

ORDINANCE NO. 2009 - 43

AN ORDINANCE OF ST. JOHNS COUNTY, STATE OF FLORIDA, TO BE KNOWN AS, THE ST. JOHNS COUNTY PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM PARTICIPATING IN HOLIDAY ACTIVITIES THAT WOULD PRESENT INCREASED OPPORTUNITIES FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS TO GAIN AND VIOLATE THE TRUST OF THE CHILDREN OF ST. JOHNS COUNTY; PROVIDING PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUNSET AND FOR AN EFFECTIVE DATE

WHEREAS, Article VIII, Section 1(f) of the State Constitution states that Counties not operating under county charters shall have such power of self-government as is provided by general or special law; and

WHEREAS, the Board of County Commissioners of St. Johns County, have the power to carry on County government to the extent not inconsistent with general or special law per Florida Statutes Section 125.01; and,

WHEREAS, Counties may adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law; and

WHEREAS, pursuant to Sections 943.0435; 775.21 and 944.607, Florida Statutes, sexual offenders and sexual predators must report in person to the local Sheriff's Office within 48 hours of release from custody, control and/or supervision of Department of Corrections, Department of Children and Family Services or Department of Juvenile Justice to register their temporary or permanent address; and

WHEREAS, studies show 1 in 5 girls and 1 in 10 boys will be sexually victimized before adulthood (D. Finkelhor, “Current Information on the Scope and Nature of Child Sexual Abuse.” *The Future of Children: Sexual Abuse of Children*, 1994, volume 4, page 37.); and

WHEREAS, the Supreme Court has found there is a substantial rate of recidivism among sexual offenders (*Smith v. Doe*, 538 U.S. 84, 103(U.S. 2003)); and

WHEREAS, the Supreme Court has found sexual offenders are a dangerous class and that their high recidivism poses a grave concern *Smith v. Doe*, 538 U.S. 84, 103(U.S. 2003)); and

WHEREAS, the Supreme Court has found the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance (*New York v. Ferber*, 458 U.S. 747, 757 (U.S. 1982).); and

WHEREAS, there are 50,393 known registered sexual offenders and/or sexual predators (National Center for Missing and Exploited Children, 2008) in the State of Florida; and

WHEREAS, there are 2,463 known registered sexual offenders and/or sexual predators in St. Johns County and the surrounding Counties of Duval, Clay, Putnam and Flagler, with Duval County having the highest per capita population of registered sexual offenders and sexual predators in Florida (Florida Department of Law Enforcement, July 1st, 2009.); and

WHEREAS, Halloween and other holiday activities present increased opportunities for sexual offenders and sexual predators to gain and violate the trust of the children of St. Johns County; and

WHEREAS, certain activities including, but not limited to the distribution of candy, lure children to the homes of sexual offenders and sexual predators; and

WHEREAS, limiting children’s contact with sexual offenders and sexual predators will increase children’s safety and well-being; and

WHEREAS, the Board of County Commissioners of St. Johns County are interested in promoting the general welfare and safety of the children of St. Johns County by limiting children’s contact with sexual offenders and sexual predators.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF ST. JOHNS COUNTY, FLORIDA.

SECTION ONE: TITLE

This Ordinance shall be known and may be cited as the “St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators.”

SECTION TWO: LEGISLATIVE FINDINGS AND INTENT

(a) The Board of County Commissioners of St. Johns County adopts the findings set forth in the recitals to this Ordinance as the Legislative findings and conclusions to support adoption of this Ordinance. Those recitals are incorporated herein as if fully set forth in this section.

(b) The Board of County Commissioners of St. Johns County hereby finds and determines that sexual predators and sexual offenders present an extreme threat to the public health, safety, and welfare of the children of St. Johns County. Sexual offenders and sexual predators are extremely likely to use physical violence and repeat their offenses, and most commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual predator and sexual offender victimization to society at large, while incalculable, clearly exorbitant and a drain on the resources of society.

(c) It is the sole intent of this Ordinance to reduce the potential risk of harm to children of the community by limiting the opportunity for sexual offenders and sexual predators to be in contact with unsuspecting children.

SECTION THREE: DEFINITIONS

The following terms are defined as follows for the purposes of this Ordinance:

(a) *Child, children, or minor* shall mean individuals whose chronological age is less than eighteen (18) years.

(b) *Sex offender*, for the purpose of this Ordinance, shall mean an individual who is registered by any state or federal agency as either a sexual offender or sexual predator and whose name is published on any state or federal registered sexual offender or sexual predator listing, including, but not limited to the sexual offenders and sexual predators registry established in Section 943.0435; 775.21; and 944.607, Florida Statutes.

(c) *Participation* is to be defined as actively taking part in the event.

SECTION FOUR: PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS

(a) It is unlawful for any Sex Offender to Participate in a holiday event involving children under 18 years of age, such as: distributing candy to children or other items to children on Halloween; or wearing costumes for the primary purpose of entertaining or attracting children.

