

ORDINANCE NUMBER 1000

AN ORDINANCE REGULATING THE RESIDENCY AND EMPLOYMENT OF CONVICTED SEX OFFENDERS WITHIN THE CITY OF FAIRFIELD, ALABAMA

WHEREAS, the Fairfield City Council desires to establish an Ordinance regulating where convicted sex offenders may establish residency and/or employment within the City of Fairfield, Alabama, in order to protect the health and welfare of its citizens and to prevent loitering by Convicted Sex Offenders within certain areas of the City.

BE IT ORDAINED BY THE FAIRFIELD CITY COUNCIL THAT THE CODE OF ORDINANCES OF THE CITY OF FAIRFIELD, ALABAMA IS AMENDED BY ADDING THE FOLLOWING SECTIONS:

SECTION 1. DEFINITIONS. For the purpose of this Ordinance, the following words have the following meanings:

- A. **ADULT CRIMINAL SEX OFFENDER.** A person convicted of a criminal sex offense, including a person who has pleaded *nolo contendere* to a criminal sex offense, regardless of whether adjudication was withheld and regardless of the location of the jurisdiction in which any conviction was been entered.
- B. **CHILD CARE FACILITY:**
 - 1. A licensed daycare center, a licensed child care facility, or any other child care service that is exempt from licensing pursuant to Section 38-7-3, *Code of Alabama*.
 - 2. Any legally operating and licensed business that provides on-site or off-site Child Care Services to the public.
- C. **CRIMINAL SEX OFFENSES.** Any of the following offenses:
 - 1. **RAPE**, in the First or Second Degree, as proscribed by Section 13A-6-61 or 13A-6-62, *Code of Alabama*; provided that a sentencing court may exempt from this article a juvenile or youthful offender criminal sex offender for a criminal sex offense as defined in Section 13A-6-62 (a)(1), *Code of Alabama, as amended*.
 - 2. **SODOMY**, in the First or Second Degree, as proscribed by Section 13A-6-63 or 13A-6-64, *Code of Alabama, as amended*.
 - 3. **SEXUAL TORTURE**, as proscribed by Section 13A-6-65.1, *Code of Alabama, as amended*.
 - 4. **SEXUAL ABUSE**, in the First or Second Degree, as proscribed by Section 13A-6-66 or 13A-6-67 *Code of Alabama, as amended*.
 - 5. **ENTICING A CHILD TO ENTER A VEHICLE, ROOM, HOUSE, OFFICE, STRUCTURE, SPACE, OR OTHER PLACE FOR IMMORAL PURPOSES**, as proscribed by Section 13A-6-69, *Code of Alabama, as amended*.
 - 6. **PROMOTING PROSTITUTION**, in the First or Second Degree, as proscribed by Section 13A-12-111 or 13A-12-112 *Code of Alabama*.
 - 7. **VIOLATION OF THE ALABAMA CHILD PORNOGRAPHY ACT**, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196 or 13A-12-197, *Code of Alabama*.

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8. KIDNAPPING of a minor, except by a parent, in the First or Second Degree, as proscribed by Section 13A-6-43 or 13A-6-44, *Code of Alabama, as amended*.
 9. INCEST, as proscribed by Section 13A-13-3, Code of Alabama, when the offender is an adult and the victim is a minor.
 10. CHILD SOLICITATION BY COMPUTER, for the purpose of committing a sexual act and transmitting obscene material to a child by computer, as proscribed by Section 13A-6-110 and 13A-6-111, *Code of Alabama, as amended*.
 11. Any SOLICITATION, ATTEMPT, OR CONSPIRACY TO COMMIT any of the offenses listed in paragraphs 1-10, above.
 12. Any crime committed in any state or a Federal, Military, Indian, or a foreign country jurisdiction which— if it had been committed in this state under the current provisions of law—would constitute an offense listed in paragraphs 1-11, above.
 13. The foregoing notwithstanding, any crime committed in any jurisdiction which—irrespective of the specific description or statutory element thereof—is in any way characterized or known as rape, sodomy, sexual assault, sexual battery, sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, or molestation of a child.
 14. INDECENT EXPOSURE, as proscribed by Section 13A-6-68, *Code of Alabama, as amended*.
- D. CRIMINAL SEX OFFENSE INVOLVING A CHILD. A conviction of any Criminal Sex Offense in which the victim was a child under the age of 12 years or any offense involving Child Pornography.
- E. LOITER. Under this subsection, “loiter” shall be defined as:
1. Entering or remaining, in or on public or private property, without authorization or while having no legitimate purpose there.
 2. Alternatively, if a legitimate purpose initially existed, thereby authorizing entry upon or in property, then remaining on or in subject property beyond the scope of the initial authorization or beyond the time necessary to fulfill the initial legitimate purpose.
- F. PUBLIC RECREATION FACILITY. A recreation facility open to the general public—whether owned or operated by the City of Fairfield, State of Alabama, or any private land owner. A “public recreation facility”, shall include, but not limited to, football stadiums, baseball parks, softball parks, tennis courts, and any similar public parks or facilities.
- G. SCHOOL. A licensed or accredited public or private school, or a church school, that offers instruction in grades K-12. This definition shall not include private residences in which students are “home schooled”, or taught, by parents or tutors.

