



# Final Report: Sexual Offender & Sexual Predator Residence Task Force

August 25, 2009



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## **COUNTY ADMINISTRATION**

Bertha Henry  
County Administrator

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## TASK FORCE MEMBERS

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Task Force Chair  
Institution of Higher Education – Lynn University

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Task Force Vice-Chair  
American Civil Liberties Union

Beth Atchison  
Florida Department of Corrections

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Commissioner Ted Galatis  
Broward League of Cities – City of Wilton Manors

Thomas Lanahan  
Law Enforcement – Broward Sheriff's Office

Janice Washburn  
Homeowners Association (unincorporated) – Broadview Park Civic Association

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**PURPOSE: TO REVIEW, RESEARCH, AND MAKE RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS REGARDING THE ISSUES INVOLVED WITH THE RESIDENCE RESTRICTIONS OF SEXUAL OFFENDERS AND PREDATORS CONVICTED OF CERTAIN SEX OFFENSES.**

According to Florida Department of Law Enforcement (FDLE), on June 4, 2009 there were 1275 registered sex offenders (RSO) and predators in Broward County. Most were sex offenders (91%), 8.2% were predators, 1.1% (14) were juveniles, and 1.5% (19) were female. About 35% were supervised under Department of Corrections (DOC) probation, community control, or conditional release, 1.6% were on federal probation, and about 5% were incarcerated in the county jail. Nearly 54% had been released and were under no supervision at all, 7.5% had absconded from probation or registration, and about 2% were deceased or deported. According to FDLE, 29 sex offenders in Broward are currently registered as "transient."

Child sexual abuse is a profound social problem with far-reaching effects for victims, their families, and society. In 2004, over 84,000 children across the United States were verified by child protection agencies to be victims of sexual abuse, accounting for approximately 10% of the total number of substantiated cases of child maltreatment (U.S. Department of Health and Human Services, 2006). Moreover, official data underestimate actual prevalence, as many cases of sexual child abuse go unreported. There are currently more than 640,000 registered sex offenders in the United States, and research indicates that 5% to 25% of them will be rearrested for committing a new sex crime in the future (Bureau of Justice Statistics, 2003; Hanson & Morton-Bourgon, 2005; Hanson, Morton, & Harris, 2003).

In an effort to protect children from predatory sexual abuse, city commissioners throughout Broward County have passed municipal ordinances prohibiting sex offenders from residing within close proximity to places where children commonly congregate. Despite their best intentions, these laws have resulted in an array of unintended consequences. The restrictions limit housing availability to a point where the number of homeless sex offenders is increasing, and, in fact, many are now designating their registered address as "transient." At the same time, county officials and residents have noted a clustering effect in unincorporated areas, where a less restrictive buffer zone has allowed offenders to more easily secure housing. On June 4, 2009, there were 1275 registered sex offenders in Broward County. On that date there were approximately 100 registered sex offenders living in Broadview Park, or approximately 7.8% of all the county's sex offenders, raising concerns about the safety of children living in that area. The land area of Broward County is 1205 square miles. The land area of Broadview Park is one square mile, which is .0008298 or less than 1% of county

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land. Clustering of sexual offenders may lower property values and unfairly burdens the unincorporated areas of Broward County. Thus, residence restrictions throughout the county have resulted in homelessness, transience, and clustering.

We reviewed available research about the effectiveness of residence restrictions and found no empirical evidence to indicate that these laws achieve their intended goals of preventing abuse, protecting children, or reducing reoffending. For instance, officials in Iowa examined the impact of their statewide 2,000 foot residential restriction law which went into effect in August 2005 (and was modified by the legislature in 2009). Researchers compared the number of charges filed for sex offenses with minor victims in the 12 months prior to the enforcement of the law with the number of charges filed within 24 months after implementation. No reduction in sex crime rates was detected; in fact, the number of charges steadily increased each year. The authors concluded that Iowa's residence law "does not seem to have led to fewer charges or convictions, indicating that there probably have not been fewer child victims" (Blood, Watson, & Stageberg, 2008, p. 10).

Nor were we able to find evidence suggesting that larger buffer zones are more effective in protecting children than the state's 1,000-foot restriction. Researchers in Florida compared the number of recidivists who lived within 1,000, 1,500, or 2,500 feet of schools or daycare centers. Sex offenders who lived closer to schools and daycares were not more likely to reoffend, and living farther from schools and daycares did not diminish the probability of sexual reoffending. When the distances to schools and daycares were considered along with other risk factors (prior arrests, age, marital status, predator status), proximity was not a significant predictor of recidivism (Zandbergen, Levenson, & Hart, 2009).

An analysis of 224 recidivistic sex offenses in Minnesota concluded that residence restriction laws would not have prevented repeat sex crimes (Duwe, Donnay, & Tewksbury, 2008). Sex offenses against children were most frequently perpetrated not by strangers lurking in schoolyards but by offenders who were well known to their victims, such as parents, caretakers, paramours of the mother, babysitters, or friends of the family. In less than 4% of the cases was the sex offender a neighbor of the victim. Initial contact with victims was usually established more than one mile from the offender's home, and predatory assaults that occurred within a mile of the offender's residence typically involved adult victims. Though relationships with minor victims were sometimes cultivated within 2,500 feet of the offender's home, none took place in or near a school, daycare center, or park. The authors determined that an offender's social relationship with a child victim is much more likely to facilitate sexual abuse than residential proximity.

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In addition to the lack of research supporting the effectiveness of these laws in preventing abuse, there is mounting evidence that these laws diminish housing availability and increase transience, homelessness and instability for offenders. Studies in at least three states, including Florida, have shown that most citizens live within 2,500 feet of a school, park, daycare, or bus stop, and therefore as distance buffers grow, compliant housing becomes harder to find. In Broward County, data provided by the Planning & Redevelopment Division illustrated that cities with larger buffer zones had significantly lower numbers of compliant dwellings. This raises concerns because if sex offenders cannot find housing, they may be forced to register as "transient," making them more difficult to track and supervise or less likely to register with authorities. Data from the Broward Public Defender's Office indicates that in 2004, they handled 16 failure to register cases, 50 cases in 2005, and 70 cases in 2009. Thus, since local residence restrictions were first enacted in 2005, the number of failure to register cases has increased more than four-fold. It should be noted that the Public Defender's Office represents only indigent offenders. It is also possible that the current economic crisis might contribute to housing instability.

Residence restrictions and their resulting transience create burdens for law enforcement officials as well. The BSO representative noted that these laws require officers to identify subjects affected by the ordinance, monitor their leases, identify violators and complete investigative packets for prosecution. The DOC representative reported that probation officers spend time assisting offenders with housing problems and often check dozens of addresses for compliance for a single offender.

