

ORDINANCE NO. 2024-__

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, 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 ____ day of _____, 2024.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

BY: _____
Rachel Sadoff, Clerk

BY: _____
Jason Steele, Chair
(as approved by the Board on _____)

(SEAL)