

ORDINANCE NO. 97- 68

AN EMERGENCY ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, DECLARING IN ACCORDANCE WITH F.S. 125.66 (3) THAT AN EMERGENCY EXISTS AND THAT THE IMMEDIATE ENACTMENT OF THIS ORDINANCE IS NECESSARY; IMPLEMENTING A TEMPORARY ABEYANCE OF TELECOMMUNICATION TOWER FINAL PERMITTING AND FINAL ZONING HEARINGS FOR (1) ANY TELECOMMUNICATION TOWER APPLICATION FOR A TOWER THAT IS PLANNED TO BE BUILT WITHIN 600 FEET OF THE SECTIONS OF STATE ROAD 13 AND COUNTY ROAD 13 IN ST. JOHNS COUNTY THAT ARE DESIGNATED AS THE BARTRAM TRAIL SCENIC HIGHWAY, OR THE SECTION OF STATE ROAD A1A IN ST. JOHNS COUNTY, OR INTERNATIONAL GOLF PARKWAY; AND (2) ANY TELECOMMUNICATION TOWER APPLICATION NOT HAVING BEEN OFFICIALLY FILED WITH THE COUNTY ON OR BEFORE NOVEMBER 24, 1997; SAID TEMPORARY ABEYANCE PERTAINING TO THIS ORDINANCE TO CEASE FOR PART (1) ON DECEMBER 16, 1997, AND TO CEASE FOR PART (2) ON THE EARLIER OF (A) THE DATE ANY ST. JOHNS COUNTY ORDINANCE REPEALING THIS PRESENT ORDINANCE IS PASSED AND ENACTED IN ACCORDANCE WITH THE PUBLIC NOTICE AND HEARING REQUIREMENTS OF F.S. 125.66(4) AND BECOMES EFFECTIVE BY BEING FILED WITH THE SECRETARY OF STATE OF FLORIDA, OR (B) FEBRUARY 28, 1998; PROVIDING GEOGRAPHIC APPLICATION; PROVIDING FINDING OF FACTS; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the federal Telecommunications Act of 1996 (hereinafter the "Act") was designed to remove regulatory barriers and encourage competition among all types of communications companies; and

WHEREAS, the Act ratifies the authority of local government to regulate telecommunications services and carriers, but also limits local governments' authority in certain respects; and

WHEREAS, the Act allows the Federal Communications Commission (hereinafter the "FCC") to preempt any local governmental regulation which prohibits, or has the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services; and

WHEREAS, the County needs to review its ordinance sections pertaining to

Telecommunication Towers in a comprehensive fashion to determine whether or not its existing regulations are consistent with the Act as implemented by FCC rules and proposed rules, and interpreted by State and federal courts, and to adopt new and amended Telecommunication Tower regulations in order to more adequately protect the public welfare of County citizens; and

WHEREAS, a recent influx of Telecommunication Towers has greatly escalated the number of towers in the County; and

WHEREAS, in the last three months there have been an unprecedented number of Telecommunication Tower applications within the County; and

WHEREAS, all or virtually all of recent tower building has been in the form of Telecommunication Towers, but other towers not primarily intended for that purpose also cause public concern; and

WHEREAS, numerous members of the public have recently expressed concern that existing regulations pertaining to Telecommunication Towers are not adequate to protect the public good; and

WHEREAS, there are technological alternatives to Telecommunication Towers for the transmission of telecommunication signals; and

WHEREAS, the County is endeavoring to contract for the services of a radio frequency (hereinafter "RF") engineer to facilitate County planning and regulation of Telecommunication Towers; and

WHEREAS, a limited term abeyance of Telecommunication Tower final permitting and final zoning hearings for any Telecommunication Tower applications, while still conducting processing of any such applications, and gathering information to adequately plan and regulate, constitute a necessary and bona fide effort to act carefully in a field with rapidly changing technology and jurisprudence; and

WHEREAS, St. Johns County is known nationally and internationally as a desirable tourist location, and is the locale of numerous recognized historical sites which may be adversely affected by proliferation of Telecommunication Towers; and

WHEREAS, the unnecessary permitting of Telecommunication Towers in excess of minimum requirements creates visual clutter which detracts from the public good and the County's tourism attractions; and

WHEREAS, prior to November 25, 1997, the County has not previously implemented any formal abeyance of tower permitting in response to the Act; and

WHEREAS, the Board of County Commissioners of St. Johns County has affirmatively waived the notice requirements of Section 125.66(2), Florida Statutes.

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

Section 1. Definitions. For the purposes of this Ordinance, the following definitions shall apply:

- (1) "Act" means the federal Telecommunications Act of 1996.
- (2) "Board" means the Board of County Commissioners of St. Johns County, Florida.
- (3) "County" means St. Johns County, Florida.
- (4) "Permit" means any building permit, zoning permit, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.
- (5) "Telecommunications Tower" means any tower including but not limited to: any tower, pole, platform, pedestal, or other similar structure, and its attendant antennas, electronics and other appurtenances, used or to be used to transmit, receive, distribute, provide or offer telecommunications or broadcast services. Telecommunication Towers shall not include towers used solely as amateur radio antennas as described in Section 125.561, Florida Statutes. Any structure not greater than 35 feet in height from ground level shall be deemed not a Telecommunications Tower under this Ordinance.

