ARTICLE III. SEXUAL OFFENDERS AND SEXUAL PREDATORS[1]

Sec. 24-76. Findings and intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators and present an extreme threat to the public safety of the City of Chipley. Sexual offenders are likely to use physical violence to repeat these offenses, are prone to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of the crimes such sexual offenders commit. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant and severe.

(b) The City Council of the City of Chipley finds that a residency restriction distance of 2,500 feet from locations where children regularly congregate is warranted given the elevated risk posed by sexual offenders and sexual predators, is necessary to provide a heightened level of protection to the City's children and community, and exceeds the minimum 1,000-foot residency restriction established by the State of Florida under F.S. § 775.215. The City Council further finds that the 2,500-foot distance is reasonably related to this heightened protective purpose given the propensity of sexual offenders and sexual predators to repeat their offenses, the particular vulnerability of children at the protected locations identified in this article, and the concentration and proximity of such protected locations within the City, and that a distance greater than the state minimum is necessary to meaningfully reduce the frequency of contact and opportunity for such persons to reoffend against children within the City. The City Council finds that this restriction is a reasonable, nonpunitive, and civil regulatory measure intended to protect public safety and is not intended to impose additional punishment on any person.

(c) It is the intent of this article to promote, protect and improve the health, safety and welfare of the city's citizens by creating buffer areas around locations where children regularly congregate, where certain sexual offenders and sexual predators are prohibited from establishing a temporary or a permanent residence and prohibited from being present.

(d) The City Council further finds that some sexual offenders and sexual predators who do not reside within the City or Washington County nevertheless establish and operate businesses within the City, including businesses located in or near areas where children regularly congregate, and that such businesses may afford these persons regular, unsupervised access to and contact with children and other members of the public. The City Council finds that requiring such persons to register their businesses with the City, and to disclose their status as registered sexual offenders or sexual predators to the public, serves the City's compelling interest in protecting children and promoting public safety by enabling parents, customers, and the community to make informed decisions and to take appropriate precautions.

(e) The City Council further finds that a disclosure requirement is effective only if the required notice is presented in a manner that is conspicuous, legible, and reasonably likely to be seen and understood by the public. Accordingly, the City Council finds that prescribing specific format requirements, including minimum sign dimensions, minimum font sizes, requirements as to color, contrast, and placement, and uniform disclosure language, is necessary to ensure that the disclosures required by this article are meaningful, that they are applied uniformly and objectively to all persons subject to this article, and that the requirements are

[1]State law reference(s)—The Florida Sexual Predators Act, F.S. § 775.21.

narrowly tailored to accomplish the City's child-protection and public-safety objectives without being vague or leaving compliance to subjective interpretation.

(Code 1987, § 12-61; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-77. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bus stop means any location designated by the Washington County School District, or any public or private school, for the pickup or drop off of any minor child.

Protected location means any school, designated school bus stop, day care center, park, playground, recreation center, sports field, sports facility, public ballfield, library, skating park, swimming pool open to the public, community center, place of worship, or arcade located within the City. The term also includes any other place where children regularly congregate that has been formally designated as a protected location by resolution of the City Council and published on the City's official website or otherwise made publicly available. The City shall maintain and publish on its official website a current list of all protected locations.

Child safety zone means a protected location, together with the area extending 300 feet from the protected location measured in a manner similar to the measurement of the residency restriction area provided in section 24-78. The term "child safety zone" includes any and all buildings, land, parking areas, or other improvements located on the same parcel on which each protected location is located, but does not include any public street, and also does not include any public sidewalk which is located on the outside boundary of a child safety zone.

