

**ORDINANCE NO. 2010- 10**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, TO BE KNOWN AS THE NASSAU COUNTY PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM PARTICIPATING IN HOLIDAY ACTIVITIES THAT WOULD PRESENT INCREASED OPPORTUNITIES FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS TO GAIN AND VIOLATE THE TRUST OF THE CHILDREN OF NASSAU COUNTY; PROVIDING PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING 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, has the power to carry on County government to the extent not inconsistent with general or special law per Florida Statutes Section 125.01; 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 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 50,393 known registered sexual offenders and/or sexual predators (National Center for Missing and Exploited Children, 2008) in the State of Florida; and

**WHEREAS**, there are known registered sexual offenders and/or sexual predators in Nassau County and the surrounding Counties of Duval, Clay, Putnam and Flagler, with Duval County having the highest per capita population of registered sexual offenders and sexual predators in Florida (Florida Department of Law Enforcement, July 1, 2009.); 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 of Nassau County are interested in promoting the general welfare and safety of the children of Nassau County by limiting children's 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 ONE. TITLE**

This ordinance shall be known as and may be cited as the "Nassau County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators."

**SECTION TWO. LEGISLATIVE FINDINGS AND INTENT**

- (a) The Board of County Commissioners of Nassau County, Florida adopts the findings set forth in the recitals to this Ordinance as the Legislative findings and conclusions to support adoption of this Ordinance. Those recitals are incorporated herein as if fully set forth in this section.
- (b) The Board of County Commissioners of Nassau County hereby finds and determines that sexual predators and sexual offenders present an extreme threat to the public health, safety, and welfare of the children of Nassau County. Sexual offenders and sexual predators are extremely likely to use physical violence and repeat their offenses, and most 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 predator and sexual offender victimization to society at large, while incalculable, clearly exorbitant and a drain on the resources of society.

- (c) It is the sole intent of this Ordinance to reduce the potential risk of harm to children of the community by limiting the opportunity for sexual offenders and sexual predators to be in contact with unsuspecting children.

### **SECTION THREE. DEFINITIONS**

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

- (a) *Child, children, or minor* shall mean individuals whose chronological age is less than eighteen (18) years.
- (b) *Sex Offender*, for the purpose of this Ordinance, shall mean 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 Section 943.0435; 775.21; and 944.607, Florida Statutes.
- (c) *Participation* is to be defined as actively taking part in the event.

### **SECTION FOUR. PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS**

- (a) It is unlawful for any Sex Offender to participate in a holiday event involving children under 18 years of age, such as: distributing candy to children or other items to children on Halloween; or wearing costumes for the primary purpose of entertaining or attracting children.

- (b) Any person designated a Sex Offender shall be required on October thirty-first of each year to:
- (1) Avoid all Halloween-related contact with children; and
  - (2) Post a sign at his or her residence stating, "No candy or treats at this residence";
  - (3) Leave all outside residential lighting off during the evening hours after 5 p.m. and exhibit no exterior decorations on the Sexual 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 non-familial children are present, are exempt from this section.

#### **SECTION FIVE. CONFLICTS OF LAW**

Unless there has been a municipal Ordinance duly enacted to the contrary, the provisions of this County Ordinance shall be uniformly enforced throughout Nassau County by all state and local enforcement agencies. If the requirements of this Ordinance conflict with the requirement or provisions of any other Ordinance, the more restrictive requirements shall apply.

#### **SECTION SIX. PENALTIES**

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, but not limited to, arrest, a fine not exceeding \$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 administering and

enforcing this Ordinance, the Sheriff or Sheriff's designee is authorized to adopt policies and guidelines not inconsistent with this Ordinance.

#### **SECTION SEVEN. SEPARATE VIOLATIONS**

Each separate occurrence of any conduct prohibited by this Ordinance shall be a separate violation.

#### **SECTION EIGHT. OTHER REMEDIES; PREEMPTION AND SUNSET**

In the event any state or federal law is enacted which is more restrictive in nature as to where a sex offender may physically be located, those portions of this Ordinance where in conflict with the state or federal law will cease to be in effect.

#### **SECTION NINE. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall become a separate provision and will not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners further declares its intent that this Ordinance would have been adopted if such unconstitutional provision was not included.

#### **SECTION TEN. CODIFICATION**

The provisions of this ordinance shall be codified as and become and be made a part of the Code of Laws and Ordinance of Nassau County. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

#### **SECTION ELEVEN. EFFECTIVE DATE**

This ordinance shall become effective upon its being filed with the Office of the Secretary of State.

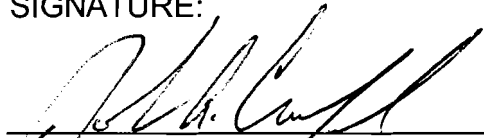
DULY ADOPTED this 27th day of September, 2010.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA



MICHAEL H. BOYLE  
Its: Chairman


ATTEST AS TO CHAIRMAN'S  
SIGNATURE:



JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

*EAK*  
*9/27/10*

Approved as to form by the  
Nassau County Attorney:

  
DAVID A. HALLMAN