Section 2. Findings: All the Whereas clauses above are incorporated herein by reference and duly made findings of this Board.

Section 3. Purpose. The purpose of this abeyance is to allow the County adequate time to comprehensively study the Act, recent legal opinions, rules and proposed rules concerning the Act that have been promulgated since St. Johns County adopted its present regulations on Telecommunication Towers, and to determine whether the County's existing ordinances and codes are consistent with the Act as implemented and interpreted, and develop new ordinances to amend inconsistencies and/or cover situations not addressed by existing regulations.

Section 4. Abeyance Implemented. The Board hereby implements a temporary abeyance on Telecommunication Tower final Permitting and final zoning hearings for (1) any Telecommunication Tower application for a tower that is planned to be built within 600 feet, of the centerlines, of sections of State Road 13 and County Road 13 in the County that are designated as the Bartram Trail Scenic Highway, or the sections of State Road A1A in the County, or the section of International Golf Parkway (formerly Nine Mile Road) designated as a Scenic Roadway by St.

Johns County Resolution 94-63; and (2) any Telecommunication Tower application not having been officially filed with the County on or before November 24, 1997. Any other provision of this Ordinance notwithstanding, there shall be no abeyance of the location or collocation of antennas, electronics, or other related appurtenances on any currently existing tower or structure, or any Telecommunication Tower given final approval as provided by this Ordinance.

Section 5. Duration of abeyance. The temporary abeyance pertaining to this ordinance is to cease for Section 4, part (1) on December 16, 1997, and to cease for Section 4, part (2) on the earlier of (a) the date any St. Johns County ordinance repealing this present ordinance is passed and enacted in accordance with the public notice and hearing requirements of F.S. 125.66(4) and becomes effective by being filed with the Secretary of State of Florida, or (b) February 28, 1998.

Section 6. Geographic limits of abeyance. The abeyance for Section 4, part (1) shall apply to all areas described by that section where it is lawful for the Board to regulate towers, including all incorporated portions described by that section where it is lawful for the Board to regulate towers that do not have an ordinance regulating Telecommunication Towers. The abeyance for Section 4, part (2) shall apply to any unincorporated portion of St. Johns County, Florida where it is lawful for the Board to regulate towers, and any incorporated portion where it is lawful for the Board to regulate towers that does not have an ordinance regulating Telecommunication Towers.

Section 7. Nothing in this Ordinance shall be deemed to prohibit towers for government use such as fire, law enforcement, forest management, public works, or other bona fide governmental purposes. Nothing in this Ordinance shall prohibit County staff from processing Telecommunication Tower applications up to, but not including, final permitting and final zoning hearings.

Section 8. Declaration of Emergency. The Board hereby declares that an emergency exists necessitating that this Ordinance be immediately enacted. Numerous members of the public have recently complained that existing regulations pertaining to Telecommunication Towers are not adequate to protect the public good. In the last three months there have been an unprecedented number of Telecommunication Tower applications within the County. The Board has a limited planning staff and the Planning Department has recently experienced a change in the position of Planning Director. The Board finds that the task of implementing Telecommunication Tower regulations that sufficiently protect the public good, and are compliant with federal and state law is very staff intensive. Furthermore, after determining that County staff does not have the resident expertise to advise the Board on RF issues relating to Telecommunication Tower siting and usage, County staff has been directed to contract with an RF engineer, but has not yet had an opportunity to complete such a contract procedure. Therefore, a temporary abeyance as described in this Ordinance is a necessary and proper action to enable the staff to properly fulfill its duty to protect the public. Without an immediate abeyance on the approval of permit and zoning Telecommunication Tower applications, a significant risk exists that further Telecommunication Tower permit and zoning approvals within the County could occur that harm the public welfare.

Section 9. Severability. If any section, sentence, clause or phrase of this Ordinance should

be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 10. Effective Date. This emergency Ordinance shall take effect upon its being accepted by the postal authorities of the Government of the United States for special delivery by certified mail to the Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, State of Florida, this 9th day of December, 1997.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Moses A. Floyd  
Moses A. Floyd, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: Cheryl Strickland  
Clerk

Effective Date: December 15, 1997



# The St. Augustine Record

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING  
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA


## STATE OF FLORIDA, COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared \_\_\_\_\_  
Sandra D .OLiver \_\_\_\_\_ who on oath says that she is  
Accounting Clerk \_\_\_\_\_ of the St. Augustine Record, a  
daily newspaper published at St. Augustine in St. Johns County, Florida:  
that the attached copy of advertisement, being a \_\_\_\_\_  
Notice of Hearing \_\_\_\_\_  
in the matter of \_\_\_\_\_ Telecommunication Tower Ord. \_\_\_\_\_  
in the \_\_\_\_\_ Court, was published in said newspaper in the  
issues of \_\_\_\_\_ Dec 4, 1997 \_\_\_\_\_

