



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.1.

4/23/2024

Subject:

Ordinance Amending Chapter 74, Article VI, Section 74-102(b)(7), Pertaining to Sexual Offenders and Sexual Predators

Fiscal Impact:

None

Dept/Office:

District 3 Commission Office

Requested Action:

It is requested that the Board of County Commissioners hold a public hearing and adopt an ordinance amending Chapter 74, Article VI, Section 74-102(b)(7) of the Brevard County Code of Ordinances

Summary Explanation and Background:

Brevard County Code Section 74-102(b) prohibits sexual offenders and sexual predators from entering into or remaining within a 1,000-foot buffer zone surrounding any school, daycare center, park, or playground, unless a listed exception applies. Brevard County Code section 74-102(b)(7) provides an exception when a sexual offender or sexual predator enters or remains within a 1,000-foot buffer zone "as a result of fulfilling legally allowable duties imposed by gainful employment."

At the March 12, 2024 Board of County Commissioners meeting, the Board approved legislative intent and permission to advertise an ordinance amending Chapter 74, Article VI, Section 74-102 of the Brevard County Code of Ordinances to clarify that a sexual offender or sexual predator who has committed one or more of certain enumerated offenses where the victim is a minor cannot enter into a 1,000-foot buffer zone to work at any business, school, child care facility, park, playground, or other place where children regularly congregate in violation of section 775.21(10)(b), Florida Statutes.

The proposed ordinance was prepared by the County Attorney's Office following that Board direction and was duly noticed on April 12, 2024.

Clerk to the Board Instructions:

Upon approval by the Board, execution by the Chair, and attestation by the Clerk, file the ordinance with the Department of State as required by law within the 10-day deadline. Please return a copy of the executed ordinance with the Department of State's official acknowledgement of filing to the County Attorney's Office.



April 24, 2024

M E M O R A N D U M

TO: Morris Richardson, County Attorney

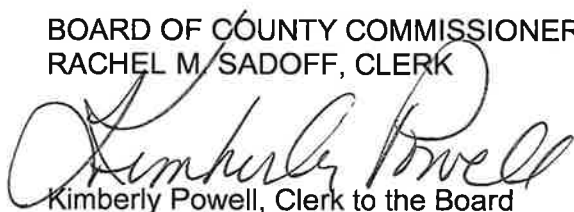
RE: Item G.1., Ordinance Amending Chapter 74, Article VI, Section 74-102(b)(7), Pertaining to Sexual Offenders and Sexual Predators

The Board of County Commissioners, in regular session on April 23, 2024, conducted the public hearing and adopted Ordinance No. 24-07, amending Chapter 74, Article VI, Section 74-102(b)(7) of the Brevard County Code of Ordinances, pertaining to sexual offenders and sexual predators. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK



Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Commissioner Tobia



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 26, 2024

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2024-07, which was filed in this office on April 25, 2024.

Sincerely,

Matthew Hargreaves
Administrative Code and Register Director

MJH/wlh

ORDINANCE NO. 2024-07

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 74 – OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE VI. – SEXUAL OFFENDERS AND SEXUAL PREDATORS, SECTION 74-102. – SEXUAL OFFENDERS AND SEXUAL PREDATORS, BREVARD COUNTY CODE OF ORDINANCES; PROVIDING THAT THE EXCEPTION SET FORTH IN SECTION 74-102(b)(7) WHICH ALLOWS A SEXUAL OFFENDER OR SEXUAL PREDATOR TO ENTER INTO OR REMAIN WITHIN THE 1,000 FOOT BUFFER ZONE SURROUNDING ANY SCHOOL, DAYCARE CENTER, PARK OR PLAYGROUND TO FULFILL LEGALLY ALLOWABLE DUTIES IMPOSED BY GAINFUL EMPLOYMENT DOES NOT DOES NOT ALLOW A SEXUAL PREDATOR TO ENTER INTO OR REMAIN WITHIN A 1,000-FOOT BUFFER ZONE IN ORDER TO WORK, WHETHER FOR COMPENSATION OR AS A VOLUNTEER, AT ANY BUSINESS, SCHOOL, CHILD CARE FACILITY, PARK, PLAYGROUND, OR OTHER PLACE WHERE CHILDREN REGULARLY CONGREGATE IN VIOLATION OF SECTION 775.21(10)(b), FLORIDA STATUTES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature has found and determined that sexual offenders and sexual predators present an extreme threat to the public safety; are extremely likely to use physical violence and to repeat their offenses; commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes [see section 775.21(3)(a), Florida Statutes]; and

