

ORDINANCE NO. 2007-1

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RECOGNIZING THE IMPORTANCE OF TIMELY AND INFORMED PUBLIC PARTICIPATION IN COUNTY DECISION MAKING; DECLARING THAT CERTAIN DEFINED NEIGHBORHOOD ASSOCIATIONS IN ST. JOHNS COUNTY SHALL HAVE DESIGNATED RIGHTS IN REGARDS TO LAND USE APPLICATIONS AND PUBLIC WORKS PROJECTS; PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, public participation in local government decision making is recognized and promoted by the Florida Legislature, Florida courts, and the Florida Attorney General's Office; and

WHEREAS, timely and informed public participation in local government land use planning benefits St. Johns County's neighborhoods, natural resources, scenic beauty, and community design; and

WHEREAS, the St. Johns County Board of County Commissioners has found through experience that many issues that are deliberated at public hearings may be resolved by promoting dialogue between the land use applicant, area residents, and other interested persons; and

WHEREAS, efficiency and proper planning are facilitated by promoting the opportunity for land use applicants and informed citizens to timely interact, share viewpoints, and share information pertaining to a proposed land use change; and

WHEREAS, Florida courts recognize that the essential tenets of due process are providing fair notice and affording a meaningful opportunity to be heard; and

WHEREAS, the rights of property owners and land use change applicants are protected by having an informed public hearing on the merits of an application; and

WHEREAS, this Ordinance will allow Neighborhood Associations the right to request a meeting, for the purposes of discussion and/or negotiation, with applicants requesting changes in land use as identified in the Ordinance; and

WHEREAS, it is the intent of the Board of County Commissioners of St. Johns County to ensure such Associations have the opportunity to engage in informed interaction with those applicants whose requests may most directly affect the quality of life issues of the Association(s) members.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

“Applicant” shall mean the applicant for any land use change as described in Section 2.D.

“Neighborhood Association” or “Association” shall be any formal or informal association of persons that voluntarily join to register as a Neighborhood Association with the St. Johns County Administrator or his/her designee on an application form provided by the County Administrator or his/her designee, for purpose of acquiring the benefits of this Ordinance. Such registrations must include a geographic Neighborhood Association boundary reasonably described in the registration by the Neighborhood Association. The area within such boundary must be limited to an area within the County which is characterized by a substantial commonality of interest and history of identification as a neighborhood separate from others within St. Johns County.

Section 2. St. Johns County Neighborhood Association Bill of Rights.

Each “Neighborhood Association” in St. Johns County properly and currently registered according to the terms of this Ordinance shall be accorded the following rights which it shall be the duty of the St. Johns County Administrator and his designees to provide:

- A. Prompt and courteous responses to all reasonable County business questions, document requests, and meeting requests submitted to the County Administrator or his/her staff. The time of response may vary depending on the attendant circumstances, but the County shall endeavor to make at least a preliminary response of an appropriate type within two business days of the initial inquiry. This right pertains to all persons.
- B. A timely personal response of its BCC district Commissioner or designee to questions directed to the County Commission office. This right pertains to all persons.
- C. Advance notification and a reasonable opportunity to provide input to the County of any substantial County initiated or permitted public works or utility projects. Such notification shall include the day(s) and probable length of any street closures, utility interruptions, or other adverse impacts on the neighborhoods, and the name and phone number of the County representative most knowledgeable and able to immediately answer questions during the course of the project.
- D. Notification of the submission of any application or pre-application for County approval of a Special Use, Temporary Use, Variance, Vesting, Rezoning, Development of Regional Impact, PUD, PRD, Comprehensive Plan change, or other significant land use change application¹, or change or amendment thereof,

¹ For the purposes of this Ordinance, each of these applications is deemed to be a “land use change.”

within 10 business days of its submission to the County. This notice shall at a minimum contain a general description of the location of property subject to the land use change, the date, time and place of all applicable public hearings, if known, and other opportunities for public input on the application, and a reasonable explanation of the standard of review and the type of evidence that Florida Courts have recognized as being relevant from non-experts. Applicants, Neighborhood Associations, and other persons are responsible for obtaining their own legal advice.

