

Member Dan Ryan introduced the following resolution and moved its adoption:

RESOLUTION NO. 2015-166

RESOLUTION ESTABLISHING A MORATORIUM ON NEW RENTAL DWELLINGS AND REGULATING THE RESIDENCY LOCATION OF PREDATORY OFFENDERS WITHIN THE CITY

WHEREAS, the City of Brooklyn Center ("City"), pursuant to Chapter 12 of the City Code, requires a license for any person to operate a rental dwelling within the City; and

WHEREAS, the purpose of the rental dwelling license requirement is to ensure rental housing in the City is decent, safe and sanitary and is so operated and maintained as to not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community; and

WHEREAS, repeat predatory offenders present a significant threat to the public safety of the community as a whole, especially children, females, and vulnerable populations. Predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. The cost of predatory offender victimization to society at large, while not precisely calculable, is steep; and

WHEREAS, the City Council finds that a disproportionately high number of predatory offenders are being placed in the City and it is in the best interest of the public to study and consider options for addressing and minimizing the public safety impacts of such placements; and

WHEREAS, the rental dwelling license requirement in the City Code was adopted under the City's police power to protect the health, safety and welfare of its residents; and

WHEREAS, the City may amend and enact ordinances and regulations under its police powers as it sees fit, including through the adoption of moratoria and temporary regulations enacted to allow the City sufficient time to prepare and adopt permanent regulations; and

WHEREAS, the City further has the authority under Minnesota Statutes, section 462.355, subdivision 4 to enact an interim ordinance placing a moratorium on ordinances that control the physical development of the City including site plan regulations, sanitary codes, and building codes; and

WHEREAS, the City does not currently limit the number of rental dwelling licenses it can issue; and

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WHEREAS, the City does not currently have an ordinance regulating the location of predatory offenders within its boundaries; and

WHEREAS, the City has a compelling interest in promoting, protecting and improving health, safety, and general welfare of the City's citizens; and

WHEREAS, the City needs to study and evaluate the need to limit the number of rental dwelling licenses issued within a defined area and to prohibit certain predatory offenders from establishing temporary or permanent residence in certain locations where children are known to regularly congregate in a concentrated number; and

WHEREAS, the City Council has under consideration an ordinance that would place a moratorium on new rental dwelling licenses from being issued in order that it may study the affects of an unlimited number of rental dwelling units within the City; and

WHEREAS, the Council has under consideration a temporary ordinance limiting the residence location of predatory offenders in order to study and consider a permanent ordinance limiting the residency location of predatory offenders within the City.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brooklyn Center, Minnesota, as follows:

Section 1. Definitions. The following words, terms, and phrases, when used in this Resolution, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 1.01 "Child" means any person under the age of eighteen (18).
- 1.02 "Designated predatory offender" means any person who has been categorized as a Level III predatory offender under Minnesota Statutes, section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.
- 1.03 "Permanent residence" means a place where a person abides, lodges, or resides for 14 or more consecutive days.
- 1.04 "Temporary residence" means a place where a person abides, lodges, or resides for a period of 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 or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
- 1.05 "School" means a public or nonpublic elementary or secondary school.

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- 1.06 “Licensed child care center” means a group child care center currently licensed by the applicable County or State of Minnesota.
- 1.07 “Public playground” means a publicly-owned, improved park or other outdoor area designed, equipped, and set aside primarily for children’s play.

### Section 2. Moratorium on Rental Licenses

- 2.01 To protect its residents and the potential harm that may come from an unlimited number of rental dwelling licenses within the City, the City Council hereby exercises its authority under its police powers to place a moratorium on the acceptance of applications for new rental licenses. The moratorium mandates that no applications for rental licenses will be accepted for new rental housing licenses for any dwelling structure or dwelling unit for a single family and single family attached home as defined in the City Code Section 12-201. During the period of this moratorium, no new rental dwelling licenses shall be issued for any dwelling structure or dwelling unit for a single family and single family attached home. Furthermore, no building permits for the expansion or enlargement of a single family or single family attached home to increase the number of dwelling units will be issued. For purposes of this Resolution, rental dwelling shall have the meaning given in City Code Section 12-201 (26).
- 2.02 New rental license applications received prior to the adoption of this Resolution will be processed for licensure. Those holding current rental dwelling unit licenses may continue to operate under their current license and may renew their license in a manner consistent with the City’s current regulations on rental dwelling licenses.
- 2.03 The prohibitions imposed by this moratorium do not apply to applications for a new rental license for a dwelling unit that qualifies for relative homestead under Minnesota Statutes, section 273.124, subdivision 1(c).
- 2.04 The moratorium imposed by this Section shall be in effect for a period of 180 days from the date of its adoption, until the final adoption of an amendment to the City’s rental dwelling unit license provisions within the City Code or upon its express repeal by the City Council, whichever occurs first.

### Section 3. Temporary Regulations on Predatory Offenders

- 3.01 It shall be unlawful for any designated predatory offender to establish a permanent or temporary residence within 2,000 feet of any school,

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licensed child-care facility, public playground, or any other place where children are commonly known to regularly congregate.

- 3.02 For purposes of determining the minimum distance separation required by this Section, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence of the designated predatory offender to the nearest outer property line of the protected property.
- 3.03 A designated predatory offender residing within a prohibited area as described in this Section does not commit a violation of this Resolution if any of the following apply:
- A. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167 or a successor statute, prior to October 26, 2015;
  - B. The person was a minor when he or she committed the offense and was convicted as an adult;
  - C. The person is a minor;
  - D. The school, licensed child care center, or public playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167, or a successor statute;
  - E. The residence is also, as of October 26, 2015, the primary residence of the person's parents, grandparents, siblings, or spouse; or
  - F. The residence is a property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to October 26, 2015.
- 3.04 The regulations imposed by this Section shall be in effect for a period of 180 days from the date of its adoption, until the final adoption of an amendment to the City's Code regarding the residency location of predatory offenders, or upon its express repeal by the City Council, whichever occurs first.

Section 4. Enforcement

4.01 A violation of this Resolution shall be a misdemeanor. In addition, the City may enforce this Resolution by mandamus, injunction, other appropriate civil remedy in any court of competent jurisdiction, or through the City's administrative penalties program under Chapter 18 of the City Code.

Section 5. Study of Issues

5.01 City staff is directed to study the impacts of rental dwellings within the City and determine if limits to licensing of such dwellings, including their density, will further the goals of the current rental dwelling regulations. Staff is further directed to draft amendments to the current rental dwelling unit ordinance as may be necessary to further its stated goals for consideration by the City Council.

5.02 City staff is further directed to study the impacts of the residency of predatory offenders within the City and determine if further or different limits to residency restrictions for such offenders will further protect the needs of the public. Staff is further directed to draft amendments to the current city code as may be necessary to further the goals expressed above for consideration by the City Council.

Section 6. Effective Date

6.01 This Resolution shall become effective immediately upon its adoption.

October 26, 2015

Date



Mayor

ATTEST:



City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member April Graves

and upon vote being taken thereon, the following voted in favor thereof:

Tim Willson, April Graves, Kris Lawrence-Anderson, Lin Myszkowski, and Dan Ryan;

and the following voted against the same: none;

whereupon said resolution was declared duly passed and adopted.