We found that many victim advocates remain unconvinced that residential restrictions achieve improved protection from sexual abuse. The National Alliance to End Sexual Violence (NAESV), the umbrella organization of rape crisis centers throughout the United States, issued a public position opposing residence restrictions, stating that "sex offenders who continually move or become homeless as a result of residency restrictions are more difficult to supervise and monitor, thereby increasing the risk of re-offense."

In fact, one of our own victim representatives eloquently wrote:

My one and only concern is the public welfare of those individuals and families who have been sexually victimized or are at risk for sexual victimization. There is no legislation that provides for victims who cannot return to their home because they suffer from post-traumatic stress disorder, cannot sleep, eat, and suffer flashbacks and the like. There is no legislation that provides for them when their fears and anxiety prohibit them from enjoying activities within the community at public places, arcades, sports events, malls, etc. There is no legislation that

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provides for them when they cannot return to their place of employment because their shame and humiliation, and host of symptoms prevent them from functioning at their pre-assault level. There is none for children, who must relocate their homes, schools, endure separations from their family, loss of friendships and other supports because they must move and who fail in school because they cannot concentrate and instead struggle with symptoms of the trauma they have endured. These are the intended or perhaps unintended consequences of offenders and perpetrators who make the decision to violate the rights of their victims. While offenders & perpetrators may feel they are suffering a 'life sentence' even after serving time for the crime, victims suffer a lifetime sentence regardless. While many heal, their lives are forever changed.

I have learned a great deal through my participation on this task force. And, while the civil rights of offenders and predators may call for re-dress, my concern remains for victims and those at risk. The unintended consequences of excessive residence restrictions which contribute to homelessness, failure to register and/or non-compliance with probation/parole regulations place our community at risk for victimization. Factors which may impede offenders & perpetrators from participating in treatment, being employed, and sustaining other appropriate support systems place our community at risk for victimization. Frankly, I am not concerned about offenders, except as it relates to victims.

Similarly, Iowa prosecutors issued a statement in 2006: "The Iowa County Attorneys Association believes that the 2,000 foot residency restriction for persons convicted of sex offenses against minors does not provide the protection that was originally intended and that the cost of enforcing the requirement and the unintended effects warrant replacing the restriction with more effective protective measures." They expressed concerns about absconding, clustering, and instability. They noted a decrease in plea agreements to sex crimes, placing a burden on the court system and causing some offenders to go unpunished, unmonitored, and untreated. In 2009, the Iowa legislature modified the law, making it applicable only to the most serious sex offenders and adding child safety zones to keep offenders from loitering in places where children are commonly present. They rejected an amendment allowing communities to adopt their own ordinances.

Ultimately, Broward County commissioners are faced with an unenviable conundrum. To eliminate the clustering of sex offenders in the unincorporated areas would require passing an ordinance similar to those in the majority of municipalities. The likely result of such an ordinance will be to increase the number of homeless and transient sex offenders throughout the county, which undermines the very purpose of the sex



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offender registry and compromises public safety. Clearly the best intentions do not always translate into the best practices. Though residence restrictions are popular, there are problems created by these laws.

Broward commissioners appointed this task force in a pioneering and intentional effort to research and anticipate the possible outcomes of residence restrictions before the final passage of the law. We commend the commissioners for their interest in enacting evidence-based policy and we took our charge seriously. We were appointed to represent the various stakeholders in our community. We all hold differing views and perspectives, and we did not all agree on everything. There were two things that we did agree upon, however: that children need to be protected from sexual abuse, and that a public policy should not cause any human being -- even a sex criminal -- to face homelessness. This task force is not motivated by sympathy for sex offenders or a lack of concern for children -- what possible incentive could exist for this task force to place children in danger? Nor did this task force view its purpose as punishment or retribution. As well, we were not swayed by fears of litigation. The objective of this task force was simply to inform the development of effective strategies to protect communities from the threat of sexual violence. After reviewing a voluminous amount of data we have attempted to draw sensible and balanced conclusions that serve the best interests of the citizens of Broward County.

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**THE GOALS OF THE TASK FORCE SHALL BE TO REVIEW AND MAKE RECOMMENDATIONS REGARDING THE FOLLOWING:**

1. THE DISTANCE REQUIREMENTS ESTABLISHED IN THE FLORIDA STATUTES, THE VARIOUS MUNICIPALITIES' ORDINANCES WITHIN BROWARD COUNTY, AND THE BROWARD COUNTY ORDINANCE.

There are three state statutes regulating where sexual offenders and predators may live. The first two apply to RSOs under supervision of the Department of Corrections (DOC). The third applies to all RSOs convicted of certain sexual offenses.

**948.30 Additional terms and conditions of probation or community control for certain sex offenses.**--Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

**947.1405 Conditional release program.**--

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, designated public school bus stop, or other place where children regularly congregate. A releasee who is subject to this subparagraph may not relocate to a residence that is within 1,000 feet of a public school bus stop. Beginning October 1, 2004, the commission or the department may not approve a residence that is located within 1,000 feet of a school, day care center, park, playground, designated school bus stop, or other place where children regularly congregate for any releasee who is subject to this subparagraph.

**794.065 (Sexual Battery)** Unlawful place of residence for persons convicted of certain sex offenses.--

(1) It is unlawful for any person who has been convicted of a violation of s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135](#)(5), or s. [847.0145](#), regardless of

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whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. A person who violates this section and whose conviction under s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) was classified as a felony of the first degree or higher commits a felony of the third degree, punishable as provided in s. [775.082](#) or s. [775.083](#). A person who violates this section and whose conviction under s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) was classified as a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(2) This section applies to any person convicted of a violation of s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) for offenses that occur on or after October 1, 2004.

In Broward County, there are 24 city ordinances (out of 31 cities), all but three of which designate buffer zones of 2,500 feet. All prohibit living near schools, parks, playgrounds, daycare centers, bus stops, and other places where children congregate. Some include libraries, skating rinks, churches or sports fields. See page 12 for a listing of city ordinances.

According to information provided by DOC, there are 156 local ordinances in Florida (however, based on anecdotal evidence, the list may be incomplete). A review of ordinances throughout the state revealed that some prohibit landlords from renting to RSOs, many apply only to RSOs with victims under 16, and most allow exceptions for those who established their residence before the enactment of the ordinance. A substantial number of ordinances statewide restrict RSOs from living within 2,500 feet of places where children congregate. There are some exceptions however; for instance, out of 20 ordinances in Palm Beach County, 14 have set their buffer zones at 1,500 feet or less. Of the ordinances in Miami-Dade County, including a county-wide zone, all set the distance at 2,500 feet or more. It is interesting to note that there are 175 RSOs registered as transient in Miami-Dade County, and 21 registered as transient in Palm Beach County, suggesting that larger buffer zones result in larger numbers of transient sex offenders.