(b) Any person designated a Sex Offender shall be required on October thirty-first of each year to:

(1) Avoid all Halloween-related contact with children;

(2) Post a sign at his or her residence stating, "No candy or treats at this residence";

(3) Leave all outside residential lighting off during the evening hours after 5 p.m and exhibit no exterior decorations on the Sexual Offender's residence to attract or entice children to the residence.

(c) Holiday events in which the sexual offender is the parent, or guardian of the children involved, and no non-familial children are present, are exempt from this section.

SECTION FIVE: CONFLICTS OF LAW

Unless there has been a municipal Ordinance duly enacted to the contrary, the provisions of this County Ordinance shall be uniformly enforced throughout St. Johns County by all state and local enforcement agencies. If the requirements of this Ordinance conflict with the requirement or provisions of any other Ordinance, the more restrictive requirement shall apply.

SECTION SIX: PENALTIES

The County and the Sherriff's Office may pursue any enforcement action or legal remedy available under the controlling state law and any legal remedy available to the County to include, but not limited to, arrest, a fine not exceeding \$500.00 or by imprisonment for a term not exceeding sixty (60) days or by both a fine and imprisonment, unless authorized by law. For the purposes of administrating and enforcing this Ordinance the Sherriff or Sherriff's designee, is authorized to adopt policies and guidelines not inconsistent with this Ordinance.

SECTION SEVEN: SEPARATE VIOLATIONS

Each separate occurrence of any conduct prohibited by this Ordinance shall be a separate violation.

SECTION EIGHT: OTHER REMEDIES; PREEMPTION AND SUNSET

In the event any state or federal law is enacted which is more restrictive in nature as to where a sex offender may physically be located, those portions of this Ordinance where in conflict with the state or federal law will cease to be in effect.

SECTION TEN SEVERABILITY

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall become a separate provision and will not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners further declares its intent that this Ordinance would have been adopted if such unconstitutional provision was not included.

SECTION ELEVEN: CODIFICATION

The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of St. Johns County. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION TWELVE: EFFECTIVE DATE

This Ordinance shall be effective upon filing with the Florida Department of State.

Passed and Enacted by the board of County Commissioners of St. Johns County, Florida This
6th DAY OF October, 2009.

Board of County Commissioners of
St. Johns County, Florida

By: Cyndi Stevenson
Cyndi Stevenson, Chair

RENDITION DATE 10/08/09

Attest: CHERYL STRICKLAND, CLERK
By: Patricia W. Heerde
Deputy Clerk

Effective Date 10/12/09



THE ST. AUGUSTINE RECORD

COPY OF _____ NT

NOTICE OF A 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, October 6, 2009 at 9:00 a.m. in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, to consider adoption of the following ordinance:

AN ORDINANCE OF ST. JOHNS COUNTY, STATE OF FLORIDA, TO BE KNOWN AS, THE ST. JOHNS COUNTY PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROHIBITING SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM PARTICIPATING IN HOLIDAY ACTIVITIES THAT WOULD PRESENT INCREASED OPPORTUNITIES FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS TO GAIN AND VIOLATE THE TRUST OF THE CHILDREN OF ST. JOHNS COUNTY; PROVIDING PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUNSET AND FOR AN EFFECTIVE 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 Building, 500 San Sebastian View, 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, he/she 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 to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, FL 32084. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the hearing.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, ITS CLERK
By: Patricia DeGrande, Deputy Clerk
L3199-9 Sep 22, 2009

SJC MINUTES & RECORDS C/O CLERK
ATTN MS.P DEGRANDE
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: L3199-9
P.O.#: L3199-9

PUBLISHED EVERY MORNING SUNDAY THRU SATURDAY
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **ULINDA E. VERSTRAATE**

who on oath says that he/she is an Employee 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**

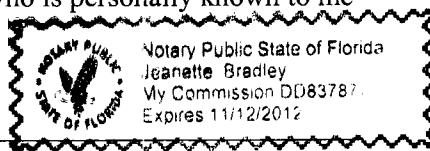
In the matter of **HEARING 10-6 ON ORD - SEXUAL OFFENDER ORDINANCE**

was published in said newspaper on **09/22/2009**

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 has 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/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 22nd day of Sept 2009
by Ulinda E Verstrate who is personally known to me
or who has produced as identification

Jeanette Bradley
(Signature of Notary Public)



(Seal)



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

October 12, 2009

Ms. Cheryl Strickland
Clerk of the Circuit Court
St. Johns County
4010 Lewis Speedway
St. Augustine, Florida 32084-8637

Attention: Ms. Patricia DeGrande, Minutes & Record Department

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 8, 2009 and certified copies of St. Johns County Ordinance Nos. 2009-40 through 2009-43, which were filed in this office on October 12, 2009.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

FILED
2009 OCT 16 AM 8:08
CLERK OF CIRCUIT COURT AND
CLERK COUNTY COMMISSION
ST. JOHNS COUNTY FL

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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