

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA ACTION COMMITTEE, INC.,

Plaintiff,

CASE NO.: 4:26-cv-388-MW-MAF

v.

MARK GLASS, et al.,

Defendants.

**VOLUSIA COUNTY’S MOTION TO DISMISS, OR IN THE
ALTERNATIVE, MOTION TO SEVER AND TRANSFER VENUE**

Defendant, Volusia County, pursuant to Federal Rule of Civil Procedure 12(b)(6), moves to dismiss the First Amended Complaint, ECF No. 147, and moves, in the alternative, to sever and transfer the claims against Volusia County to the Middle District of Florida. In support, Volusia County states:

1. Florida Action Committee (“FAC”), a non-profit advocacy organization, challenges the constitutionality of Volusia County’s Sexual Offender - Place of Residence ordinance (the “Ordinance”). The Ordinance is attached to this Motion as Exhibit A.

2. FAC’s First Amended Complaint directs four out of seven counts against Volusia County: (1) Count 1: Violation of the Eight Amendment; (2) Count

2: Conspiracy to Violate the Eight Amendment; (3) Count 3: Violation of the *Ex Post Facto* Clause; and (4) Count 4: Violation of the Right to Travel.

3. The First Amended Complaint should be dismissed because:

a. FAC fails to plausibly allege facts sufficient to establish it has standing.

b. The First Amended Complaint is an impermissible shotgun pleading that contains multiple counts incorporating the allegations of all preceding counts.

c. FAC fails to state a cause of action against Volusia County for conspiracy to violate the Eighth Amendment and violations of the right to travel because FAC incorrectly assumes Volusia County has law enforcement capabilities.

4. In the alternative, should the First Amended Complaint survive dismissal, Volusia County requests that the action against it be severed and transferred to the Middle District of Florida.

MEMORANDUM OF LAW

To survive a motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp v. Twombly*, 550 U.S. 544, 570 (2007)). Labels, conclusions, and mere “naked assertions” bereft of “further factual enhancement” are insufficient. *Twombly* at 555, 557. The Eleventh

Circuit has endorsed “a ‘two-pronged approach’ in applying these principles: (1) eliminate any allegations in the complaint that are merely legal conclusions, and (2) where there are well-pleaded factual allegations, ‘assume their veracity and then determine whether they plausibly give rise to an entitlement of relief.’” *American Dental Ass’n v. Cigna Corp.*, 605 F.3d 1283, 1290 (11th Cir. 2010) (quoting *Iqbal* at 679).

ARGUMENT

I. FAC LACKS ASSOCIATIONAL STANDING.

Federal courts are restricted by Article III of the Constitution to redress actual or imminent injury to persons caused by a violation of the law. *Georgia Republican Party v. Sec. & Exch. Comm’n*, 888 F.3d 1198, 1201 (11th Cir. 2018). Standing doctrine requires plaintiffs to establish a personal stake in the outcome of the controversy to invoke federal-court jurisdiction. *Id.* If a plaintiff lacks standing, the court does not have jurisdiction over his or her complaint. *Id.* An association like FAC “has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Friends of the Earth, Inc. v. Laidlaw Envtl. Services (TOC), Inc.*, 528 U.S. 167, 181-82 (2000). To establish associational standing, FAC must state specific allegations establishing that

at least one identified member has suffered or will suffer injury. *Georgia Republican Party*, 888 F.3d at 1203.

Additionally, a member's injury must be fairly traceable to the defendant's conduct and redressable by the relief sought in the complaint. *Am. All. for Equal Rights v. Fearless Fund Mgmt., LLC*, 103 F.4th 765, 772 (11th Cir. 2024). "For one of Plaintiffs' members to face an injury in fact that is 'actual or imminent,' not 'conjectural or hypothetical,' and that is 'fairly traceable' to Defendant, Plaintiffs must allege facts from which this Court can reasonably infer that at least one of their members is covered by the law." *Computer & Communications Indus. Ass'n v. Uthmeier*, 770 F. Supp. 3d 1317, 1321 (N.D. Fla. 2025) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). Furthermore, standing cannot be pleaded generally, and plaintiffs are required to establish standing for each claim, against each defendant, and for each form of relief sought. *Murthy v. Missouri*, 603 U.S. 43, 61 (2024).