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<b><u>CITY ORDINANCES</u></b>		<u>Margate</u>	Yes	2500 ft
<u>Coconut Creek</u>	Yes 2500 ft	<u>Miramar</u>	Yes	2500 ft
<u>Cooper City</u>	Yes 2500 ft	<u>North Lauderdale</u>	Yes	2500 ft
<u>Coral Springs</u>	Yes 2500 ft	<u>Oakland Park</u>	Yes	2500 ft
<u>Dania Beach</u>	Yes 2500 ft	<u>Parkland</u>	Yes	2500 ft
<u>Davie</u>	Yes 2500 ft	<u>Pembroke Park</u>	No	1000 ft
<u>Deerfield Beach</u>	Yes 2500 ft	<u>Pembroke Pines</u>	Yes	2500 ft
<u>Fort Lauderdale</u>	Yes 1400 ft	<u>Plantation</u>	Yes	2500 ft
<u>Hallandale Beach</u>	Yes 2500 ft	<u>Pompano Beach</u>	Yes	2500 ft
<u>Hillsboro Beach</u>	No 1000 ft	<u>Sea Ranch Lakes</u>	No	1000 ft
<u>Hollywood</u>	No 1000 ft	<u>Southwest Ranches</u>	Yes	2500 ft
<u>Lazy Lake</u>	No 1000 ft	<u>Sunrise</u>	Yes	2500 ft
<u>Lauderdale-By-The-Sea</u>	No 1000 ft	<u>Tamarac</u>	Yes	2500 ft
<u>Lauderhill</u>	Yes 1000 ft	<u>Weston</u>	Yes	2500 ft
<u>Lauderdale Lakes</u>	Yes 2500 ft	<u>West Park</u>	Yes	2500 ft
<u>Lighthouse Point</u>	Yes 2500 ft	<u>Wilton Manors</u>	Yes	2000 ft

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### 2. THE FEASIBILITY OF CREATING NO LOITERING ZONES WITHIN A SPECIFIED DISTANCE OF PLACES WHERE CHILDREN CONGREGATE.

To add further effectiveness to the management of sexual offenders, some jurisdictions have established “no loitering/child safety zones” around schools, playgrounds, parks and daycare centers and other locations where children congregate. Since residence exclusion zones regulate only where a RSO sleeps between 10pm and 6 am, these laws have no impact on where a RSO can travel during the day when children are out and about. Task force members acknowledged the difficulties in enforcing sex offender loitering laws. It is possible, however, that such a law could be another useful tool to assist in the prevention of sexual abuse if indeed a RSO was noted to be lingering in a place where he has access and opportunity to cultivate relationships with youngsters. There is no published research on the effectiveness of this type of policy.

The task force reviewed an example of a child safety zone ordinance enacted by Hillsborough County. Drawing upon language contained in that ordinance, Broward County could establish a law preventing "loitering and prowling by a person convicted of a sexual offense against a minor if, in committing loitering and prowling, he or she was within 300 feet of a place where children regularly congregate, including, but not limited to, a school, day care center, playground, park, or a published school bus stop."

Such an ordinance makes it unlawful for an offender to:

(a) Knowingly approach, contact, or communicate with a minor child 16 years of age or under with intent to engage in conduct of a sexual nature, or to make a communication of any type containing any content of a sexual nature.

(b) Knowingly be present in any child care facility or pre-K through 12 school or on real property comprising any child care facility or pre-K through 12 school when the child care facility or school is in operation unless the offender has provided written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner or school bus stop.

(c) Fail to notify the child care facility owner or the principal's office when he or she arrives and departs the child care facility or school.

(d) Fail to remain under direct supervision of a school official or designated chaperone when present in the vicinity of children. As used in this subparagraph, the term “school official” means a principal, school resource officer, teacher or any other employee of the school, the superintendent of schools, a member of the school board, a child care facility owner, or a child care provider.

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The offender is not in violation of the law if:

- (a) The child care facility or school is a voting location and the offender is present for the purpose of voting during the hours designated for voting; or
- (b) The offender is only dropping off or picking up his or her own children or grandchildren at the child care facility or school.

### 3. THE CODE ENFORCEMENT REQUIREMENTS THAT WOULD ENFORCE THE ILLEGAL CONVERSIONS OF STRUCTURES TO ROOMING HOUSES.

Below are the sections of the Broward County Code of Ordinances (chapter 39 Broward County Zoning Code) that are used to enforce illegal rooming houses and construction without permits.

#### **Sec. 39-15. Permits required.**

- (a) No building or structure, or part thereof, or land or water, shall be erected, altered, moved, or used unless a permit consistent with all applicable provisions of this code shall have been first obtained for such work.
- (b) Any permit issued pursuant to this section shall be valid for a period of one (1) year from the date of issuance or approval of a final inspection, whichever occurs first. Any expired permit which is not renewed within sixty (60) days of the date of expiration shall become void; and any new permit shall be subject to all current requirements of the Broward County Zoning Code.
- (c) A permit card and a set of approved plans shall be available on the site where the construction is occurring at all times a scheduled inspection is being conducted to ensure compliance with such approved plans.
- (d) A construction layout survey shall be submitted to the zoning official or designee prior to or at commencement of construction of any building or structure on undeveloped property to ensure compliance with the approved site plan. Such survey shall also indicate all easements and rights-of-way of record.

(Ord. No. 90-12, § 2, 6-26-90; Ord. No. 93-44, § 1, 11-23-93; Ord. No. 95-50, § 6, 11-28-95)

#### **Sec. 39-16. Permits not to be issued.**

- (a) No building permit shall be issued for the erection, or alteration of any building or structure or part thereof, or for the use of any land or water, which is not in conformity with all the provisions of this code.
- (b) No license, permit or certificate shall be issued by any department, agency or official of Broward County for the use of any premises or the operation of any business,

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enterprise, occupation, trade, profession or activity which would involve, in any way, or constitute a violation of this code, or upon any premises where a violation of this code is pending or unresolved.

(Ord. No. 90-12, § 2, 6-26-90; Ord. No. 95-50, § 7, 11-28-95)

### **39-275. Residential Zoning Districts.**

(16) *Minimum space and basic facility requirements for dwelling units.* No person shall occupy or allow occupancy of any dwelling unit which does not comply with the minimum standards specified herein.

(a) *Requirements for space.*

1. Each dwelling unit shall have a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant and not less than one hundred twenty (120) square feet for each additional occupant, of which forty (40) square feet shall be bedroom area, thirty (30) square feet shall be dining area, and fifty (50) square feet shall be living area.

2. Every room in a dwelling unit shall have a gross floor area of not less than seventy (70) square feet and, when occupied by more than one occupant, shall have a gross floor area of at least (50) square feet for each occupant. Every room shall have a minimum width of eight (8) feet.

3. Gross area shall be calculated on the basis of total habitable room area as defined in section 39-4 of this code.

4. Every dwelling unit shall have a minimum of twelve (12) square feet of floor area of closet space for the first bedroom and six (6) square feet of floor area for closet space for each additional bedroom. Kitchen closet space shall not be considered as meeting this requirement. All clothes closets must have a shelf and rod.