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SECTION 2. PROHIBITED ACTS:

- A. A person commits a violation of this Ordinance if he or she commits any of the following acts:
1. **RESIDENCY OR EMPLOYMENT.** Unless otherwise exempted by law, no adult criminal sex offender shall establish residence or any other living accommodation or accept employment within one (1) mile of any School, Public recreation facility, or Child care facility.
 2. **GRANDFATHER EXCEPTION.** Notwithstanding the prohibiting provisions of this subsection—in the event that the City of Fairfield shall enact legislation—after the adoption of Ordinance 1000—which would cause the lawful employment or residency of an Adult Convicted Sex Offender to become unlawful, but for this Exception, then, in said event, such lawful residency or employment shall not constitute a violation of this Ordinance. *However, in the event that such an Adult Convicted Sex Offender shall subsequently relocate or accept different employment, such subsequent Residency or Employment must be in compliance with this Ordinance.*
- B. **LOITERING.** No Adult Criminal Sex Offender, after having been convicted of a Criminal Sex Offense involving a child, shall loiter on or within One Thousand (1,000) Feet of any School, Public recreation facility, or Child Care Facility.
1. An offender does not violate this subsection unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the offender from the premises.
 2. An authorized person shall include, but shall not be limited to, a Law Enforcement Officer, Property Owner, or a duly Authorized Employee or Agent of such Owner.

SECTION 3. PENALTIES. An Adult Criminal Sex Offender, who knowingly violates the provisions of this Ordinance, shall be guilty of committing an “Ordinance Violation” against the City of Fairfield, and may be imprisoned for a maximum of six (6) months and/or fined up to Five Hundred Dollars (\$ 500.00).

SECTION 4. VALIDITY AND SEVERABILITY OF ORDINANCE PROVISIONS. The Provisions of this Ordinance are hereby deemed to be severable. If any Section, Subsection, Sentence, Clause, Phrase or Portion of this Ordinance is, for any reason, held invalid or unconstitutional, by any Court of competent jurisdiction, such Provision(s) shall be deemed separate, distinct and independent Provisions and such a Judicial Holding shall not affect the validity of the remaining, unaffected Provisions hereof.

SECTION 5. SCOPE OF ORDINANCE. The Provisions of this Ordinance are *CUMULATIVE*, and are in addition to any other Procedure presently authorized by law for the accomplishment of the Objectives herein stated.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect THIRTY (30) DAYS after its Adoption, Approval and Publication, as required by law.

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SECTION 7. CONFLICT/REPEALER. All other Ordinances, or parts of other Ordinances, which are in conflict with this Ordinance—to the extent of any such conflict—are hereby repealed.

DONE and ADOPTED on this 5th Day of February 2007.

Eldridge O. Turner
ELDRIDGE O. TURNER, PRESIDENT
FAIRFIELD CITY COUNCIL

ATTEST:

APPROVED AND TRANSMITTED:

Recountiss Tartt
ACTING CITY CLERK

Michael L. Johnson
MICHAEL L. JOHNSON, MAYOR

CERTIFICATE OF THE ACTING CITY CLERK

I, Recountiss Tartt, the undersigned, appointed to serve in the capacity of City Clerk of the City of Fairfield, Alabama—solely for the purpose of attesting and administering the implementation of the foregoing Ordinance Number 1000—hereby certify that the above and foregoing Ordinance is a true and correct copy of the Ordinance adopted and approved by the City Council of the City of Fairfield, Alabama—at its Regular Meeting held on the 5th day of February 2007—as same is represented in the Recorded Minutes.

Moreover, I hereby certify that—on the dates of: February 6, 2007, *inter alia*—the above and foregoing Ordinance was published by Posting, at the following locations, within the City of Fairfield: City Hall, Library, and Post Office.

Certified and acknowledged on this 6th day of February 2007.

CITY OF FAIRFIELD, ALABAMA

BY: Recountiss Tartt
ACTING CITY CLERK