Permanent residence means a place where the person abides, lodges, or resides for three or more consecutive days that is the person's home or other place where the person primarily lives. For purposes of calculating a permanent residence, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

Temporary residence means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for three or more days in the aggregate during any calendar year that is not the person's permanent or transient residence. For a person whose permanent residence is not in this state, the term also includes a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. The term includes an "in-state travel residence," which means a temporary residence in this state established by a person who already has an existing permanent, temporary, or transient residence in this state. For purposes of calculating a temporary residence, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

Transient residence means a place within the corporate limits of the City where the person lives, remains, or is located for the purpose of abiding, lodging, or residing for three or more days in the aggregate during a calendar year that is not the person's permanent or temporary residence. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address. For purposes of calculating a transient residence, the first day that a person lives, remains, or is located within the City for the purpose of abiding, lodging, or residing is excluded and each subsequent day is counted. A day includes any part of a calendar day.

Sexual offender means any person who has been convicted of, or who has had adjudication withheld for, or who has been adjudicated delinquent for, a violation of any of the following Florida Statutes, or any similar offense committed in another jurisdiction, regardless of whether adjudication was withheld: F.S. § 393.135(2); 394.4593(2); 787.01 (where the victim is a minor); 787.02 (where the victim is a minor); 787.025(2)(c) (where the victim is a minor); 787.06(3)(b), (d), (f), (g), or (5); 794.011 (excluding s. 794.011(10)); 794.05; 800.04; 810.145(8);

825.1025; 827.071; 847.0133; 847.0135 (excluding s. 847.0135(6)); 847.0137; 847.0138; 847.0145; 895.03 (where the court makes a written finding that the racketeering activity involved at least one sexual offense listed herein or at least one offense listed herein with sexual intent or motive); 916.1075(2); 985.701(1); or any attempt or conspiracy to commit any of the foregoing offenses. Sexual offender shall also include any person who is required to register as a sexual offender in the State of Florida pursuant to F.S. § 943.0435, 944.606, 944.607, or 985.4815, regardless of the nature of the underlying conviction or the jurisdiction in which such conviction occurred, including but not limited to convictions entered by courts of another state, the federal government, or a military tribunal. Notwithstanding the foregoing, the term "sexual offender" shall not include any person who has been removed from the requirement to register as a sexual offender or sexual predator pursuant to a court order entered under F.S. § 943.04354.

Sexual predator means any person designated as a sexual predator pursuant to F.S. § 775.21.

(Code 1987, § 12-62; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-78. Sexual offender and sexual predator residence prohibition; penalties; exceptions.

(a) It is unlawful for any sexual offender or sexual predator, as defined in this article, to establish a permanent residence, temporary residence, or transient residence within 2,500 feet of any protected location. For purposes of a transient residence, it is unlawful for such person to live, remain, or be located, for the purpose of abiding, lodging, or residing, at any specific place or location within 2,500 feet of any such location.

(b) 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 the nearest outer property line of a protected location, consistent with the measurement methodology set forth in F.S. 775.215. For a transient residence, the distance shall be measured by following a straight line from the actual physical location where the person lives, remains, or is located for the purpose of abiding, lodging, or residing to the nearest outer property line of a protected location.

(c) Penalties. Any person who violates this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. 775.082 or 775.083. Each day a violation continues, and each day that a residence is established or maintained in violation of this section, shall constitute a separate offense. The penalties imposed under this section are independent of and in addition to any penalties that may be imposed under applicable state law, including the graduated penalty provisions of F.S. 775.215.

(d) Exceptions. A person residing within 2,500 feet of any protected location does not commit a violation of this section if any of the following apply:

(1) The person established the permanent residence, temporary residence, or transient residence and reported and registered the residence pursuant to F.S. § 775.21, 943.0435 944.606, 944.607, or 985.4815 prior to adoption of the ordinance from which this article is derived, and such residence has been continuously maintained since that time without interruption.

(2)

(3) The person is a minor and is not required to register as a sexual offender or sexual predator under applicable state or federal law.

(4) The protected location within 2,500 feet of the person's permanent residence, temporary residence, or transient residence was established, opened, or designated after such person reported and registered the residence pursuant to F.S. § 775.21, 943.0435, 944.606, 944.607, or 985.4815, provided that such residence has been continuously maintained since that time without interruption.

(5) The person has been removed from the requirement to register as a sexual offender or sexual predator pursuant to a court order entered under F.S. § 943.04354, and such order has not been rescinded or otherwise invalidated.