(b) *Basic sanitary facility requirements.*

1. Each dwelling unit shall have not less than one flush water closet, one lavatory basin, and one bathtub or shower for each six (6) persons, or fraction thereof, residing in the dwelling unit.

2. Urinals shall not be substituted for water closets.

3. All toilet and bath facilities shall be accessible from the interior of the dwelling unit.

### **Sec. 39-279. Uses permitted.**

Buildings, structures, land or water in residential zoning districts may only be used for one or more of the uses as designated in the following table:

TABLE INSET:

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P = Permitted      NP = Not Permitted      C = Conditional Use				
Use	District			
	RS-2 to 6	RD-4 to 10	RM-5 to 16	RM-17 to 25
1-family detached dwelling	P	P	P	P
2-family dwelling	NP	P	P	P
Townhouse or villa	NP	P	P	
Multi-family dwelling (3 or more dwelling units)	NP	NP	P	P
Community residential facility with adult day care permitted as an accessory use	P	P	P	P
Nursing home, convalescent or rehabilitation home	NP	NP	NP	P
Hotel, motel, or timeshare apt.	NP	NP	NP	P
Nonprofit neighborhood social and recreational facilities	P	P	P	P
Golf course	P	P	P	P
Places of worship	P	P	P	P
Family day care home	P	P	P	P
Home office subject to sec. 39-237	C	C	C	C
Child care facility	NP	NP	P	P
Temporary sales offices	P	P	P	P
Yard sales	C	C	C	C
Accessory uses and structures	P	P	P	P
Essential services	P	P	P	P
Bed and breakfast	NP	NP	P*	P
Off-site parking lots subject to sec. 39-240	C	C	C	C
Outdoor event, subject to sec. 39-238	C	C	C	C
Wireless communication facilities subject to sec. 39-102	P	P	P	P

\*Not permitted in RM-5 thru RM-10

(Ord. No. 96-15, § 1, 5-28-96; Ord. No. 1997-12, § 1, 3-11-97; Ord. No. 1998-31, § 5, 9-8-98; Ord. No. 2000-36, § 32, 8-22-00)

### **Sec. 39-280. Uses prohibited.**



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Any use not expressly permitted in section 39-279 of the Broward County Code of Ordinances is prohibited.

(Ord. No. 96-15, § 1, 5-28-96)

As shown, rooming houses are not a permitted use in these residential districts.

### **Current violations in regards to rooming houses**

#### **Status Update as of June 1, 2009**

**Address:** 2420 S.W. 44<sup>th</sup> Terrace, Ft. Lauderdale (Broadview Park)

Building Code Case # 09-0106

Violation = Alterations without permit(s)

Code Enforcement Board Order = obtain permit(s) or remove violation, \$75.00 per day fine commencing 6/22/09 if property found to be in non-compliance.

#### **This violation would fall under 39-15. Permits required**

**Address:** 2420 SW 44 Terrace, Ft Lauderdale (Broadview Park)

Board Case #09-CZ-0005

Violation = Prohibited use of a single-family residence or dwelling as an unpermitted rooming house

June 2, 2009 Community Code Compliance Hearing found the property to be in non-compliance. \$250.00 a day fine if property found to be in non-compliance by July 17, 2009.

#### **This violation would fall under 39-79 and 39-80 Uses Permitted and Uses Prohibited**

**Address:** 4164 SW 22 St., Ft Lauderdale (Broadview Park)

Board Case # 09-CZ-0006

Violation = Prohibited use of a single-family residence or dwelling as an unpermitted rooming house.

June 2, 2009 Community Code Compliance Hearing found the property to be in non-compliance. \$250.00 a day fine if property found in non-compliance by July 17, 2009.

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**This violation would fall under section 39-79 and 39-80 Uses Permitted and Uses Prohibited**

#### 4. THE FEASIBILITY OF A TEXT AMENDMENT TO BROWARD COUNTY LAND USE PLAN TO PROVIDE FOR RESIDENTIAL UNITS IN THE INDUSTRIAL LAND USE CATEGORY.

The Broward County Land Use Plan (BCLUP) text could be amended to provide for residential units in the Industrial land use category. It would involve adding "Residential" as a permitted use under the Industrial category subject to the application of the "residential flexibility provisions" of the BCLUP. The residential flexibility provisions allow residential units to be applied to specific parcels through rezoning or other local government approvals. Conditions could be placed on the application of the units such as density limits or percent of area to avoid concentrations of units.

#### 5. THE FEASIBILITY OF A TEXT AMENDMENT TO CHAPTER 39, BROWARD COUNTY CODE OF ORDINANCES (ZONING FOR UNINCORPORATED AREAS) TO PERMIT, UNDER SPECIFIED CONDITIONS, RESIDENCY IN THE INDUSTRIAL ZONING DISTRICTS.

A text amendment would be the most practical vehicle to allow residency in the Industrial Zoning Districts through the Broward County Zoning Code. Text amendments are usually written by staff or the County Attorney's office. The text is finalized by the County Attorney in ordinance form. A text amendment must be reviewed by the Local Planning Agency at a public hearing in order to determine a recommendation to the Board of County Commissioners. The amendment is then brought before the board as an agenda item where it is approved or denied. The process would take approximately three months but only after the necessary Land Use changes were made. An example of the text change would be as followed underlined and in bold:

#### **Sec. 39-308. Permitted uses.**

Permitted principal uses in all manufacturing and industrial districts shall be limited to those uses specified in the Master Business List following. Any use not specifically listed herein and not specifically, or by inference, listed shall be determined by the zoning official to be permitted in the zoning district specifying the most similar use thereto. All permitted uses shall be subject to section 39-313, "Limitations of uses." Specific subsection references in section 39-313 are included in the Master Business List.

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## Master Business List

P = Permitted	C = Conditional	A = Accessory use only
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Use	M-1	M-2	M-3
Accessory dwellings (caretaker or security quarters) [see section 39-313(a)]	A	A	A
Acid and corrosives manufacturing or storage			P
Airports, heliports and other transportation facilities			P
Ammunition reloading (handguns)		P	P
Assembly (pre-manufactured components)	P	P	P
Asphalt manufacturing from raw materials			P
Automobile, truck and equipment auctions		P	P
Automobile detailing or cleaning (other than car washes)	P	P	P
Automobile repair garage (mechanical, paint or body repairs) [see section 39-313(b)]	P	P	P
Automobile storage or transport facility (operable vehicles)	P	P	P
Automobile, truck and recreational vehicle salvage or wrecking yards [see section 39-313(c)]			P
Aviation related uses (sales of planes, parts, ground support equipment, repairs and maintenance)		P	P
Boarding or breeding kennel [see section 39-313(d)]		P	P
Boat sales	P	P	P
Boat building, repair and storage		P	P
Breweries and bottling facilities		P	P
Building and construction materials manufacturing and storage			P
Cabinet shops, woodworking shops	P	P	P
Catering or food delivery service	P	P	P
Chemical and acid manufacturing or storage and distribution			P

