

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 20 September 2006
SUBJECT: Park Child Protection Ordinance
ATTACHMENT(S): Draft ordinance

SUMMARY OF REQUEST:

Attached is a draft ordinance intended to prevent convicted child sex offenders from being present in or loitering on the grounds of parks, schools or the immediately surrounding areas.

Note that the maximum penalty for the violation of this ordinance would be imprisonment for thirty (30) days, plus a \$500.00 fine.

County staff will be available to present further information on this matter.

PROPOSED BOARD ACTION:

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the Park Child Protection Ordinance as Article II of Chapter 130A of the Henderson County Code.

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AN ACT AMENDING THE CHAPTER 130A OF THE HENDERSON COUNTY CODE
BY PROHIBITING CONVICTED CHILD SEX OFFENDERS FROM ENTERING ANY
COUNTY PARK AND FROM LOITERING ON A PUBLIC WAY WITHIN 300 FEET OF A
COUNTY PARK OR SCHOOL; AND DEFINING CHILD SAFETY ZONE, COUNTY PARK,
CONVICTED CHILD SEX OFFENDER, LOITER AND PUBLIC WAY; PROVIDING FOR
ENFORCEMENT PROCEDURES AND PENALTIES; AND PROVIDING FOR
SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, as of August, 2006, the North Carolina Department of Public Safety Sex Offender Registration Database indicates that there are eighty-eight (88) persons living in Henderson County who are registered sex offenders under North Carolina law; and,

WHEREAS, the Board of Commissioners of Henderson County recognizes that it has a compelling interest in protecting children from the threat of sexual abuse; and,

WHEREAS, due to the vulnerability of a child, the Board of Commissioners is compelled to take a protective role by adopting laws that are designed to protect children within Henderson County from convicted child sex offenders; and,

WHEREAS, the County's parks and school sites are available to and used by children on a daily basis; and,

WHEREAS, convicted child sex offenders currently (i) may be able to frequent County parks and school sites, and (ii) according to studies submitted to the Joint Committee on Human Rights of the United Kingdom Parliament (January 2005), have a high propensity for repeating sex crimes against children; and

WHEREAS, the Board of Commissioners of Henderson County wishes to attempt to ensure the safety of children in Henderson County at County parks and school sites and within three hundred (300) feet of a County park or school site.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY as follows:

SECTION 1. The Henderson County Code is hereby amended by designating Sections 130A-1 through 130A-13 as "Article I" of Chapter 130A.

SECTION 2. The Henderson County Code is hereby amended by adding a new Article II to Chapter 130A, as follows:

Article II. Child Safety Zone

130A-50 Prohibition of Convicted Child Sex Offenders in Child Safety Zone.

A. Definitions: For the purpose of this Article the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(1) "Park" means the same as defined by Section 130A-3.

(2) "Convicted child sex offender" means any person who is required to register on the North Carolina Sex Offender and Public Protection Registry pursuant to N.C. Gen. Stat. §14-208.5 *et seq.*

(3) "Loiter" means: Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around park, school site or public way.

(4) "Public way" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public.

(5) "School site" means the buildings and grounds of any school or other facility owned or operated by the Henderson County Board of Public Education.

(6) "Child safety zone" means all parks, school sites and the public ways within three hundred (300) feet of a park or school site.

B. It shall be unlawful for a convicted child sex offender to knowingly be present in any child safety zone.

C. It shall be unlawful for a convicted child sex offender to knowingly loiter in any child safety zone.

130A-51 Enforcement Procedures.

If a law enforcement officer reasonably believes that a convicted child sex offender is in a child safety zone in violation of this Ordinance, the officer shall require the convicted child sex offender to provide his/her name, address, and telephone number. If the officer establishes that the individual is a convicted child sex offender, then the officer shall notify the convicted child sex offender that he/she is in violation of the ordinance. For the purposes hereof, an individual may be established as a convicted child sex offender (i) if they are residents of North Carolina and are required to be registered on the North Carolina Department of Public Safety Sex Offender Registration Database, or (ii) if they are not residents of North Carolina, they would be required to so registered if they were in fact North Carolina residents.

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130A-52 Penalty.

Any person violating any provision of this Ordinance, upon conviction, shall be punished by incarceration as allowed by North Carolina law, and by a fine not to exceed Five Hundred Dollars (\$500.00).

130A-53 Severability.

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.

SECTION 3: This Ordinance shall take effect from the date of passage.

Adopted by the Henderson County Board of Commissioners upon motion duly made, this the _____ day of _____, 2006.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
WILLIAM L. MOYER, Chairman

Attest:

Secretary to the Board