

ORDINANCE NO. 2005- 85

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, IMPOSING A MORATORIUM ON BUILDING PERMITS WITHIN A PORTION OF THE PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN AS SUMMER HAVEN (BLOCKS 3 THROUGH 65); MAKING FINDINGS OF FACT; PROVIDING FOR EXCLUSIONS TO THE MORATORIUM; PROVIDING RELATED REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE AND AN EXPIRATION DATE.

**WHEREAS**, the Board of County Commissioners (“Board”) of St. Johns County, Florida is entrusted with the responsibility to establish reasonable ordinances, policies and regulations to further the general public health, safety and welfare of the community; and

**WHEREAS**, the Board has heard evidence pertaining to the effects of repeated storm events resulting in erosion and requiring repeated repairs to a portion of the particular area of St. Johns County known as Summer Haven (Blocks 3-65, Map Book 1, Page 155); and

**WHEREAS**, the Board finds that preserving the status quo pertaining to construction activity in the subject area is rationally related to the County’s objective of protecting the general public health, safety, and welfare of the community; and

**WHEREAS**, the Board finds that Blocks 3-65, although each distinct, are similarly situated in terms of presenting a difficult environment for fire/rescue, and other emergency services; and

**WHEREAS**, a temporary building moratorium does not rise to the level of a regulatory taking if the moratorium is rationally related to advancing a legitimate public purpose. See *WCI Communities, Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4<sup>th</sup> DCA 2004); and

**WHEREAS**, the St. Johns County enactment of a temporary moratorium in this instance is for a public purpose (public health, safety and welfare) that is in a higher degree than was found lawful in the recent *WCI Communities* case; and

**WHEREAS**, when legislation is passed that does not target a protected class, the rational basis test is applied; and

**WHEREAS**, in the present instance, there is no legally recognized special “protected class;” and

**WHEREAS**, under the rational basis test, judicial review gives great deference to legislation; and

**WHEREAS**, public health, safety and welfare is a legitimate public purpose recognized by Florida courts; and

**WHEREAS**, on May 4, 2005, the Board, as a preliminary step towards forming a formal moratorium, directed County staff to cease approvals of building permits for a portion of the particular area of St. Johns County known as Summer Haven (Blocks 3 through 65 (Map Book 1, Page 155), “the subject area”); and

**WHEREAS**, on June 6, 2005, members of the Board requested staff to research financing options for engineering and construction activities and to prepare a building permit moratorium ordinance for the subject area.

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

Section 1. Findings and Statement of Intent. The Board of County Commissioners of St. Johns County, Florida (the “Board”) hereby finds, determines and declares the following:

- A. Due to repeated storm events, resulting erosion and required repeated repairs, there are increasing public safety concerns pertaining to placing more residents or additional construction into the moratorium subject area.
- B. The subject area has unique characteristics due to its history, proximity to water bodies, and property features that distinguish the subject area from other portions of the County in terms of roadway erosion problems.
- C. St. Johns County is actively investigating the feasibility of financing options that could best support appropriate engineering, permitting, and construction activities, to improve access reliability and public safety in the subject area.

Section 2. Moratorium Imposed. A temporary moratorium is hereby imposed on the approval of building permits for activities in the subject area, except as excluded from the moratorium in Section 3. For activities that are excluded from the moratorium, the County Administrator may require conditions including, but not limited to, hold-harmless agreements, as a prerequisite to building permit approval.

Section 3. Exclusions. The following described activities are hereby excluded from this moratorium:

- A. Building Permits for the repair of existing structures, when the cost of repair does not exceed fifty percent (50%) of the value of the structure as listed by the St. Johns County Property Appraiser, as of the date this Ordinance enacted.
- B. Building permits pertaining to remodeling of existing structures, where remodeling does not increase the building square footage.
- C. Building permits for construction in areas that are determined by the County Administrator to have fully compliant access, and are reasonably likely to remain having fully compliant access for the next ten (10) years.

Section 4. Effective Date

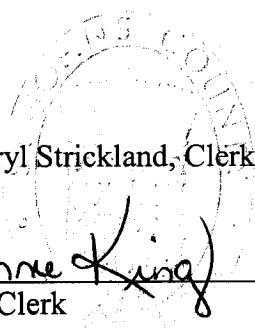
- A. This Ordinance shall be effective upon its proper filing with the Department of State of Florida.
- B. The moratorium shall remain in effect until the County receives, finds feasible, and implements a Summer Haven Infrastructure Financing Plan, and infrastructure reasonably required to meet the health, safety and welfare of the subject area to the reasonable satisfaction of the County Commission is in place, but no later than midnight on October 1, 2006, with the proviso that the Board, may by ordinance(s), terminate all or portions of the moratorium at such sooner time(s) as the Board determines that the public need for a moratorium on such portion(s) no longer exists; and the proviso that this moratorium may be extended by ordinance if reasonably required to meet the health, safety and welfare of the subject area.

**PASSED AND ENACTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 13 day of September, 2005.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

*James E. Bryant*

By: \_\_\_\_\_  
James E. Bryant, Vice Chairman



ATTEST: Cheryl Strickland, Clerk

By: *Yvonne King*  
Deputy Clerk

Rendition Date: 09/15/05

Effective Date: September 16, 2005

# THE ST. AUGUSTINE RECORD

PUBLISHED EVERY MORNING 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 **CHARLES BARRETT**  
who on oath says that he is an 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 **NOTICE OF HEARING**  
in the matter of **ORD/BUILDING PERMITS**  
was published in said newspaper in the issues of  
**AUGUST 2, 2005.**

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, for a period of one year preceding  
the first publication of the copy of advertisement; and affiant further says that  
he 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 2<sup>ND</sup> day of **AUGUST, 2005.**

by *Charles Barrett* who is personally known to me  
or who has produced **PERSONALLY KNOWN** as identification.