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Clothing manufacturing	P	P	P
Concrete batching or mixing		P	P
Concrete products manufacturing		P	P
Contractors shops and storage yards		P	P
Cosmetics and pharmaceuticals manufacturing	P	P	P
Courier service	P	P	P
Crematory for human or animal remains (no medical wastes)		P	P
<b><u>Dwelling Units ( See Section 39-313(u) )</u></b>	C	C	C
Electronics manufacturing and repair	P	P	P
Employment agency, day labor		P	P
Equipment rental and sales, commercial and contractor's [see section 39-313(e)]		P	P
Essential services (utilities and accessory structures)	P	P	P
Fabrics (canvas, textiles and vinyl) manufacturing		P	P
Fertilizer, compost and mulch compounding, storage and distribution		P	P
Fireworks, explosives, firearms and ammunition manufacturing, storage and distribution [see section 39-313(f)]			P
Food processing, packaging and distribution including meat packing (no slaughtering)	P	P	P
Furniture manufacturing	P	P	P
Glass and mirror shop	P	P	P
Hazardous materials storage, handling or manufacture not otherwise listed			P
Junkyards (other than auto wrecking or salvage)[see section 39-313(c)]			P
Laboratory (medical, dental, research and development)	P	P	P
Machine shop		P	P
Medical waste transfer station		P	P
Medical waste incineration or sterilization [see section 39-313(g)]			P
Metal manufacturing (from raw materials)			P

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Mobile collection center [see section 39-313(h)]	P	P	P
Mobile food unit [see section 39-313(i)]	C	C	C
Motor freight terminal or moving and storage company		P	P
Offices and showrooms [see section 39-313(j)]	A	A	A
Outdoor events (see section 39-238)	C	C	C
Packaging and delivery service	P	P	P
Paint, sealant, coating or adhesive manufacturing		P	P
Paper and cardboard products manufacturing (from pre-manufactured paper or cardboard)	P	P	P
Paper, cardboard and plastic manufacturing (from raw materials)			P
Parts store, vehicles or boats [see section 39-313(k)]	P	P	P
Penal institutions [see section 39-313(l)]			P
Pest control service	P	P	P
Petroleum products and bottled gas bulk storage		P	P
Plastic and vinyl product manufacturing (from pre-manufactured plastic or vinyl)	P	P	P
Printing and engraving, bookbinding	P	P	P
Quarry [see section 39-313(m)]			P
Recording or broadcasting studio (music, radio, television, film)	P	P	P
Recycling facility [see section 39-313(n)]			P
Repair shop, household and personal items	P	P	P
Restaurant, fast food [see section 39-313(o)]	A	A	A
Restaurant, take-out [see section 39-313(o)]	A	A	A
Sanitation companies and waste haulers [see section 39-313(p)]			P
School, trade or vocational [see section 39-313(r)]	P	P	P
Septic tank service			P
Sign manufacturing and painting	P	P	P
Storage yards (operable vehicles, usable equipment or other items)		P	P

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Swimming pool chemicals [see section 39-313(q)]		P	P
Synthetic materials (not otherwise listed) manufacturing from raw material			P
Tool rental (small tools and equipment)	P	P	P
Transportation facilities (airports, heliports, shipping ports, etc.)		P	P
Trash transfer station		P	P
Upholstery shop	P	P	P
Vehicle sales, rental or leasing (autos, trucks, recreational)	P	P	P
Veterinary clinic	P	P	P
Veterinary hospital [see section 39-313(s)]		P	P
Warehouse, self-storage [see section 39-313(t)]	P	P	P
Warehouse, distribution	P	P	P
Welding and sheet metal shops, machine shops		P	P
Wholesale stores	P	P	P
Wireless communication facilities [see section 39-102]	P	P	P

### **Sec. 39-313. Limitations of uses**

#### *(t) Warehouses, self-storage.*

(1) Self-storage warehouses shall only be used for self-service storage. No businesses shall be permitted to operate from, or be licensed at, the facility. No personal activities, such as, but not limited to, hobbies, arts and crafts, woodworking, repair, restoration, or maintenance of vehicles, machinery or equipment, etc. shall be permitted.

(2) Outside storage areas for boats, vehicles, etc. shall be located on the interior of the facility, not visible from any adjacent property or street.

(3) Building height shall not exceed fifty (50) feet.

(4) Storage bay doors on any perimeter building shall not face any abutting property located in a residentially-zoned district.

(5) One accessory dwelling unit shall be permitted, subject to the availability and allocation of a reserve unit as provided in the Future Unincorporated Area Land Use

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Element. Such dwelling unit shall not exceed one thousand five hundred (1,500) square feet in floor area, and shall not be less than four hundred (400) square feet in floor area.

(Ord. No. 1999-24, § 2, 5-11-99; Ord. No. 2000-36, § 41, 8-22-00; Ord. No. 2004-11, § 3, 6-22-04; Ord. No. 2005-11, § 9, 5-24-05; Ord. No. 2005-17, § 14, 6-28-05)

### **(u) Dwelling Units, Conditional Use**

**(1) Dwelling units shall be permitted, subject to the availability and allocation of reserve units as provided in the Future Unincorporated Area Land Use Element**

**(2) General Provisions ( these are general guidelines that a residential community must follow in order to be built in accordance with public health, safety and welfare.)**

**(a) Yard Encroachments (to be determined)**

**(b) Fences (to be determined)**

**(c) Swimming Pools and Spas (to be determined)**

**(d) Storage on Residential Property (to be determined)**

**(e) Commercial vehicles (to be determined)**

**(f) Recreational vehicles and boats (to be determined)**

**(g) Minimum space and basic facility requirements for dwelling units (to be determined)**

**(3) Density (to be determined)**

**(4) Plot Size (to be determined)**

**(5) Plot Coverage (to be determined)**

**(6) Height (to be determined)**

**(7) Setbacks and Buffers (to be determined)**

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### 6. THE RESIDENCE RESTRICTIONS OF CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS TO 2,500 FEET FROM THOSE AREAS OUTLINED IN BROWARD COUNTY ORDINANCES.

A study was done by the county's Planning and Redevelopment Division to determine the number of potential residential land use units compliant with a 2,500 foot zone (not including school bus stops, which were not available for this report) in the unincorporated neighborhoods. Results (see table on page 26) revealed that no units were compliant with a 2,500-foot zone around schools, parks and daycare centers. With a 1,000 foot buffer, 1581 units meet compliance for sex offender housing. When the buffer is increased from 1,000 to 1,200 feet, housing decreases by 40% -- there are 963 potential compliant units. A 1,400 foot buffer leaves 541 units available, a 1,600 foot buffer leaves 213 units, and a 2,000 foot buffer leaves only 4 units. This analysis had no way to take into consideration vacancy rates, affordability, or the status of a property as a rental or ownership. For instance, of the 541 compliant units at 1,400 feet, there is no way to know how many are available for rent or purchase, or whether they would be affordable for a sex offender in need of housing. About half of the compliant parcels in each calculated buffer zone are "low-medium" or "medium" land use units, which typically represent rental units such as apartments and townhomes. This implies that about half of the compliant units are probably single family homes, which may be unaffordable to convicted sex offenders who are often underemployed.

