

ORDINANCE NO. 2065

ORDINANCE AMENDING ARTICLE XVIII OF THE NORTHPORT MUNICIPAL CODE REGARDING SEX OFFENDER RESIDENCY AND EMPLOYMENT RESTRICTIONS

WHEREAS, the Northport City Code has provisions regarding sex offender residency and employment restrictions; and

WHEREAS, the Alabama Code has amended its provisions regarding sex offender residency and employment restrictions; and

WHEREAS, the City wishes to update its City Code sections to mirror the current Alabama State Code Sections regarding these matters and to adopt by reference any future changes in Alabama State Law concerning these matters.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF NORTHPORT, ALABAMA AS FOLLOWS:**

- 1.** The Northport City Code Sections 54-571 through 54-573 are hereby repealed.
- 2.** That Northport City Code Sections 54-571 through 54-575 are hereby adopted as set forth in Exhibit “A” which is attached hereto and incorporated herein by reference as if fully set out verbatim.
- 3.** That this Ordinance shall become effective upon its passage and publication.

ORDAINED this the 14th day of April, 2021.

**CITY COUNCIL OF THE
CITY OF NORTHPORT**

BY: _____
Jeff Hogg, Its President

ATTEST:

Warren H. McCollum, Interim City Administrator

APPROVED this the 5th day of April , 2021.

Bobby Herndon, Mayor

I hereby certify that the above and foregoing Ordinance was published on April 14, 2021, in the Northport Gazette, a newspaper of general circulation published in the City of Northport.

Warren H. McCollum, Interim City Administrator

1st Reading: March 15, 2021
By: Hogg
2nd Reading: April 5, 2021
Motion By: Hogg
Second By: Washington
Publication: April 14, 2021

EXHIBIT “A”

ARTICLE XVIII. - SEX OFFENDER RESIDENCY AND EMPLOYMENT RESTRICTIONS

Sec. 54-571. - Definitions.

For purposes of this chapter, the following words shall have the following meanings:

(1) ***Adult Sex Offender.*** A person convicted of a sex offense.

(2) ***Childcare Facility.*** A licensed child daycare center, a licensed childcare facility, or any other childcare service that is exempt from licensing pursuant to Section 38-7-3, if it is sufficiently conspicuous that a reasonable person should know or recognize its location or its address has been provided to local law enforcement.

(3) ***Conviction.*** A verdict or finding of guilt as the result of a trial, a plea of guilty, a plea of nolo contendere, or an Alford plea regardless of whether adjudication was withheld. Conviction includes, but is not limited to, a conviction in a United States territory, a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian reservation or other federal property, a conviction in any state of the United States or a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) of Public Law 109-248. Cases on appeal are deemed convictions until reversed or overturned.

(4) ***Employment.*** Compensated work or a volunteer position for any period of time, regardless of whether the work is full-time, part-time, self-employment, or as an independent contractor or day laborer, provided that employment does not include any time spent traveling as a necessary incident to performing the work.

(5) ***Fixed Residence.*** A building or structure, having a physical address or street number, that provides shelter in which a person resides.

(6) ***Residence.*** A fixed residence as defined by this section or other place where the person resides, regardless of whether the person declares or characterizes such place as a residence.

(7) ***School.*** A licensed or accredited public, private, or church school that offers instruction in grades pre-K-12 if it is sufficiently conspicuous that a reasonable person should know or recognize its location or its address has been provided to local law enforcement. The definition does not include a private residence in which students are taught by parents or tutors or any facility dedicated exclusively to the education of adults unless that facility has a childcare facility as defined in subdivision (3).

Sec. 54-572. Residency restrictions.

(1) No adult sex offender shall establish a residence or maintain a residence after release or conviction within 2,000 feet of the property on which any school, childcare facility, or resident camp facility is located unless otherwise exempted pursuant to Sections 15-20A-23 and 15-20A-24 of the Alabama Code. For the purposes of this section, a resident camp facility includes any place, area, parcel, or tract of land which contains permanent or semi-permanent facilities for sleeping owned by a

business, church, or nonprofit organization used primarily for educational, recreational, or religious purposes for minors and the location of the resident camp has been provided to local law enforcement. Resident camp does not include a private residence, farm, or hunting or fishing camp.