- E. Upon request from the Applicant or a Neighborhood Association, a County scheduled meeting with representatives of the Applicant of an application type listed above, at a reasonable time and place determined by the County; to allow members of one or more Neighborhood Associations to ask questions or to voice support, objections, concerns, or suggestions regarding said application. County staff shall ensure that a record shall be made to document all commitments or agreements made during such meetings.
- F. A final version of all land use change application documents must be provided to the County no later than 15 days prior to any public hearing on the matter. Any material changes to the application documents other than changes requested by staff or changes proposed in the course of the hearing shall cause the subject hearing to be rescheduled to comply with this 15-day requirement unless waived by all affected parties in writing. The County Administrator, or his/her designee, shall reasonably determine what constitutes a material change, and such determination shall be deemed valid unless clearly erroneous. Material changes shall include, but not be limited to changes in use, increase in use, increase in height, change of access, size and location of buffers, change in financial data exceeding 5%, any change other than minor changes to locations of facilities on a site plan.
- G. One or more representatives of each Neighborhood Association representing property within 300 feet of the subject property shall be accorded an opportunity to share a reasonable length of time to address and present evidence to any County board, committee, or commission during a quasi-judicial hearing on a land use application. Such Association representative shall also be accorded the right to reasonably cross-examine the applicant's witnesses on the issues which such witness testifies. No representative of any Neighborhood Association shall be restricted by this rule from presenting individual information or questions separate from the Association's presentation.
- H. Any material misrepresentation, as reasonably determined by the County, provided by the Association in materials or testimony provided in accordance with this Ordinance or at the hearing shall cause such Association to lose its registration status for one (1) year from the hearing date.

- I. Opportunity for formal input into the annual budget process, including the opportunity to express preferred County government priorities, suggested capital improvement projects and other statements that represent the opinion of the neighborhood's residents.
- J. The opportunity to provide input into the design of publicly-funded projects within or adjacent to the neighborhood, including the opportunity early in the planning process to express neighborhood preferences about choice of location, materials, orientation, size, land use intensity, and other features.

Section 3. Procedures.

- A. A "Neighborhood Association" must be registered with the County Administrator by its authorized representative initially, and henceforth re-register during the month of October in each year in order to qualify for the benefits of this Ordinance. Such registration shall be effective until the end of that same month in the following year. One member of each Association must be designated in such registration as the agent for the Association to receive all notices due the Association pursuant to this Ordinance. Such member may assign his or her right to notice for the Association to another agreeing member of the Association. Any request for an informal meeting with an applicant based on this Ordinance must be submitted to the County by the Neighborhood Association agent designated to receive notices, or his/her assignee, pursuant to this Ordinance within 30 days of filing the application. Any Association may be re-registered with the addition or deletion of members by written communication to the County Administrator or his designee signed by the designated notice agent or his/her designee during the annual registration month.
- B. No such Neighborhood Association shall be favored, disfavored, or excluded in regards to the benefits of this Ordinance based on the opinions, race, gender, age, ethnicity, religion, or political affiliations of any or all of its members.
- C. Each Applicant, Neighborhood Association, and person associated therewith is responsible for obtaining legal advice and liability protection as may be required.
- D. In order to implement and assure the effective implementation of the goals and policies of this Ordinance and resolve complaints, the County Administrator is authorized to establish written administrative procedures consistent with the purpose of this Ordinance. The County Administrator is authorized to revise such procedures from time to time to best effectuate the goals and policies of this Ordinance.

Section 4. Enforcement: Disclaimer.

- A. The Board of County Commissioners shall enforce this Ordinance by hearing unresolved complaints regarding registrations of Neighborhood Associations,

procedures, and alleged failure to accord Rights hereunder during a regularly scheduled and publicly advertised Board of County Commissioners meeting after reasonable notice has been given to the complaining Association(s) and other substantially affected parties. Upon hearing of said matter, the Board of County Commissioners may order the County Administrator to take designated action within its jurisdiction to enforce this Ordinance or correct violations thereof.

- B. Errors by St. Johns County staff pertaining to this Ordinance shall not be deemed grounds for a cause of action, petition for writ of certiorari, or any element thereof.
- C. No right to notice or participation in local government matters provided for in this Ordinance shall cancel or replace any concurrent right of a person or entity under another provision of federal, state, or local law.

Section 5. Severability.

It is the intent of the Board and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid, unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid, or unconstitutional the remaining provisions, sections, subsections, clauses, phrases or provisions of this Ordinance.

Section 6. Effective Date.

This Ordinance shall be effective upon a certified copy being filed with the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 9th day of January, 2007.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Ben Rich
Ben Rich, Chairman

ATTEST: Cheryl Strickland, Clerk of Court

By: Uwonne King
Deputy Clerk

Rendition Date: 01/11/07

Effective Date: _____