A more detailed report of actual compliant housing units was provided to us on August 13, 2009 by Victoria Morrow of the county's GIS department (see page 27-32). The report, which was generated from the property appraiser database, shows the number of residential units in the unincorporated areas that would be compliant with residence restrictions at 100-foot increments. A consistent trend can be seen in which compliant housing decreases as buffer zones grow, and no compliant units are available at 2,500 feet. For example, in Broadview Park, at 1,000 feet, there are 1007 compliant units, 254 of which are multi-units likely to be rental properties. At 1,500 feet, the number of compliant units decreases to 219, only 48 of which are multi-unit dwellings likely to be rental properties. At 1,600 feet, there are only four compliant multi-units, and by 1,700 feet there are none. Any distance buffer zone greater than 1,900 feet leaves no compliant properties at all.

It is essential to note that school bus stops were not available for the analyses described above, and therefore the data overestimate the compliant housing count. Bus stops, because they are so plentiful, are by far the most restrictive prohibition. For example, a map provided by the city of Fort Lauderdale illustrated that a very small proportion of land was compliant with the city's 1,400 foot buffer zone which includes



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bus stops. That land seemed to be limited to industrial or very expensive areas of the city. A limitation of the map provided by Fort Lauderdale is that it drew concentric circles around the center points of prohibited venues (schools, parks, daycares, and bus stops) rather than measuring from the property boundary as designated in most ordinances. Measuring from center points overestimates compliant housing. The city of Wilton Manors recently changed their zone from 2,250 feet to 2,000 feet, including bus stops. A map was provided that identified the locations compliant with a 1,900 foot zone in Wilton Manors. The number of potential compliant dwellings was 42 multi-family units and 37 single family units; a visual perusal of the map shows only two very small "exempt" pockets in the far corners of the city.

As another example, in a published study conducted in Orange County, Florida, researchers mapped over 137,000 residential parcels and found that 99.6% of parcels were located within 2,500 feet of a bus stop. A 1,000 foot buffer from bus stops excluded 93% of residential parcels in Orange County. By comparison, 24% of parcels in Orange County were within 1,000 feet of a daycare center, and 20% were within 1,000 feet of a school. About 55% were within 2,500 feet of a daycare and 56% were within 2,500 feet of a school (Zandbergen & Hart, 2006).

Therefore, bus stops appear to be the most restrictive part of residence laws across the state. The data generated for this report by the county's Planning and Redevelopment Division and the GIS department did not include bus stops and therefore overestimates the number of potential compliant housing units for sex offenders in Broward County.

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<b>1000 ft Buffer</b>	<b>Land Use Units</b>	<b>Land Use Units</b>	<b>Land Use Units</b>	<b>Land Use Units</b>	<b>TOTAL</b>
<b>Neighborhood</b>	<b>Low (3) Residential</b>	<b>Low (5) Residential</b>	<b>Low Medium (10)</b>	<b>Medium (16)</b>	<b>UNITS</b>
BOULEVARD GARDENS	0	83	0	0	83
BROADVIEW PARK	0	550	424	166	1140
FRANKLIN PARK	0	0	1	0	1
ROOSEVELT GARDENS	0	31	256	1	288
WASHINGTON PARK	0	69	0	0	69
<b>TOTAL</b>					<b>1581</b>
<b>1200 ft Buffer</b>					
BOULEVARD GARDENS	0	38	0	0	38
BROADVIEW PARK	0	389	307	39	736
ROOSEVELT GARDENS	0	16	149	1	167
WASHINGTON PARK	0	22	0	0	22
<b>TOTAL</b>					<b>963</b>
<b>1400 ft Buffer</b>					
BOULEVARD GARDENS	0	12	0	0	12
BROADVIEW PARK	0	244	171	10	425
ROOSEVELT GARDENS	0	10	93	1	104
<b>TOTAL</b>					<b>541</b>
<b>1600 ft Buffer</b>					
BOULEVARD GARDENS	0	1	0	0	1
BROADVIEW PARK	0	139	32	3	174
ROOSEVELT GARDENS	0	5	33	0	38
<b>TOTAL</b>					<b>213</b>
<b>1800 ft Buffer</b>					
BROADVIEW PARK	0	54	0	0	54
ROOSEVELT GARDENS	0	0	4	0	4
<b>TOTAL</b>					<b>58</b>
<b>2000 ft Buffer</b>					
BROADVIEW PARK	0	4	0	0	4
<b>TOTAL</b>					<b>4</b>

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## POTENTIAL HOUSING UNITS

Residential Properties Unit Count in Central Unincorporated Broward County. This is a generalized assessment of the number of residential units and is not intended to be used for determining the exact number of units per 100 ft intervals. Data dated July 15, 2009.

### BROADVIEW PARK

**Data Source: Broward County Property Appraiser Parcel Database.** This area has 1773 single family and multiple residential use parcels, with a total of 2267 units.

Buffer distance in feet	Uses	Number of Parcels	Number of Units per category
1000	Vacant residential	16	0
	Single Family	633	639
	Mobile homes	90	90
	Condominium	24	24
	Multi Units	107	254
			<b>1007</b>
1100	Vacant residential	9	0
	Single Family	514	517
	Mobile homes	69	69
	Condominium	24	24
	Multi Units	85	203
			<b>813</b>
1200	Vacant residential	8	0
	Single Family	411	413
	Mobile homes	48	48
	Condominium	24	24
	Multi Units	71	171
			<b>656</b>

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1300	Vacant residential	7	0
	Single Family	318	320
	Mobile homes	27	27
	Condominium	24	24
	Multi Units	54	131
			<b>502</b>
1400	Vacant residential	7	0
	Single Family	232	234
	Mobile homes	3	3
	Condominium	24	24
	Multi Units	37	89
			<b>350</b>
1500	Vacant residential	5	0
	Single Family	170	171
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	23	48
			<b>219</b>
1600	Vacant residential	3	0
	Single Family	111	112
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	2	4
			<b>116</b>
1700	Vacant residential	3	0
	Single Family	72	72
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	0	0
			<b>72</b>

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1800	Vacant residential	1	0
	Single Family	0	39
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	0	0
			<u><u>39</u></u>

1900	Vacant residential	0	0
	Single Family	2	2
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	0	0
			<u><u>2</u></u>

CENTRAL COUNTY:  
Boulevard Gardens Roosevelt  
Gardens Franklin Park  
Washington Park

**Data Source: Broward County Property Appraiser Parcel Database.**  
This area has 2249 single family and multiple residential use parcels, with a total of 2357 units.