(6) The person had established and was lawfully maintaining a specific permanent residence, temporary residence, or transient residence within the City prior to the date of the conviction or adjudication that caused the person to become a sexual offender or sexual predator, where such conviction or adjudication occurred on or after the effective date of the ordinance from which this article is derived, provided that the residence was established before the person was subject to the residency restrictions of this article and has been continuously maintained since that time without interruption. This exemption applies only to the specific residence established prior to the date of the conviction or adjudication and does not authorize the person to establish or maintain any other residence within the City. If the person vacates or otherwise ceases to continuously maintain that specific residence, the exemption is permanently lost, and the person shall not thereafter establish or maintain any residence within 2,500 feet of any protected location.

(Code 1987, § 12-63; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-79. Sexual offender and sexual predator child safety zone prohibition; notice; enforcement.

(a) It is unlawful for any sexual offender or sexual predator, as defined in this article, to be present in a child safety zone.

(b) Penalties. Any person who violates this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. 775.082 or 775.083. Each day a violation continues shall constitute a separate offense. The penalties imposed under this section are independent of and in addition to any penalties that may be imposed under applicable state law.

(c) Exceptions. The provisions of this section shall not apply:

(1) To any person entering into a facility in a child safety zone for the sole purpose of voting in any municipal, state or federal election or referendum, provided that the person leaves the facility immediately after voting.

(2) To the extent that compliance with this section would directly and affirmatively violate a specific written condition of a sentence, or order of probation or order or parole imposed upon a sexual offender or sexual predator by a court of competent jurisdiction.

(3)

If the sexual offender or sexual predator is a minor.

(d) Notice. The Washington County Sheriff or the Sheriff's designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this section (which notice shall contain a copy of this article) to all persons who are listed on the sexual offender or sexual predator registry as of the effective date of the ordinance from which this section is derived, as well as those persons who are added to the sexual offender or sexual predator registry thereafter, which persons' addresses (as shown on the registry) are within the city. Such notice requirement may be satisfied by the mailing of such notice by registered or certified mail, return receipt requested, to the last known address of such person as listed on the registry or as otherwise known to the Washington County Sheriff, or by hand delivery, or by electronic transmission to a verified address or account of such person. The failure of any person to receive such actual written notice shall not be a defense to a violation of this section.

(e) Enforcement procedures.

(1) If a police officer reasonably believes that a sexual offender or sexual predator is in a child safety zone in violation of this section, the officer shall require the suspected sexual offender or sexual predator to provide the person's name, address, and telephone number. If it is established that the individual is a sexual offender or sexual predator, then the officer shall issue a written warning that the person is in violation of this section and require the person to leave the child safety zone. A written warning, once issued, shall remain in effect permanently. If the person refuses to leave or is later found to be in the same or any other child safety zone, the penalties set forth in subsection (b) of this section shall apply.

(2) If a police officer acquires information sufficient to support a reasonable belief that a particular sexual offender or sexual predator has been in a child safety zone, the officer shall issue a written warning to the person that the person is in violation of this section and that the person is prohibited from entering any child safety zone. The warning shall specify the child safety zone which the person entered and the date of the person's presence in the child safety zone, and shall be issued to the person in the manner provided for notice under subsection (d) of this section. If the person is later found to be present or to have been present in the same or any other child safety zone, the penalties set forth in subsection (b) of this section shall apply.

(3) Whenever a police officer issues a warning or a citation pursuant to this subsection (e), the officer shall mail a copy of the warning or citation by certified mail within five (5) business days to the sexual offender's or sexual predator's parole or probation officer (if any), provided that failure of the officer to comply with this subsection (e)(3) shall not be a defense to a violation of this section.

(Code 1987, § 12-64; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-80. Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance with knowledge or reason to know that it will be used as a permanent residence, temporary residence, or transient residence by any person prohibited from establishing such residence pursuant to section 24-78 if such place, structure, or part thereof, trailer or other conveyance is located within 2,500 feet of any protected location.