(2) No adult sex offender shall establish a residence or maintain a residence after release or conviction within 2,000 feet of the property on which his or her former victim, or an immediate family member of the victim, resides unless otherwise exempted pursuant to Section 15-20A-24 or Section 15-20A-16 of the Alabama Code.

(3) Changes to property within 2,000 feet of a registered address of an adult sex offender which occur after the adult sex offender establishes residency shall not form the basis for finding that the adult sex offender is in violation of this section unless the sex offender has been released or convicted of a new offense after establishing residency.

(4) No adult sex offender shall reside or conduct an overnight visit with a minor. Notwithstanding the foregoing, an adult sex offender may reside with a minor if the adult sex offender is the parent, grandparent, stepparent, sibling, or stepsibling of the minor, unless one of the following conditions applies:

- (a) Parental rights of the adult sex offender have been or are in the process of being terminated as provided by law.
- (b) The adult sex offender has been convicted of any sex offense in which any of the minor children, grandchildren, stepchildren, siblings, or stepsiblings of the adult sex offender was the victim.
- (c) The adult sex offender has been convicted of any sex offense in which a minor was the victim and the minor resided or lived with the adult sex offender at the time of the offense.
- (d) The adult sex offender has been convicted of any sex offense involving a child, regardless of whether the adult sex offender was related to or shared a residence with the child victim.
- (e) The adult sex offender has been convicted of any sex offense involving forcible compulsion in which the victim was a minor.

(5) Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender shall be deemed to have established a residence wherever he or she resides following release, regardless of whether the adult sex offender resided at the same location prior to the time of conviction.

(6) Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender has transferred his or her residence for purposes of Section 15-20A-10(e)(1) whenever the adult sex offender vacates his or her residence or fails to spend three or more consecutive days at his or her residence without previously notifying local law enforcement or obtaining a travel notification document pursuant to Section 15-20A-15.

(7) An adult sex offender is exempt from subsections (a) and (b) during the time the adult sex offender is in the facility of a licensed health care provider or is incarcerated in a jail, prison, mental health facility, or any other correctional placement facility wherein the adult sex offender is not allowed unsupervised access to the public.

(8) An adult sex offender shall not be found in violation of subsection (a) on the basis of any address, street number, place, or parcel that has been approved in writing by local law enforcement prior to establishing a residence. Local law enforcement shall promulgate, publicize, and enforce a policy that affords sex offenders a reasonable opportunity to obtain preapproval of a proposed residence.

(9) For the purposes of this section, the 2,000-foot measurement shall be taken in a straight line from nearest property line to nearest property line.

(10) Any person who knowingly violates this section shall be guilty of a Class C felony.

Sec. 54-573. Established residents.

Changes to property within 2,000 feet of an adult criminal sex offender's registered address which occur after an adult criminal sex offender establishes residency shall not form the basis for finding that a criminal sex offender is in violation of section 54-554.

Secs. 54-574. Employment restrictions.

(1) No adult sex offender shall accept or maintain employment or a volunteer position within 2,000 feet of the property on which a school or childcare facility is located unless otherwise exempted pursuant to Sections 15-20A-24 and 15-20A-25 of the Alabama Code.

(2) No adult sex offender, after having been convicted of a sex offense involving a child, shall accept or maintain employment or a volunteer position within 500 feet of a playground, park, athletic field or facility, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.

(3) Changes to property within 2,000 feet of an adult sex offender's place of employment which occur after an adult sex offender accepts employment shall not form the basis for finding that an adult sex offender is in violation of this section.

54. 575. Compliance with Alabama Law.

It is the intent of the City to follow and comply with the existing Alabama Code Sections as they are amended from time to time. To the extent the above sections conflict with Alabama State Law, Alabama State Law will control.

54.576 -54.590. Reserved