Buffer distance in feet	Uses	Number of Parcels	Number of Units per category
1000	Vacant residential	67	0
	Single Family	187	191
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	60	139
	Homes for the aged	2	4
			<u><u>334</u></u>
1100	Vacant residential	50	0
	Single Family	115	119
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	47	105
	Homes for the aged	2	4
			<u><u>228</u></u>

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1200	Vacant residential	36	0
	Single Family	83	88
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	32	73
	Homes for the aged	0	0
			<b>161</b>
1300	Vacant residential	26	0
	Single Family	52	56
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	24	57
	Homes for the aged	0	0
			<b>113</b>
1400	Vacant residential	16	0
	Single Family	29	31
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	21	43
	Homes for the aged	0	0
			<b>74</b>
1500	Vacant residential	8	0
	Single Family	16	17
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	16	32
	Homes for the aged	0	0
			<b>49</b>

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1600	Vacant residential	5	0
	Single Family	8	9
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	13	26
	Homes for the aged	0	0
			<b>35</b>
1700	Vacant residential	1	0
	Single Family	2	2
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	5	10
	Homes for the aged	0	0
			<b>12</b>
1800	Vacant residential	0	0
	Single Family	0	0
	Mobile homes	0	0
	Condominium	0	0
	Multi Units	1	2
	Homes for the aged	0	0
			<b>2</b>

Compiled by GIS Section, Planning and Redevelopment Division  
Environmental Protection and Growth Management Department

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### 7. TO DISTINGUISH WHETHER IT IS APPROPRIATE TO PLACE RESIDENCE RESTRICTIONS ON SEXUAL PREDATORS VERSUS SEXUAL OFFENDERS.

The existing state classification scheme describes predators as repeat offenders or those who have committed particularly serious crimes. If residential restrictions were to apply only to predators, the number of RSOs displaced by the ordinance would be reduced while addressing the intent to prevent abuse by those considered most dangerous to the public. As well, such a distinction would decrease the resources needed by law enforcement and probation agencies to monitor and enforce the restrictions. However, the classification, since it is based only on the offense of conviction, is imperfect, and does not capture all offenders whose criminal behaviors included predatory or psychologically manipulative behavior and who might continue to pose a high threat to children.

### 8. REVIEW THE CLASSIFICATION OF SEXUAL OFFENDER VS. PREDATOR.

According to Florida statutes, a sexual offender is a person convicted of (or who has pled no contest or guilty to) a sex offense involving a minor and who is released on or after October 1, 1997 from the sanction (e.g., fine, incarceration, probation, etc.) imposed as a result of the offense. Offenses include, but aren't limited to, child pornography, sexual performance by a child under 18 and procuring a person under 18 for purposes of prostitution. Consult the Florida statutes for a complete listing of offenses.

A predator designation requires that a person be convicted of a first-degree felony sex crime, or two second-degree felony sex crimes (with offenses, convictions or release from court sanctions occurring within 10 years) and which occurred after October 1, 1993. In addition, the court must issue a written order finding for predator status.

Predators (and some offenders convicted of serious sex crimes) have to register with law enforcement four times per year for the duration of their life, and most other offenders register twice per year for 25 years.

Effective July 1, 2007, Florida Statute [943.04354](#), allows for a "Romeo & Juliet" registration exception for young adult offenders. Several criteria are specified, including that the victim of the offense was age 14 - 17 and that the offender was not more than 4 years older than the victim. Among other criteria, the sole offense requiring registration must be either F.S. 794.011 or F.S. 800.04. The court may grant or deny any such motions or petitions for removal.



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### 9. REVIEW THE CONSTITUTIONALITY OF RESTRICTING REGISTERED OFFENDER RESIDENCES TO 2,500 FEET.

There is no constitutional right to safe, decent, or affordable housing, or, for that matter, any housing at all. While banishment is unconstitutional, courts thus far have ruled that these laws do not banish sex offenders because they do not prevent individuals from residing in a jurisdiction; they simply prohibit the individual from living in a dwelling within close proximity to the protected venues. It is possible that an ordinance that intentionally or effectively leaves no compliant housing available for sex offenders might be viewed as banishment.

Around the country, few constitutional challenges have been successful, and some which have, such as in Ohio and Georgia, have been limited to protecting the rights of property owners but not renters. In California, the high court ruled that residential restrictions could not be applied retroactively to those who established a residence before the law went into effect. A state Supreme Court recently ruled municipal residence restrictions unconstitutional in New Jersey on the grounds that the state's Megan's Law preempts municipalities from passing ordinances that deny accommodations to registered sex offenders. Other municipal ordinances, such as in Allegheny County, PA, have been declared invalid due to preemption by state law.

Challenges to residence restrictions have been heard in several courts in Florida. Some examples are provided here, though this list is not exhaustive. In *State v. Schmidt et al.*, Duval County judges Charles Cofer and Eleni Derke opined that Section 674.502 of the Jacksonville Municipal Code, which prevented sexual predators from living within 2,500 feet of schools, parks, daycares, and bus stops, was preempted by State legislation. They wrote: "The action we take today is done so in order to preserve the comprehensive strategy adopted by the Legislature to address the risk which sexual offenders and predators pose toward all of our communities." On the other hand, in a separate Jacksonville case (*State v. Branson*), the ordinance was not found to be unconstitutional. A panel of judges in Miami, after hearing arguments that Miami-Dade County's ordinance was unconstitutional (*State v. Chaddock*), found that "the body of general law that regulates covered sex offenders has no express preemption provision which would preclude the Commissioners from enacting Ordinance 21-281." In Deltona, a court ruled that the city would be responsible for paying legal fees for indigent defendants prosecuted for violating the ordinance.

The United Nations' Universal Declaration of Human Rights states that everyone has the right to freedom of movement and residence within the borders of each state (Article 13(1)), that no one shall be deprived of property (Article 17), and that everyone has the

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right to a standard of living adequate for health and well-being, including housing (Article 25).

### 10. REVIEW THE FISCAL IMPACT OF ENFORCING THIS ORDINANCE IN THE UNINCORPORATED AREAS OF BROWARD COUNTY.

The BSO Career Criminal Unit must identify which subjects are affected by the ordinance, acquire and monitor their leases, identify any violations of the ordinance and complete an investigative packet for prosecution. BSO estimated that 100 offenders/predators will initially have to be investigated as they relate to the new ordinance to determine their status. It is estimated that 8 investigative hours per subject will be needed. This does not include additional costs needed post-arrest to support the prosecution, such as SAO follow-up and deposition and court testimony. The average hourly rate for a Regional Investigation Division Detective is \$32 per hour. A very rough estimate for this procedure is approximately \$ 25,600.00. These estimated costs do not include actual prosecution, incarceration or patrol monitoring within the zone.