The First Amended Complaint fails to plead associational standing. There are no factual allegations that the Ordinance caused harm or will cause harm to any FAC members. FAC attaches several declarations purporting to be from its members attempting to show harm caused by the Ordinance. Amend. Compl. Ex. 5. In relation to Volusia County, 21 FAC members claim to suffer harm as a result of Florida Statutes §§ 322.141, 775.215, 856.022, 943.0435, and 944.607 and the municipal

ordinances in in Volusia County. *See generally* Amend. Compl. Ex. 5. The rub is that Volusia County contains 16 separate municipalities, each of which have their own municipal ordinances. Volusia County’s ordinance only applies to the unincorporated portion of Volusia County, not to areas within individual municipalities. The Ordinance states:

It is prohibited and unlawful for any person who has been convicted of violation of [any of the listed offenses] and who is required to register as a sexual offender or sexual predator pursuant to state law, to establish a permanent residence or temporary residence located within the *unincorporated* portion of the County of Volusia when such residence is located within 1,500 feet of any school, child care facility, designated public school bus stop, public park, and playground.

(emphasis added).

The First Amended Complaint contains no allegations that any FAC members reside in unincorporated Volusia County or otherwise wish to visit or move to unincorporated Volusia County. One FAC member claims to reside in Ormond Beach and his harm is caused by “any and all of the municipal ordinances that apply to me.” Amend. Compl. Ex. 5 at 151. The problem with that claim is that if the member is indeed an Ormond Beach resident, the Ordinance does not apply to him because he is subject to the City of Ormond Beach’s ordinances regarding residency restrictions, not Volusia County’s.¹ By broadly claiming that FAC members suffer

¹ City of Ormond Beach Ordinance 23-3 states “[a] person who has been convicted of a violation of F.S. § 794.011, 800.04, 827.071, 847.0135(5) or 847.0145 or a similar law of another jurisdiction, regardless of whether adjudication has been withheld, in which the victim of the

harm as a result of the municipal ordinances in Volusia County, FAC is pleading standing in gross without specifying whether the Ordinance even applies to its members.

Since FAC fails to allege an actual or imminent harm that is fairly traceable to *Volusia County's* ordinance, FAC lacks associational standing.

II. FAC LACKS ORGANIZATIONAL STANDING

FAC also fails to establish standing in its own right. An organization can have standing like an individual, but it must show it suffers a current injury or faces imminent threat of injury. *City of S. Miami v. Governor*, 65 F.4th 631, 638 (11th Cir. 2023). “An organization suffers actual harm if the defendant’s illegal acts impair the organization’s ability to engage in its projects by forcing the organization to divert resources to counteract those illegal acts.” *Id.* (cleaned up). “To prove injury in fact based on an organization’s diversion of resources to protect individuals from harm, the organizational plaintiff must prove *both* that it has diverted its resources *and* that the injury to the identifiable community that the organization seeks to protect is itself a legally cognizable Article III injury that is closely connected to the diversion.” FAC must also establish its harm is traceable to and redressable by relief from the Ordinance. *Id.* at 640.

offense was less than 16 years of age, may not have a permanent residence, temporary residence or transient residence within 2,500 feet of any school, designated school bus stop, child care facility, park, beach, playground (such as minipark and recreational open space), library, church or other place where children regularly congregate.”

No factual allegations show that FAC suffered actual harm from the Ordinance. The only mention of FAC's harm or diversion of resources are conclusory allegations found in the FAC president's declaration. Amend. Compl. Ex. 1. FAC alleges generally that it devoted considerable organizational resources "to investigating, researching, educating members about, and responding to challenged governmental conduct." *Id.* at ¶ 10. And as a result, FAC has diverted financial resources from other organizational priorities and programs to pursue the instant claims. *Id.* However, according to FAC president's declaration, FAC was specifically established to:

advocate for fair, constitutional, and evidence-based laws and policies affecting individuals required to register as sexual offenders or sexual predators, as well as their families. FAC promotes public safety through education, research, public awareness, legislative advocacy, litigation, and community engagement. FAC works to ensure that laws governing registration, residency restriction, and related collateral consequences are constitutional, rational, and supported by empirical evidence.

