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ORDINANCE NO. 2024-02

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING CERTAIN RESIDENCY PROHIBITIONS AND EXCEPTIONS FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Council finds it is in the public's interest to establish policies and procedures to provide for residency prohibitions and exceptions for sexual offenders and sexual predators within the City of Westlake.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby creates Ordinance No. 2024-02 to provide for certain residence prohibitions and exceptions for sexual offenders and sexual predators, and to provide for findings and intent and penalties as follows:

Findings and intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders/sexual predators are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders/sexual predators 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 offender/sexual predator victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article to serve and to protect the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

Definitions.

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

Conviction means a determination of guilt which is the result of a trial of the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

1 Permanent residence means a place where a person abides, resides, lodges for fourteen (14)
2 or more consecutive days, and which includes, motor vehicles, trailers, mobile homes,
3 manufactured homes, vessels, live-aboard vessels, houseboats.

4 Sexual offender shall have the same meaning ascribed to such term as used in F.S. §
5 943.0435

6 Sexual predator shall have the same meaning ascribed to such term in F.S. § 775.21(4)(a)

7 Temporary residence means a place where person abides, resides, or lodges for a period of
8 fourteen (14) days or more in the aggregate, during any calendar year, and which is not the
9 person's permanent residence, or a place where a person routinely abides, resides, or lodges for
10 a period of four (4) or more consecutive or nonconsecutive days in any month and which is not
11 the person's permanent residence, and which includes, motor vehicles, trailers, mobile homes,
12 manufactured homes, vessels, live-aboard vessels, houseboats.

13 **Sexual offender and sexual predators residence prohibitions; exceptions; penalties.**

14 (a) Prohibited location of residence. It is unlawful for any person who:

15 (1) Has been convicted of a violation of F.S. §§ 794.011, 800.04, 827.071, 847.0145,
16 regardless of whether adjudication has been withheld in which the victim of the
17 offense was less than sixteen (16) years of age; or

18 (2) Is required to register as a sexual offender or sexual predator with the State of
19 Florida Department of Law Enforcement due to an offense where the victim was
20 less than sixteen (16) years of age; or

21 (3) Committed a comparable crime(s) in another state and is identified as a sexual
22 offender or sexual predator, and in which case the victim of the offense was less
23 than sixteen (16) years of age;

24 to establish a permanent residence or temporary residence within two thousand five
25 hundred (2,500) feet of any public or private school, public library, day care center,
26 specifically including residential or home based day care operating under a valid city
27 Business Tax Receipt (BTR); park, playground, community center, day camp, or any
28 other place where children regularly congregate.

29 (b) Measurement of distance. For purposes of determining the minimum distance separation,
30 the distance shall be measured by following a straight line from the outer property line of
31 the permanent residence or temporary residence, to the nearest outer property line of the
32 designated public library, day care center, park, playground, community center, day camp,
33 or any other place where children regularly congregate.

34 (c) Exceptions. A person residing within two thousand five hundred (2,500) feet of any
35 designated school, public library, day care center, park, playground, community center, day
36 camp, or any other place where children regularly congregate, does not commit a violation
37 of this section if any of the following apply:

38 (1) The person established the permanent residence prior to the effective date of this
39 article.

- 1 (2) The person was a minor when he/she committed the offense and was not convicted
2 as an adult.
- 3 (3) The person is a minor.
- 4 (4) The designated school, public library, day care center, park, playground,
5 community center, day camp, or any other place where children regularly
6 congregate within two thousand five hundred (2,500) feet of the person's
7 permanent or temporary residence was opened and/or established after the person
8 established the permanent or temporary residence.
- 9 (d) Penalties. A person who violates this article shall be punished by a fine not exceeding five
10 hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days, or
11 by both such fine and imprisonment; for a second or subsequent conviction of a violation
12 of this section, such person shall be punished by a fine not to exceed one thousand dollars
13 (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months, or by
14 both such fine and imprisonment.

15 **Rental of real property to certain sexual offenders and sexual predators prohibited.**

- 16 (a) It is unlawful to lease, rent, or otherwise convey (exclusive of sales involving transfer of
17 one hundred (100) percent ownership interest) any dwelling, structure, or part thereof,
18 trailers or other conveyances, to any person prohibited from establishing such permanent
19 residence or temporary residence pursuant to this article, if such dwelling, or part thereof,
20 is going to be used as a permanent residence or temporary residence of the person, and the
21 dwelling is located within two thousand five hundred (2,500) feet of any designated school,
22 public library, day care center, park, playground, community center, day camp, or any other
23 place where children regularly congregate.
- 24 (b) A property owner or property manager's failure to comply with the requirements of this
25 section shall constitute a violation of this section, and shall subject the property owner,
26 property manager or other person or entity in the care, custody or control of the real property
27 to enforcement proceedings as authorized by City Code or by any other means of
28 enforcement allowed by law.

29 **Application of article/existing contracts.**

30 The provisions of this article shall not be applied to persons residing at a prohibited location
31 on the effective date of this article such that it is not the intent of this article to impair valid,
32 existing and bona fide contract rights; provided, however, that the provisions of this article shall
33 apply upon termination of any beneficial/ownership interest in real property, termination of any
34 leasehold relationship arising from a landlord tenant relationship or the expiration of a lease.
35 When a person who is the subject of this article changes residences, this article shall fully apply
36 to such persons.

37 **SECTION 3. Codification.** It is the intention of the City Council of the City of Westlake
38 that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances
39 of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-
40 lettered and the word “Ordinance” may be changed to “Section,” “Article” or such other word
41 or phrase in order to accomplish such intention.

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SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 6. Effective Date. This ordinance shall be effective upon adoption on second reading.

PASSED this 2nd day of July 2024, on first reading.

PUBLISHED on this 5th day of July 2024 in the Sun Sentinel.

PASSED AND ADOPTED this 16th day of July 2024, on second reading.

City of Westlake
JohnPaul O’Connor, Mayor

ATTEST:

Zoie Burgess, CMC, City Clerk

APPROVED AS TO LEGAL FORM:

CITY ATTORNEY