexual Abuse." The Future of Children: Sexual Abuse of Children, 1994, volume 4, page 37.); and

WHEREAS, the Supreme Court has found there is a substantial rate of recidivism among sexual offenders (*Smith v. Doe*, 538 U.S. 84, 103(U.S. 2003)); and

WHEREAS, the Supreme Court has found sexual offenders are a dangerous class and that their high recidivism poses a grave concern (*Smith v. Doe*, 538 U.S. 84, 103(U.S. 2003)); and

WHEREAS, the Supreme Court has found the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance (*New York v. Ferber*, 458 U.S. 747, 757 (U.S. 1982)); and

WHEREAS, there are over 78,000 sex offenders and sexual predators on Florida’s registry (Office of Program Policy Analysis and Government Accountability (OPPAGA): Sex Offender Registration and Monitoring Triennial Review – 2021); and

WHEREAS, Halloween and other holiday activities present increased opportunities for sexual offenders and sexual predators to gain and violate the trust of the children of Nassau County; and

WHEREAS, certain activities including, but not limited to, the distribution of candy, lure children to the homes of sexual offenders and sexual predators; and

WHEREAS, limiting children’s contact with sexual offenders and sexual predators will increase children’s safety and well-being; and

WHEREAS, the Board of County Commissioners is concerned with the secondary effects of any speech or expressive conduct that entices, attracts, or lures children to vulnerable areas or circumstances as noted by, among other courts, the court in *Hobbs v. County of Westchester*, 397 F. 3d 133 (2d Cir. 2005); and

WHEREAS, the following amendments are suggested in order to provide clarity as to what displays and decorations are prohibited so as to minimize or prevent attacks on children premised on decorations or costumes that attract, entice or lure children into vulnerable areas or circumstances, while also conforming to First Amendment rights; and

WHEREAS, the Board of County Commissioners finds that these amendments will preserve, promote, and protect the health, safety, and welfare of the citizens of Nassau County, including the safety and well-being of the children of the County by limiting their contact with sexual offenders and sexual predators.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. AMENDING SECTION 19 ¼-43. DEFINITIONS

Section 19¼-43. Definitions of the Nassau County Code of Ordinances is amended to read as follow:

The following terms are defined as follows for the purposes of this division:

Child, children, or minor means individuals whose chronological age is less than eighteen (18) years.

Non-familial children shall mean those children who are not related to the Sex Offender or sexual predator through biological means, marriage, or adoption.

Sex offender, means an individual who is registered by any state, county, city or federal agency as either a sexual offender or sexual predator and whose name is published on any state or county or city or federal registered sexual offender or sexual predator listing, including, but not limited to the sexual offenders and sexual predators registry established in F.S. §§Sections 943.0435, 775.21, and 944.607, Florida Statutes.

Participation ~~shall means actively taking part in the event~~ to attend, take part in, or cooperate with the organization of an event.

Displays includes, but is not limited to, inflatables, holograms, projections, displays or decorations over six feet in height, interactive displays, decorations that include a fictitious character, decorations that line a walkway or path to a door of a residence, or similar attention gathering decorations.

SECTION 2. AMENDING SECTION 19 ¼-44. PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS

Section 19¼-44. Prohibited holiday activity for sexual offenders; exceptions is amended to read as follows:

- (a) It is unlawful for any ~~sex~~ Sex offender ~~Offender~~ to participate in a holiday event involving children under eighteen (18) years of age, ~~such as including but not limited to, Distributing distributing~~ candy to children or other items to children on Halloween; or wearing costumes, make-up, masks, or anything that would alter a person's appearance for the primary purpose of entertaining or attracting children.
- (b) Any person designated a sex offender shall be required from 6:00 a.m. to 11:59 p.m. on October 31 (or any other day on which Halloween is celebrated) ~~of each year~~ to:
- (1) Avoid all Halloween-related contact with children;
 - (2) Not place or allow any displays of Halloween Displays or decorations to be visible from the exterior of any sex offender's residence, including a vehicle or vessel, or on any property which is leased, rented, owned, or occupied by such sex offender. Post a sign at his or her residence stating, "No candy or treats at this residence"; and
 - (3) Leave all outside residential lighting off during the evening hours after 5:00 p.m. on October 31 (or any other day on which Halloween is celebrated) and exhibit no exterior

decorations on the ~~sexual~~ Sexual offender's ~~Offender's~~ residence to attract or entice children to the residence.

(c) Holiday events in which the sexual offender is the parent, or guardian of the children involved, and no nonfamilial children are present, are exempt from this section.

SECTION 3. AMENDING SECTION 19 ¼-46. PENALTIES.