Id. at ¶ 3. There are no factual allegations showing what activities FAC was diverting resources away from. What FAC labels as a diversion of resources, is merely activities FAC does to carry out its stated mission. No resources were diverted because FAC's response to the "challenged governmental conduct" was simply doing what it was designed to do.

Even if FAC suffered direct harm, no specific allegations tie that harm to Volusia County. The First Amended Complaint lacks any substance to show a causal

connection to Volusia County conduct. Stripping away all legal conclusions, the First Amended Complaint provides nothing establishing organizational standing as it relates to Volusia County.

Since FAC fails to establish standing, the First Amended Complaint should be dismissed.

III. THE FIRST AMENDED COMPLAINT IS A SHOTGUN PLEADING.

The First Amended Complaint should be dismissed because it is an impermissible shotgun pleading. There are four categories of shotgun pleadings: (1) a complaint that contains multiple counts that incorporate the allegations of the preceding counts; (2) a complaint containing “conclusory, vague, and immaterial facts not obviously connected to any particular cause of action”; (3) a complaint that does not separate causes of action in multiple counts; and (4) a complaint that “asserts multiple claims against multiple defendants without specifying which defendants are responsible for which acts or omissions, or which of the defendants that claim is brought against.” *Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313, 1321-23 (11th Cir. 2015). The most prototypical shotgun pleading is the first one, a complaint that contains several counts, with each incorporating by reference all the allegations of the preceding counts. *Strategic Income Fund, L.L.C. v. Spear, Leeds & Kellogg Corp.*, 305 F.3d 1293, 1296 (11th Cir. 2002).

“Consequently, in ruling on the sufficiency of a claim, the trial court must sift out the irrelevancies, a task that can be quite onerous.” *Id.*

The First Amended Complaint is a quintessential shotgun pleading. It contains seven counts, 67 pages, and 179 separate paragraphs leveled against 48 defendants. Each count – except the first – realleges and incorporates all preceding paragraphs and counts, ending with a 179-paragraph long Count 7. *See generally* Amend. Compl. Even Count 1 is problematic. FAC spends 144 paragraphs alleging a factual basis for each count, and dividing the defendants into separate categories based on the type of laws or ordinances each individual defendant enacted. FAC then combines all the allegations set out in 144 paragraphs and claims “[t]he combined effect of Florida’s residency and presence restrictions is to exclude registrants from nearly half of all housing units throughout Florida. . . .” Amend. Compl. ¶ 146. For a defendant like Volusia County that is labeled a County Defendant and a Residency Restriction Defendant, the effect of Count 1 is to tie Volusia County to alleged violations of the right to loiter and right to free speech, despite there being no allegations against Volusia County regarding those causes of action. The problem with asserting claims in this manner is that it leaves Volusia County speculating about which claims are against it and which grounds each claim rests. *Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 732 (11th Cir. 2020).

Since the First Amended Complaint is the prototypical impermissible shotgun pleading, it should be dismissed.

IV. COUNTIES AND SHERIFFS ARE SEPARATE ENTITIES.

FAC asserts that Volusia County is in cahoots with the State of Florida, through law enforcement activities, to violate FAC members' Eighth Amendment rights and right to travel. However, the First Amended Complaint's Counts 2 and 4 suffer from the same fatal assumption: that Volusia County has law enforcement capabilities. FAC alleges in Count 2 that Volusia County willingly coordinates, combines, or acts in concert with FDLE to implement and enforce the state laws and ordinances challenged by it. Amend. Compl. ¶ 153. FAC then claims Volusia County conducts joint, coordinated, correlated, aligned, or harmonized law enforcement activities. Amend. Compl. ¶ 154. In Count 4, FAC claims Volusia County violated FAC members' right to travel. Volusia County allegedly does this because Section 943.0435(7), Florida Statutes, requires sex offenders to:

[R]eport in person to the sheriff of the county of current residence at least 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel outside of the United States.

However, Counts 2 and 4 both fail to state a claim against Volusia County because sheriffs and county governments are separate legal entities, and Volusia County does not have law enforcement capabilities.