*Patricia A. Bergquist*  
(Signature of Notary Public)



Patricia A. Bergquist  
My Commission DD275991  
Expires December 18, 2007

(Seal)

PATRICIA A. BERGQUIST

COPY OF

### NOTICE OF PUBLIC HEARING BY THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing on Tuesday, August 9, 2005 at 9:00 a.m. in the Auditorium at the County Administration Complex, 4020 Lewis Speedway (County Road 16-A) and U.S. 1 North, St. Augustine, Florida, to consider adoption of the following ordinance:  
**ORDINANCE NO. 2005- AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, IMPOSING A MORATORIUM ON BUILDING PERMITS WITHIN A PORTION OF THE PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN AS SUMMER HAVEN (BLOCKS 3 THROUGH 65); MAKING FINDINGS OF FACT; PROVIDING FOR EXCLUSIONS TO THE MORATORIUM; PROVIDING RELATED REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE AND AN EXPIRATION DATE.**

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Complex, Room 1119, 4020 Lewis Speedway (CR 16A and U.S. 1), St. Augustine, Florida and may be examined by parties interested prior to the public hearing.

Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, the appeal must be filed with the Board of County Commissioners within 30 days of the date of the public hearing.

Notwithstanding to whom an appeal is made, which record includes the testimony and evidence upon which the appeal is based.

### NOTICE TO PERSONS WITH DISABILITIES

Persons with disabilities who need special accommodations to participate in this public hearing should contact the Clerk of the Board of County Commissioners at (904) 823-2255 or email: [clerk@stjohnscountyfla.gov](mailto:clerk@stjohnscountyfla.gov) or 270 Lewis Speedway, Room 270, St. Augustine, FL 32084. The hearing is open to the public and all interested parties are invited to attend.

CLERK OF THE BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY,  
FLORIDA  
CHERYL STRICKLAND,  
ITS CLERK  
By: Yvonne King,  
Deputy Clerk  
L1915-5 Aug 2, 2005

**THE ST. AUGUSTINE RECORD**

PUBLISHED EVERY MORNING 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 **CHARLES BARRETT**

who on oath says that he is an 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 **DISPLAY ADVERTISEMENT**

in the matter of **NOTICE REGARDING LAND USE**

was published in said newspaper in the issues of

**AUGUST 30, 2005**

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, for a period of one year preceding the first publication of the copy of advertisement; and affiant further says that he 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 **16TH** day of **SEPTEMBER, 2005**.

by *Charles Barrett* who is personally known to me  
or who has produced **PERSONALLY KNOWN** as identification.

*Patricia A. Bergquist*

(Signature of Notary Public)



Patricia A. Bergquist  
My Commission DD275991  
Expires December 18, 2007

(Seal)

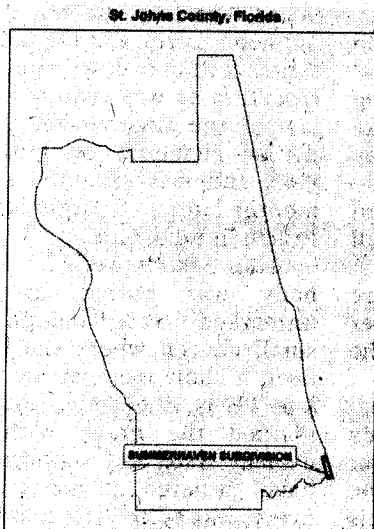
PATRICIA A. BERGQUIST

# NOTICE

## OF PUBLIC HEARING OF THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS ON ESTABLISHMENT OF ORDINANCE/REGULATIONS AFFECTING THE USE OF LAND

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at a special meeting on Tuesday, September 13, 2005 at 5:30 p.m. in the County Auditorium at the County Administrative Complex, 4020 Lewis Speedway (County Road 16-A and U.S. 1 North), St. Augustine, Florida, will hold a public hearing to consider adoption of the following proposed ordinance:

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, IMPOSING A MORATORIUM ON BUILDING PERMITS WITHIN A PORTION OF THE PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN AS SUMMER HAVEN (BLOCKS 3 THROUGH 65); MAKING FINDINGS OF FACT; PROVIDING FOR EXCLUSIONS TO THE MORATORIUM; PROVIDING RELATED REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE AND AN EXPIRATION DATE.



The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties interested prior to the said public hearings. Please take note that the proposed ordinance is subject to revision prior to the hearing or adoption. All parties having any interest in said ordinance will be afforded an opportunity to be heard at the public hearings.

If a person decides to appeal any decision made with respect to any matter considered at the hearings, such person 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: Pursuant to the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, (904) 208-0850 at the St. Johns County Administration Complex, Room 276, St. Augustine, FL 32084. For hearing impaired persons: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-345-6779, no later than 5 days prior to the date of the meeting.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA  
SHERYL STRICKLAND, ITS CLERK  
By: Patricia DeGrande, Deputy Clerk



FILED

FLORIDA DEPARTMENT OF STATE

05 SEP 22 PM 3: 22

**Glenda E. Hood**

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

CHERYL STRICKLAND  
CLERK COUNTY COMMISSION  
ST JOHNS COUNTY FL

September 19, 2005

Ms. Yvonne King, Supervisor  
Minutes and Records Department  
St. Johns County  
4010 Lewis Speedway  
St. Augustine, Florida 32084

Dear Ms. King:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 15, 2005 and certified copy of St. Johns County Ordinance No. 2005-85, which was filed in this office on September 16, 2005.

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud" with a stylized "m" or flourish at the end.

Liz Cloud  
Program Administrator

LC/kcs

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