Department of Corrections probation officers spend time dealing with offender housing issues. Officers sometimes check dozens of addresses submitted for one offender and according to our DOC representative few compliant dwellings are readily available. State law requires a distance buffer (1,000 feet) that is less restrictive than most municipalities, further complicating the process of cross-checking addresses for compliance. Additional costs include enforcement of the distance requirements, identification of violators, and incarceration costs for violators.

Representatives from Broward Sheriff's Office and the State Attorney's Office (SAO) expressed concerns about enforcement, especially related to the way that temporary and permanent residence are defined in Ordinance 2009-22. Specifically, they indicated that the 14-day requirement would be difficult to prove. The SAO reported that fiscal impact might include costs for "extensive" investigation, expert witnesses, travel, and prosecution. The SAO may need to re-consider its contract with the county in order to be reimbursed for the costs incurred in the prosecution of ordinance violators. It is noted that there was no SAO representative on the task force (in hindsight, such an appointment would have been a welcome addition) and that information from the SAO came from public comment provided by prosecutor Lee Cohen.

These are rough estimates provided by BSO and SAO and commissioners may request more detailed budgets from each agency to ascertain costs of enforcing the ordinance in its entirety.

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## RECOMMENDATIONS:

Based on our review of the available evidence, we respectfully submit the following recommendations for policy which reflect criminal justice research and "best practices." While some of our recommendations were unanimously agreed upon, others were not. Our recommendations reflect the consensus of the task force based on majority vote.

1. It is clear that bus stops diminish housing availability within buffer zones to a literal point of non-existence. We recommend that if a residential exclusion zone is passed, it should not include school bus stops as a prohibited venue.
2. Based on data provided by the county's Planning and Redevelopment Division (p. 26), and the GIS unit (p. 27-31), it is also exceedingly clear that a 2,500 foot zone as described in the existing ordinance will exclude sex offenders from residing in the unincorporated areas of the county. Because 24 municipalities have also passed 2,500 foot exclusion zones, few options exist for sex offender housing throughout the county. This raises concerns, not due to sympathy for sex offenders, but because research indicates that housing instability is a consistent and robust predictor of absconding, probation violation, and recidivism for criminal offenders in general and sex offenders specifically. Reports from FDLE indicate a growing number of "sex offender transients" in Broward, and many more in Miami-Dade County where homelessness resulting from residential restrictions has caught national attention.
3. Residence restrictions regulate only where sex offenders sleep at night and do nothing to prevent pedophilic or predatory offenders from frequenting places during the day where they can cultivate relationships with children and access opportunities for sexual abuse. Therefore, we recommend that the commissioners consider enacting a child safety zone preventing sex offenders from loitering without a legitimate reason in areas where children are present.
4. We recommend that in any ordinance that is passed, an exception be made for offenders who established their residence prior to the passage of the ordinance (a "grandfather" clause). Such clauses are commonly found in other municipal ordinances. Because housing throughout the county is so limited, such a clause will reduce the probability of homelessness and transience for RSOs who are already living in unincorporated areas. The proposed end-of-lease grandfather clause simply delays housing instability rather than prevents it. Grandfathering homeowners but not lease holders represents differential treatment based on financial resources. Since there is no reason to believe that current lease holders present a greater

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threat to the safety of children than homeowners, this differential treatment seems not only unfair, but illogical.

5. We recommend that an exception be made (referred to as a Romeo & Juliet clause in Florida statutes) for young adults with a single victim and who, at the time of the offense, were under the age of 22 and committed a "statutory" offense with a teenage victim no more than 4 years younger than the offender. While we recognize that such behavior is unlawful, and that minors cannot legally consent to sexual activity with an adult, we also recognize that such offenders are not typically diagnosed as pedophiles and probably do not pose a significant danger to commit future sexually violent crimes.
6. We recommend that commissioners strongly urge our elected state senators and representatives to enact a statewide solution to sex offender management. The problem of clustering is a direct result of the multiplicity of ordinances throughout the state (at least 156) which push offenders into areas with less restrictive buffer zones. The best solution is for the Florida legislature to enact a uniform statewide residential policy for sex offenders. We recommend that the county commissioners adopt a resolution asking the legislature to create a statewide residence solution, which should include a Romeo & Juliet clause as well as a grandfather clause. The recommendation to the legislature should also urge the adoption of a uniform statewide child safety zone provision preventing RSOs from loitering within 300-500 feet of a school, park, daycare, designated school bus stop, or other place where children regularly congregate. We also recommend that the legislature review the crimes that require registration and that Florida create a more refined, risk-based classification and tier system of offenders that might, in some circumstances, lead to individuals eventually being deleted from the registry but only upon meeting criteria established by statute and requiring judicial review.
7. We recommend that commissioners strongly urge leaders from the League of Cities to endorse a uniform county-wide ordinance. The problem of clustering is a direct result of the multiplicity of differing ordinances throughout the county (24) which push offenders into areas with less restrictive buffer zones. In the absence of legislative reform, the best immediate solution is for city councils to agree to enforce uniform residential policies for sex offenders throughout this county.
8. We urge leaders from the League of Cities to undertake an analysis of potentially compliant housing in each municipality and amend ordinances to allow for reasonable housing availability to alleviate clustering. Information designating compliant residential locations should be provided to DOC probation, law

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enforcement agencies, and other case managers to assist RSOs in securing housing.

9. We recommend that commissioners consider text amendments to land use plans to allow residential units in industrial areas as a permitted use. The feasibility of alternative housing options for sex offenders needs to be more fully investigated, as any alternative housing would be subject to zoning variances and practical considerations such as affordability and access to residential infrastructure (public transportation, shopping, services, etc.). Innovative housing options are recognized as a possible *long-term* solution requiring complex planning and development, and therefore should not be considered as a singular alternative to our other recommendations.
10. We support Mayor Ritter's letter to Governor Crist asking for leadership and assistance in addressing the matter and suggesting a statewide or regional task force to allow for uniformity of residence requirements.
11. Based upon concerns raised by the Broward Sheriff's Office and the State Attorney's Office, we recommend that commissioners and the county attorney review the language defining "temporary" and "permanent" residence in Ordinance 2009-22 as "a place where a person abides, lodges, or resides for fourteen or more consecutive days."
12. We recommend that child sexual abuse prevention programs be offered for children and their parents in Broadview park and other areas where clustering occurs. *Lauren's Kids*, in cooperation with *Mothers Against Predators*, has offered to provide such programming at no cost.

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**APPENDIX: FLORIDA STATUTES**

F.S. §794.011 Sexual Battery

F.S. §800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age

F.S. §827.071 Sexual performance by a child; penalties

F.S. §847.0135(5) Computer pornography; traveling to meet minor; penalties

F.S. §847.0145 Selling or buying of minors; penalties

F.S. §775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison

F.S. §775.083 Fines