Home-rule counties like Volusia County used to be able to adopt charter provisions governing the selection and functions of county constitutional officers like sheriffs. *Cnty. of Volusia v. DeSantis*, 302 So. 3d 1001, 1002 (Fla. 1st DCA 2020). However, that ended following the November 2018 general election when voters approved a Florida constitutional amendment that eliminated that home-rule power. *Id.* at 1003. The amendment’s ballot summary described the effect as: “Ensures election of sheriffs. . . in all counties; removes county charters’ ability to abolish, change term, transfer duties, or eliminate election of these offices.” *Id.* at 1004. The amendment took effect on January 5, 2021. *Id.*; *see also* Art. VIII, § 6(g)(1), Fla. Const.

Following voter approval of the amendment, the Florida Legislature passed House Bill 1595, which became Section 125.01015, Florida Statutes. It states:

As required by s. 1(d), Art. VIII of the State Constitution, there shall be an elected sheriff in each county in this state. Unless otherwise provided in this section, a county, as defined in s. 125.011(1), shall, as required by s. 6(g), Art. VIII of the State Constitution, elect a sheriff. The board of county commissioners of any such county must ensure the successful transfer of the exclusive policing responsibility and authority to the sheriff in areas of the county for which the sheriff has responsibility.

Fla. Stat. § 125.01015(1) (2023). The new law also stated that if a county provided contracted police service to any municipality, those contracts would be assumed by the sheriff. Fla. Stat. § 125.01015(5) (2023).

Since a sheriff's office is a distinct legal entity, Volusia County bears no function in a sex offender's registration requirements or the requirements to report a change in residence or a plan to travel. Section 943.0435(7), Florida Statutes, requires sex offenders to report in person to the *sheriff*, not the county. FAC also claims that it is sometimes impossible for a sex offender to comply with the registration and residence requirements because sheriff's offices are generally open only on weekdays, but not always every weekday. Amend. Compl. ¶ 54. As a separate legal entity, Volusia County has no control over a sheriff's operating hours, and, since Volusia County lacks any law enforcement capabilities, it is not involved in enforcement of the registration requirements.

Since Counts 2 and 4 are based on the false assumption Volusia County has law enforcement capabilities, each should be dismissed.

**VOLUSIA COUNTY'S ALTERNATIVE MOTION TO SEVER AND
TRANSFER**

As an alternative to dismissal, Volusia County, a governmental entity located in the Middle District of Florida, moves to sever the claims asserted against it from this multi-defendant action under Federal Rules of Civil Procedure 20(a)(2) and 21, and, upon severance, transfer the severed action to the United States District Court for the Middle District of Florida pursuant to 28 U.S.C. § 1404(a). In support, Volusia County states:

INTRODUCTION

FAC bundles claims against 48 separate Florida governmental entities, challenging different ordinances and laws enacted by different governmental bodies at different times and under distinct legislative records. The claims against Volusia County concern Volusia County Ord. 78(6)(b), and will turn on localized facts, witnesses, and evidence unique to Volusia County. Since the claims do not arise out of the same transaction or occurrence, and lack a common nucleus of operative fact suitable for joinder under Rule 20(a)(2), they are misjoined and should be severed under Rule 21. Following severance, the action against Volusia County should be transferred to the Middle District of Florida, where the locus of operative facts, witnesses, and evidence overwhelmingly reside, and where adjudication will be more convenient and efficient under § 1404(a). Severance and transfer will promote judicial economy and avoid the prejudice and confusion inherent in litigating dozens of unrelated ordinances and records in one proceeding.

ARGUMENT

I. THE CLAIMS ARE MISJOINED AND SHOULD BE SEVERED.

Rule 20(a)(2) permits joinder of defendants only if the claims asserted against them arise out of the same transaction, occurrence, or series of transactions or occurrences, and any question of law or fact common to all defendants will arise in the action. Here, the claims against Volusia County center on its Sexual Offender -

Place of Residence ordinance — a distinct local enactment passed by a local governmental body, supported by a separate legislative record, and applied by different local officials. The factual predicates, witnesses, documents, and implementation history relating to Volusia County are discrete from those relevant to the other 47 government defendants and their separate ordinances and laws.

Any overlapping constitutional theories do not satisfy Rule 20(a)(2)’s same-transaction-or-occurrence requirement. The proof will be ordinance-specific, turning on the text, purpose, legislative process, and local effects of each enactment, as well as the identity and testimony of local officials and constituents. Proceeding jointly with 48 defendants would conflate disparate records and facts, invite jury or judicial confusion, and prejudice Volusia County by forcing it to litigate unrelated issues tied to other entities’ laws and records. Under Rule 21, the Court “may at any time, on just terms, add or drop a party” and “sever any claim against a party.” Severance is warranted to remedy misjoinder and to streamline adjudication of the discrete claims against Volusia County.