(b) A property owner's knowing failure to comply with the provisions of this section shall constitute a misdeameanor of the second degree, punishable as provided in F.S. 775.082 or 775.083, and shall subject the property owner to the code enforcement provisions and procedures as provided in this Code, including the provisions that allow the city to seek relief as otherwise provided by law.

(Code 1987, § 12-65; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-81. Sexual offenders and sexual predators operating businesses within the city; registration and public disclosure required; penalties.

(a) Registration required. It is unlawful for any sexual offender or sexual predator, as defined in this article, to own, operate, manage, conduct, or otherwise establish or maintain a business, trade, profession, or commercial enterprise of any kind within the City, whether or not such person resides within the City or Washington County, unless such person first registers with the City Clerk. Such registration shall be completed prior to commencing operation of the business or, for any business already in operation as of the effective date of the ordinance from which this section is derived, within thirty (30) days after such effective date. The registration shall include the person’s full legal name, residential address, the name and physical address of the business, a description of the nature of the business, the statutory basis for the person’s designation as a sexual offender or sexual predator, and such other information as the City Clerk may reasonably require. The person shall update the registration within

ten (10) days of any change in the information provided. The City shall maintain and publish on its official website a current list of all businesses registered under this section.

(b) Public disclosure required. Any person subject to subsection (a) shall disclose his or her status as a registered sexual offender or sexual predator as follows, and each disclosure shall clearly and legibly state, in the English language: "The owner/operator of this business is a registered sexual offender or sexual predator under Florida law." (1) Physical premises. The person shall conspicuously and continuously post a printed sign at or immediately adjacent to each public entrance of the physical structure from which the business operates. The sign shall be not less than eight and one-half (8½) inches by eleven (11) inches in size, printed on a white background in black lettering, with the required statement set in bold, sans-serif type of not less than one (1) inch (72 point) in height, and shall be posted at a height of between four (4) and six (6) feet above the floor or ground so as to be plainly visible and legible to persons entering the premises. (2) Advertising and promotional materials. In all advertising and promotional materials for the business, whether printed, broadcast, electronic, or online, the required statement shall appear in a font that is no smaller than the largest font used elsewhere in the material and, for printed materials, in type of not less than twelve (12) point; for broadcast or audio advertising, the statement shall be clearly spoken at a volume and cadence substantially equal to the remainder of the advertisement. (3) Websites and electronic platforms. On all websites, social media accounts, and other electronic platforms used to advertise, promote, or conduct the business, the required statement shall be displayed conspicuously on the home page or primary profile page in a font no smaller than the largest font used for text on that page and in a color that contrasts clearly with its background. All disclosures required by this subsection shall be maintained in a form and size prescribed by the City, and the City may by resolution prescribe a standard sign and disclosure format, which, if adopted, shall control.

(c) Penalties. Any person who violates this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083. Each day a violation continues, and each day a business is operated or maintained in violation of this section, shall constitute a separate offense. The penalties imposed under this section are independent of and in addition to any other penalties that may be imposed under applicable state law and to the civil enforcement remedies provided in this article.

(Code 1987, § 12-66; Ord. No. 920, § 2, 2-12-2013)

Sec. 24-82. Civil enforcement; severability; conflicts.

(a) Civil enforcement. In addition to the criminal penalties provided in this article, the City may seek civil enforcement of this article, including injunctive relief, through a court of competent jurisdiction. In any such action, the City shall be entitled to recover its reasonable attorney's fees and costs from a person found to be in violation of this article. The chief of police or the chief's designee is designated as the primary authority responsible for enforcing the provisions of this article within the City.

(b) Severability. If any section, sentence, clause, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this article.

(c) Conflicts. To the extent that any provision of this article establishes requirements more restrictive than those set forth in the Washington County Code of Ordinances or under applicable state law, including F.S. § 775.215, the more restrictive provisions of this article shall control within the City. Nothing in this article shall be construed to limit or restrict the authority of law enforcement to enforce applicable state law, including F.S. § 775.21, 775.215, 943.0435, 944.607, and 985.4815.