

<b>Date:</b> 04/02/2024		<b>AGENDA ITEM</b>		<b>Item:</b> 11	
<input checked="" type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution	
<input type="checkbox"/> Other					
<b>County Goals</b>					
<input type="checkbox"/>	More Efficient Regulatory Framework	<input type="checkbox"/>	Increase Efficiency and Effectiveness of Government Operations	<input type="checkbox"/>	Implement a Plan for Expanded Recreation
<input type="checkbox"/>	Enhance Fiscal Stewardship	<input type="checkbox"/>	Support a Solution-Oriented Culture	<input checked="" type="checkbox"/>	NA
<b>Department:</b> Legal Department					
<b>Division:</b> Legal					
<b>Subject:</b> Ordinance 2024-09; Section 78-6, Sexual Offenders - Place of Residence					
Michael Dyer County Attorney Approved By:  <i>Michael Dyer</i>  Department Approval				Legal  Thomas Russell Brown Senior Assistant County Attorney Approved By:  <i>Thomas Russell Brown</i>  Approved as to Form and Legality	
Approved By:  Division Approval				County Manager's Office  Ryan Ossowski Chief Financial Officer Approved By:  <i>Ryan Ossowski</i>	
<b>Council Action:</b>					
<b>Modification:</b>					
<b>Account Number(s):</b> NA <b>Total Item Budget:</b> NA					
<b>Staff Contact(s):</b> Russ Brown				<b>Phone:</b> 386 736 5950	<b>Ext.</b> 12947
<b>Summary/Highlights:</b> As previously directed by the Council, attached is an ordinance prohibiting a sexual offender or predator from establishing a permanent or temporary residence located within the unincorporated portions of the county when such residence is located within 1,500 feet of any school, child care facility, designated public school bus stop, public park, and playground. The ordinance also makes it a violation for knowingly renting to a sexual offender or predator when the permanent or temporary residence located within the unincorporated portions of the county is located within 1,500 feet of any school, child care facility, designated public school bus stop, public park, and playground. There are exceptions to the prohibition if those are applicable.  Ordinance 2024-09 was advertised on March 22, 2024.					
<b>Recommended Motion:</b> Decision by Council whether to adopt.					

ORDINANCE 2024-09

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, BY AMENDING CHAPTER 78, OFFENSES AND MISCELLANEOUS PROVISIONS; BY ADDING SECTION 78-6 “SEXUAL OFFENDERS – PLACE OF RESIDENCE”; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR RESIDENTIAL DISTANCE REQUIREMENTS FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM SPECIFIED LOCATIONS; PROVIDING FOR RENTAL RESTRICTIONS FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike through~~ type are deletions; words in underscore type are additions.)

SECTION I: That Chapter 78, Offenses and Miscellaneous Provisions, of the Code of Ordinances, County of Volusia, is amended as follows:

...

**Sec. 78-6. Sexual Offenders – Place of Residence.**

(a) Findings and Intent. 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 are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims that are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant. The intent of this article is to serve the County of Volusia’s compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the County of Volusia, particularly children, by prohibiting sexual offenders and sexual predators from establishing

1 temporary or permanent residence in certain areas where children are known to regularly  
2 congregate, to prohibit renting or leasing certain property to sexual offenders or sexual  
3 predators if such property is located where children are known to regularly congregate and to  
4 restrict sexual offenders and sexual predators access to any school, child care facility,  
5 designated public school bust stop, public park, and playground.