Sec. 19¼-46. Penalties is amended to read as follows:

The county and the sheriff's office may pursue any enforcement action or legal remedy available under the controlling state law and any legal remedy available to the county. ~~to include~~ Such penalties include, but is ~~not be~~ limited to, Section 125.69, Florida Statutes, to include: arrest, a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or by both a fine and imprisonment, ~~unless authorized by law~~. For the purposes of administrating and enforcing this division, the sheriff or sheriff's designee is authorized to adopt policies and guidelines not inconsistent with this division.

SECTION 4. CODIFICATION

It is the intent of the Board of County Commissioners for Nassau County that the provisions of this Ordinance shall become and shall be made part of the Code of Ordinances of Nassau County, Florida. The sections of this Ordinance may be re-numbers or re-lettered and the words may be changed to section, article or other such appropriate word or phrase in order to accomplish such intention. The Nassau County Clerk of Courts will ensure that this Ordinance is codified into, and published, as part of the Nassau County Code of Ordinances.

SECTION 5. CONFLICTING PROVISIONS.

All ordinances, or parts of ordinances, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. SEVERABILITY.

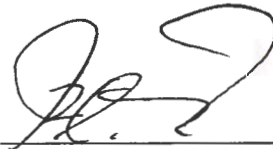
It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

ADOPTED THIS 14th DAY OF August, 2023 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.

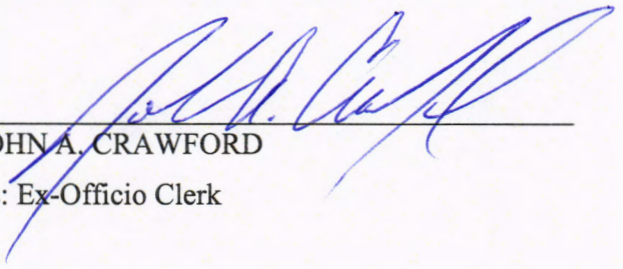
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



KLYNT A. FARMER
Chairman

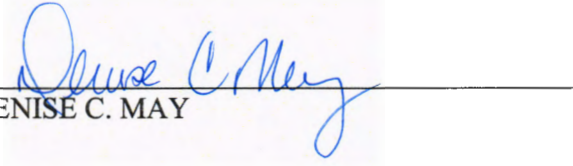
Additions = red underline
Deletions = ~~red strikethrough~~
Relocated = green double underline

ATTEST AS TO CHAIRMAN'S SIGNATURE:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the Nassau County Attorney:



DENISE C. MAY

Additions = red underline
Deletions = ~~red strikethrough~~
Relocated = green double underline



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

August 18, 2023

Honorable John A. Crawford
Clerk of the Circuit Court
Nassau County
76347 Veteran's Way, Suite 456
Yulee, Florida 32097

Attention: Heather Nazworth

Dear Honorable John Crawford:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Nassau County Ordinance No. 2023-028, which was filed in this office on August 18, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh

Heather Nazworth

From: Municode Ords Admin <MunicodeOrds@civicplus.com>
Sent: Monday, August 21, 2023 9:03 AM
To: Heather Nazworth
Subject: *EXTERNAL*: RE: Nassau County, FL Code of Ordinances - 2023(11325) OrdBank

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We have received your files.

Thank you and have a nice day.

Ords Administrator
Municodeords@civicplus.com
1-800-262-2633
P.O. Box 2235
Tallahassee, FL 32316

When available, please send all documents in WORD format to Municodeords@civicplus.com. However, if WORD format is not available, we welcome any document format including PDF.

SVj (she/her/hers)

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Powering and Empowering Local Governments

From: Heather Nazworth <hnazworth@nassauclerk.com>
Sent: Friday, August 18, 2023 12:18 PM
To: Municode Ords Admin <MunicodeOrds@civicplus.com>
Subject: Nassau County Ordinances

Gentlemen:

Enclosed please find a certified copy of Ordinance No. 2023-023,28,29,30,31, and 32 adopted by the Nassau County Board of County Commissioners in Regular Session on August 14, 2023. **Also, please provide a confirmation email.**

Please include these ordinances in the supplement. Thank you for your assistance in this matter.

On behalf of John A. Crawford, Ex-Officio Clerk

Heather Nazworth
Chief Deputy Clerk Services/BOCC/VAB
Nassau County Clerk of the Circuit Court/Comptroller
76347 Veterans Way, Ste. 456
Yulee, FL 32097

Direct (904)548-4666
Toll Free (800) 958-3496
Fax (904) 548-4508
Email: hnazworth@nassauclerk.com
Website: www.nassauclerk.com

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