WHEREAS, the Legislature has found and determined that protection of the public from sexual offenders, particularly those who have committed offenses against children, is a paramount government interest [see section 944.606(2), Florida Statutes]; and

WHEREAS, Florida law prohibits certain sexual offenders from residing within 1,000 feet of any school, day care center, park or playground [see sections 794.065 and 947.1405, Florida Statutes]; and

WHEREAS, the Board of County Commissioners of Brevard County enacted Chapter 74, Article VI, Section 74-102, Brevard County Code of Ordinances entitled, “Sexual Offenders and Sexual Predators” in the interest of the safety and welfare of the public; and

WHEREAS, Chapter 74, Article VI, Section 74-102(b), Brevard County Code of Ordinances, makes it unlawful for any sexual offender or sexual predator to enter into or remain within the 1,000-foot buffer zone surrounding any school, daycare center, park or playground (the “1,000-foot buffer zone”); and

WHEREAS, Chapter 74, Article VI, Section 74-102(b), Brevard County Code of Ordinances, contains certain exceptions to the enforcement of this 1,000-foot buffer zone; and

WHEREAS, Chapter 74, Article VI, Section 74-102(b)(7), Brevard County Code of Ordinances, is hereby amended to read as follows: “1,000-foot buffer zone”; and
Officially filed with the Secretary of the State on April 25, 2024.

Ordinances, excepted from the application of the 1,000-foot buffer zone instances where a sexual offender or sexual predator enters into or remains in the buffer zone “as a result of fulfilling legally allowable duties imposed by gainful employment”; and

WHEREAS, Florida law makes it illegal for sexual predators who have committed one or more enumerated offenses where the victim is a minor to work or volunteer at any business, school, child care facility, park or playground, or other place where children regularly congregate [see section 775.21(10)(b), Florida Statutes]; and

WHEREAS, the exception in Chapter 74, Article VI, Section 74-102(b)(7), Brevard County Code of Ordinances does not explicitly state that it does not apply to these sexual predators, who are prohibited from being employed or from volunteering at any business, school, child care facility, park or playground, or other place where children regularly congregate, pursuant to section 775.21(10)(b), Florida Statutes; and

WHEREAS, the Board of County Commissioners now desires to amend Chapter 74, Article VI, Section 74-102(b)(7), Brevard County Code of Ordinances, to clarify that sexual predators who have committed one or more of enumerated offenses where the victim is a minor may not avail themselves of this exception and enter into the 1,000 foot buffer zone to work or volunteer at any business, school, child care facility, park, playground, or other place where children regularly congregate in violation of section 775.21(10)(b), Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Legislative Findings and Intent. The foregoing Recitals are hereby ratified and incorporated as findings of the Board of County Commissioners and as the legislative intent of this ordinance.

Section 2. Amending Chapter 74 – Offenses and Miscellaneous Provisions, Article VI. – Sexual Offenders and Sexual Predators, Section 74-102. – Sexual Offenders and Sexual Predators. Section 74-102(b)(7) of the Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

- (7) As a result of fulfilling legally allowable duties imposed by gainful employment, however, this exception does not allow a sexual predator to enter into or remain within a 1,000-foot buffer zone in order to work, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate in violation of section 775.21(10)(b), Florida Statutes;

Section 3. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall be made a part of the Brevard County Code of Ordinances, and that the sections of this ordinance may be renumbered to accomplish such intention.

Section 6. Effective Date. This Ordinance shall become effective upon receipt of official acknowledgment by the Clerk of the Board of County Commissioners from the Department of State that this Ordinance has been filed with the Department of State.

DONE, ORDERED, AND ADOPTED by the Board of County Commissioners of Brevard County, Florida, in regular session, this 23 day of April, 2024.

Attest:

BY:

Rachel Sadoff, Clerk

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

BY:

Jason Steele, Chair

(as approved by the Board on 4/23/2024)