

Agenda Item #: **5E-2**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: October 18, 2011 [] Consent [X] Regular
[] Public Hearing

Department

Submitted By: PUBLIC SAFETY

Submitted For: PALM BEACH COUNTY SHERIFF

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on November 15, 2011 at 9:30am: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Sections 18-33 and 18-34 of the Palm Beach County Code (Ordinance No. 2006-012), to provide the inclusion of Sexual Offenders and Sexual Predators convicted as such pursuant to the laws of other states and/or jurisdictions; providing for inclusion in the Code Of Laws and Ordinances; providing for severability; providing for repeal of Laws In Conflict; and providing for an Effective Date.

Summary: The Sheriff's Office has requested that the "Sexual Offender and Sexual Predator Residence Prohibition Ordinance of Palm Beach County" (Ord. No. 2006-012) be amended to provide that sexual predators and sexual offenders who have been designated as sexual predators and sexual offenders in another state or jurisdiction be considered as sexual predators or sexual offenders as if that offense had been committed in the State of Florida. Unincorporated (DW)

Background and Justification: This amendment places designated sexual offenders and sexual predators who relocate to Florida from other states in the same category as those convicted under Florida law.

Attachments:

1. Proposed Ordinance

Recommended by: Vincent J. Bonaventura 10/5/11
Department Director Date

Approved by: N/A
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:




OFMB 10/12/11
SP 10/12/11



Contract Development and Control 10/13/11

B. Legal Sufficiency:



Assistant County Attorney 10/13/11

C. Other Department Review:



Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

ORDINANCE NO. 2011-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 18-33 AND 18-34 OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2006-012), TO PROVIDE THE INCLUSION OF SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED AS SUCH PURSUANT TO THE LAWS OF OTHER STATES AND/OR JURISDICTIONS; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, adopted Chapter 18, Article II of the Palm Beach County Code (Ordinance No. 2006-012), known as the Sexual Offender and Sexual Predator Residence Prohibition Ordinance of Palm Beach County, Florida; and

WHEREAS, the Board of County Commissioners realizes that sexual offenders and sexual predators who have been convicted of their crimes in other states and/or jurisdictions may have relocated to Palm Beach County, Florida; and

WHEREAS, Palm Beach County desires to provide that those persons convicted as sexual offenders or sexual predators pursuant to the laws of other states or jurisdictions of the United States similar to those referenced herein, are likewise bound by the provisions of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1.

Section 18-33 of the Palm Beach County Code (Ordinance No. 2006-012) is hereby amended as follows:

Section 18-33. DEFINITIONS:

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Daycare Center. Any building or shelter in which custodial care is rendered to children, and for which compensation is received in the form of a payment, fee, grant, goods or services in kind for any of the children receiving care, whether or not operating

for profit or which is held out to the public to be an establishment which regularly provides child custodial care. The term also refers to the child care operation associated with the building or shelter, and also includes specialized child care facilities for the mildly ill. A daycare center includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility.

Park. A publicly owned or operated area used or available for the public's use as a recreational facility, including, by way of example and not limitation, water parks, linear parks and County recreational trail systems.

Permanent Residence. A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

Playground. An established or dedicated outdoor area for recreation and play, including, by way of example and not limitation, soccer fields, baseball diamonds, football fields and locations with outdoor equipment, such as, by way of example and not limitation, swing sets, climbing apparatus and slides.

Sexual Offender. For purposes of this Ordinance, a sexual offender is a person whose victim was, at the time of the offense, less than sixteen (16) years old.

Sexual Predator. (1) As defined in Section 775.21, Florida Statutes, or (2) as defined by the State or jurisdiction of the United States where said sexual predator was convicted or (3) an offense committed in another state or jurisdiction of the United States where the person would be considered a sexual predator if that offense had been committed in the State of Florida.

Temporary Residence. A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Section 2.

Section 18-34 of the Palm Beach County Code (Ordinance No. 2006-012) is hereby amended as follows:

**Section 18-34. SEXUAL OFFENDER AND SEXUAL PREDATOR
RESIDENCE PROHIBITION; EXCEPTIONS:**

- a. It is unlawful for any person who has been convicted of a violation of §§794.011, 800.04, 827.071, or 847.0145, Fla. Stat., as may be amended from time to time, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to establish a permanent residence or temporary residence within 2500 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate. This Ordinance shall also apply to any person who has been convicted of a similar provision of law in any state or jurisdiction of the United States and where an offense is committed in another state or jurisdiction of the United States where the person convicted would be considered a sexual predator if that offense had been committed in the State of Florida.
- b. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outermost property line of the permanent residence or temporary residence to the nearest outermost property line of a school, designated public school bus stop, day care center, park, or playground .
- c. Exceptions: A person residing within 2500 feet of any school, designated public school bus stop, day care center, park, or playground, does not commit a violation of this Ordinance if any of the following apply:
 - 1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to §§775.21, 943.0435 or 944.607 Fla. Stat., prior to the effective date of this Ordinance.
 - 2) The Sexual Offender or Sexual Predator established the permanent residence prior to the effective date of this Ordinance, provided however, that at the end of the then current rental term, in the case of a lease, the Sexual Offender or Sexual Predator shall be required to abandon that permanent residence and establish a new

permanent residence at a location that is not within 2500 feet of any school, designated public school bus stop, day care center, park or playground.

- 3) The person was a minor when he/she committed the offense and was not convicted as an adult.
- 4) The person is a minor.
- 5) The school, designated public school bus stop, park, day care center or playground within 2500 feet of the person=s permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to §§775.21, 943.0435 or 944.607, Fla. Stat.

Section 3. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 6. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm
Beach County, Florida, on this the _____ day of _____, 2011.

SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:  _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____, 2011.

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