II. THE COURT SHOULD TRANSFER THE SEVERED ACTION TO THE MIDDLE DISTRICT OF FLORIDA.

Under 28 U.S.C. § 1404(a), a district court may transfer any civil action to any other district where the case might have been brought, or to any district to which all parties have consented, for the convenience of parties and witnesses, and in the

interest of justice. The trial court considers a number of factors in exercising its discretion:

Section 1404 factors include (1) the convenience of the witnesses; (2) the location of relevant documents and the relative ease of access to sources of proof; (3) the convenience of the parties; (4) the locus of operative facts; (5) the availability of process to compel the attendance of unwilling witnesses; (6) the relative means of the parties; (7) a forum's familiarity with the governing law; (8) the weight accorded a plaintiff's choice of forum; and (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

Manuel v. Convergys Corp., 430 F.3d 1132, 1135 n.1 (11th Cir. 2005) (citation omitted). The action against Volusia County could have been brought in the Middle District of Florida because Volusia County resides there for venue purposes and a substantial part of the events or omissions giving rise to the claim occurred there. The § 1404(a) factors favor transfer.

1. Convenience of witnesses and parties. The most significant non-party and party witnesses — government officials, staff, and community members connected to enactment and implementation of the Ordinance — are located in the Middle District. Their live testimony and availability weigh strongly in favor of transfer.

2. Access to proof. Relevant documents, including legislative files, meeting agendas and minutes, correspondence, and implementation records, are maintained by Volusia County in the Middle District. Concentrating discovery near the records custodian promotes efficiency and reduces cost.

3. Locus of operative facts. The challenged Volusia County ordinance was conceived, debated, enacted, and implemented within the Middle District of Florida. Any alleged injury attributable to Volusia County arises, if at all, from actions taken there.

4. Court congestion and practical considerations. Transferring the severed action to the Middle District will avoid burdening this Court with managing discovery and motion practice tied to Middle District witnesses and records, and will streamline case management by aligning the forum with the locus of proof. Severance-and-transfer narrows issues for all parties and courts, reducing the risk of confusion inherent in a single omnibus proceeding.

5. Plaintiff's choice of forum. While Plaintiff's forum choice is considered, it is entitled to reduced weight where, as here, the operative facts occurred outside the Northern District, and the claims target a local county.

Based on the totality of circumstances, the Middle District of Florida is the more convenient forum for the severed claims against Volusia County, and transfer will serve the interest of justice.

III. SEVERANCE AND TRANSFER PROMOTE JUDICIAL ECONOMY AND AVOID PREJUDICE AND CONFUSION.

Proceeding with claims against approximately 48 unrelated governmental entities, each with its own ordinance, legislative record, witnesses, and defenses, will complicate discovery, motion practice, and trial. Severing and transferring the

claims against Volusia County will isolate the ordinance-specific issues, facilitate targeted discovery and briefing, reduce the risk of inconsistent rulings and confusion, and conserve judicial resources in both districts. It will also avoid unfair prejudice to Volusia County from being swept into broad, omnibus proceedings in which unrelated factual records could blur the distinct issues relevant to its ordinance.

CERTIFICATE OF CONFERRAL

Undersigned counsel conferred, in accordance with N.D. Fla. L.R. 7.1(B)–(C), with counsel for Plaintiff Florida Action Committee, Inc., who opposes Volusia County’s motion to sever and transfer.

CERTIFICATE OF WORD LIMIT

Per the requirements of Local Rule 7.1(F), undersigned counsel states that the memorandum in support of this Motion is 3,757 words.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed with the CM/ECF System which will send a notice of filing and an electronic copy to all counsel of record on October 13, 2026.

/s/ David H. Clements

David H. Clements

Assistant County Attorney

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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 bus 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.

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

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

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

(3) The person is a minor.

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

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

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

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

...

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

SECTION III: Severability. Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, 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.**

11
12
13 ATTEST:

14
15
16
17 George Recktenwald, County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

Jeffrey S. Brower, County Chair