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 4 day of Dec, 1997,  
by Sandra D Oliver who is personally  
known to me or who has produced \_\_\_\_\_ as  
identification. \_\_\_\_\_  
(Type of Identification)

Zoe Ann Moss  
(Signature of Notary Public)  
Zoe Ann Moss  
(Print, Type or Stamp Commissioned Name of Notary Public)

 Zoe Ann Moss  
MY COMMISSION # CC841814 EXPIRES  
August 22, 2001  
BONDED THRU TROY FAIN INSURANCE, INC.  
(Seal)

### COPY OF ADVERTISEMENT

NOTICE OF  
EMERGENCY PUBLIC  
HEARING OF THE ST.  
JOHNS COUNTY BOARD  
OF COUNTY  
COMMISSIONERS  
REGARDING  
CONSIDERATION OF  
ENACTING A  
TELECOMMUNICATION  
TOWER EMERGENCY  
ORDINANCE.

NOTICE IS HEREBY  
GIVEN that the Board of  
County Commissioners of  
St. Johns County, Florida,  
at a regular meeting on  
Tuesday December 9, 1997,  
at 5:30 p.m. in the County  
Auditorium of the County  
Administrative Complex,  
4020 Lewis Speedway  
(County Road 16A and U.S.  
1 North), St. Augustine,  
Florida, will hold an emer-  
gency public hearing to con-  
sider the passage of the fol-  
lowing emergency ordi-  
nance:

ORDINANCE NO. 97-  
AN EMERGENCY ORDI-  
NANCE OF ST. JOHNS  
COUNTY, FLORIDA, DE-  
CLARING AN ACCORD-  
ANCE WITH F.S. 125.46 (3)  
THAT AN EMERGENCY  
EXISTS AND THAT THE  
IMMEDIATE ENACT-  
MENT OF THIS ORDI-  
NANCE IS NECESSARY;  
IMPLEMENTING A TEMP-  
ORARY ABSEANCE OF  
TELECOMMUNICATION  
TOWER FINAL PERMIT-  
TING AND FINAL ZON-  
ING HEARINGS FOR (1)  
ANY TELECOMMUNICA-  
TION TOWER APPLICATION  
FOR A TOWER  
THAT IS PLANNED TO BE  
BUILT WITHIN 600 FEET  
OF THE SECTIONS OF  
STATE ROAD 13 AND  
COUNTY ROAD 13 IN ST.  
JOHNS COUNTY THAT  
ARE DESIGNATED AS  
THE BARTRAM TRAIL  
SCENIC HIGHWAY, OR  
THE SECTION OF STATE  
ROAD 11A IN ST. JOHNS  
COUNTY, OR INTERNA-  
TIONAL COLF PARK  
WAY; AND (2) ANY  
TELECOMMUNICATION  
TOWER APPLICATION  
NOT HAVING BEEN OFFI-  
CIALLY FILED WITH  
THE COUNTY ON OR BE-  
FORE NOVEMBER 24,  
1997; SAID TEMPORARY  
ABSEANCE PERTAINING  
TO THIS ORDINANCE TO  
CEASE FOR PART (1) ON  
DECEMBER 16, 1997; AND  
TO CEASE FOR PART (2)  
ON THE EARLIER OF (A)  
THE DATE ANY ST.  
JOHNS COUNTY ORDI-  
NANCE REPEALING  
THIS PRESENT ORDI-  
NANCE IS PASSED AND  
ENACTED; IN ACCORD-  
ANCE WITH THE PUBLIC  
NOTICE AND HEARING  
REQUIREMENTS OF F.S.  
125.46(4) AND BECOMING  
EFFECTIVE BY BEING  
FILED WITH THE SECRE-  
TARY OF STATE OF  
FLORIDA; OR (B) FEB-  
RUARY 28, 1998; PROVID-  
ING GEOGRAPHIC AP-  
PLICATION; PROVIDING  
FINDING OF FACTS; AND  
PROVIDING AN EFFEC-  
TIVE DATE.

The proposed emer-  
gency ordinance is on file in the  
office of the Clerk of the  
Board of County Commis-  
sioners of the St. Johns  
County Administrative  
Complex, 4020 Lewis Speed-  
way (CR 16A and U.S. #1),  
St. Augustine, Florida, and  
may be examined by par-  
ties interested prior to the  
said public hearing. Please  
take note that the ordinance  
is subject to revision prior  
to the hearing or adoption of  
the ordinance.

All parties having any  
interest in said ordinance  
will be afforded an opportu-  
nity to be heard at the pub-  
lic hearing.

If a person decides to appeal any decision made with respect to any matter considered at the hearing, such persons will need a record of the proceedings and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS** In accordance with the Americans with Disabilities Act, persons needing a special accommodation for an interpreter to participate in these proceedings should contact ADA Coordinator at (904) 823-2501 or at the county Administration Building, 400 Lewis Speedway, St. Augustine, FL 32095. For hearing impaired individuals, Telecommunication Device for the Deaf (TDD), 823-2501 or Florida Relay, 1-800-955-8770, is a service. 5 days prior to the date of the hearing.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA  
CHERYL STRICKLAND, CLERK  
By Irma Poccia, Deputy Clerk  
Dec. 4, 1997