6 (b) *Prohibited residence.* It is prohibited and unlawful for any person who has been convicted of  
7 a violation of F.S. §§ 794.011 related to sexual battery, 800.04 related to lewd or lascivious  
8 offenses committed upon or in the presence of persons less than 16 years of age, 827.071  
9 related to sexual performance by a child, 847.0135 (excluding § 847.0135(6)) related to  
10 computer pornography, prohibited computer usage and traveling to meet a minor, or 847.0145  
11 related to selling or buying of minors, or an offense in another jurisdiction that is similar to  
12 any such violation, regardless of whether adjudication has been withheld, when the victim of  
13 the offense for which the conviction resulted was under 16 years of age at the time the offense  
14 was committed, and who is required to register as a sexual offender or sexual predator  
15 pursuant to state law, to establish a permanent residence or temporary residence located  
16 within the unincorporated portion of the County of Volusia when such residence is located  
17 within 1,500 feet of any school, child care facility, designated public school bus stop, public  
18 park, and playground.

19 (c) *Adoption by reference.* The county hereby adopts by reference the definitions of "child care  
20 facility," "park," "playground," and "school" as defined in F.S. § 775.215(1).

21 (d) *Prohibited to knowingly rent.* It is prohibited and unlawful to let or rent any place, structure,  
22 or part thereof, trailer or other conveyance, with the knowledge that it will be used as a  
23 permanent residence or temporary residence by any person prohibited from establishing such  
24 permanent residence or temporary residence if such place, structure or part thereof, trailer or  
25 other conveyance is located within 1,500 feet of any school, child care facility, designated  
26 public school bus stop, public park, and playground.

27 (e) *Measurement of distance.* For the purposes of determining the minimum distance separation  
28 requirement, distance shall be measured by following a straight line from the outer property  
29 line of the permanent residence or temporary residence to the nearest outer property line of  
30 any school, child care facility, designated public school bus stop, public park, and playground.

1 (f) Exceptions. A prohibited person as determined in subsection (a) above residing within 1,500  
2 feet of any school, child care facility, designated public school bus stop, public park, and  
3 playground does not commit a violation of this section if any of the following apply:

4 (1) The person established the permanent residence or temporary residence and reported and  
5 registered the residence pursuant to F.S. §§ 775.21, 943.0435 or 944.607, prior to May  
6 1, 2024.

7 (2) The person was a minor when he/she committed the offense and was not convicted as  
8 an adult.

9 (3) The person is a minor.

10 (4) The school, child care facility, designated public school bus stop, public park, and  
11 playground was opened after the person established the permanent residence or  
12 temporary residence and reported and registered the residence pursuant to F.S. §§  
13 775.21, 943.0435 or 944.607.

14 (g) Permanent residence means a place where a person abides, lodges, or resides for a period of  
15 five or more consecutive days.

16 (h) Temporary residence means a place where a person abides, lodges, or resides for a period of  
17 five or more days in the aggregate during any calendar year and which is not the person's  
18 permanent address.

19 (i) Penalties. A person who violates section 78-6(b) or 78-6(d) herein shall be punished as  
20 provided in chapter 1, section 1-7 of the Code of Ordinances of the County of Volusia.

21 ...

22 **SECTION II:** Authorizing Inclusion in Code. The provisions of this ordinance shall be  
23 included and incorporated into the Code of Ordinances of the County of Volusia, as additions or  
24 amendments thereto, and shall be appropriately numbered to conform to the uniform numbering  
25 system of the Code.

26 **SECTION III:** Severability. Should any word, phrase, sentence, subsection or section be  
27 held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional,  
28 then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance

1 and all other words, phrases, sentences, subsections, or sections shall remain in full force and  
2 effect.

3 **SECTION IV: Conflicting Ordinances.** All ordinances, or part thereof, in conflict  
4 herewith are, to the extent of such conflict, repealed.

5 **SECTION V: Effective Date.** This ordinance shall take effect upon filing of a certified  
6 copy by e-mail with the Department of State.

7 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**  
8 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**  
9 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**  
10 **AVENUE, DELAND, FLORIDA, THIS 2ND DAY OF APRIL A.D., 2024.**

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12  
13 ATTEST:

COUNTY COUNCIL  
COUNTY OF VOLUSIA, FLORIDA

14  
15  
16 \_\_\_\_\_  
17 George Recktenwald, County Manager

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Jeffrey S. Brower, County Chair

