

ORDINANCE NO. 2012-35

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ESTABLISHING ADOPTED DESIGN CRITERIA AND STANDARDS FOR EXISTING COUNTY ROADS IN ENVIRONMENTALLY CHALLENGING LOCATIONS; RECOGNIZING AND DEFINING MEANINGFUL ACCESS FOR USERS OF SUCH ROADS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Florida Statutes (FS) Ch. 334, the Florida Department of Transportation ("Department") has the power to develop and adopt uniform minimum standards and criteria for the design, construction, maintenance, and operation of public roads; and

WHEREAS, Section 336.045, FS provides for the uniform minimum standards for design, construction, and maintenance of County roads, as provided by the Department; and

WHEREAS, the Department has adopted uniform minimum standards and criteria for the design, construction, maintenance, and operation of public roads and published such standards and criteria in the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, which is commonly known as the "Florida Greenbook"; and

WHEREAS, the Florida Greenbook standards are intended for use on all new construction projects off the state highway and federal aid systems, and it is understood that the standards of the Florida Greenbook cannot be applied completely to all reconstruction and maintenance type projects; however, the Florida Greenbook standards shall be applied to the extent that economic and environmental considerations in existing development will allow; and

WHEREAS, Chapter 14 of the Florida Greenbook allows for "Design Exceptions" in instances where it becomes necessary to deviate from the Florida Greenbook's criteria; and

WHEREAS, Section B of Chapter 14 of the Florida Greenbook states that counties may adopt design criteria for local subdivision roads and/or residential streets by ordinance, and compliance with such regulations is an approved Design Exception; and

WHEREAS, Section 163.3178(1), FS, provides that it is the intent of the legislature that local governments restrict development activities where such activities would damage or destroy coastal resources and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disasters; and

WHEREAS, Section 163.3177(6)(g)6., FS, requires local governments to limit expenditures that subsidize development in coastal high hazard areas; and

WHEREAS, due to economic considerations, as well as forces of nature and other environmental concerns, St. Johns County seeks to create a Design Exception that establishes design criteria and standards for existing roads in environmentally challenging locations and defines meaningful access for users of such County roads; and

WHEREAS, the Board finds that adoption of the provisions set forth in this ordinance is in the best interest of the citizens of St. Johns County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

Section 1. DEFINITIONS

The following words, terms and phrases will have the meanings as stated.

Commercially available land vehicle means a vehicle that is designed for a driver, one or more passengers, and is able to carry household goods or supplies, including a four wheel drive vehicle.

Environmentally challenging locations means

- (a) locations where typical road design criteria and standards are infeasible due to the economic implications of naturally occurring conditions, including, but not limited to:
 - 1. Conditions that repeatedly damage and/or threaten the road to the extent that certain types of vehicles may not be able to safely access the road;
 - 2. Conditions that interfere with maintenance and repair of the road;
 - 3. Conditions where the presence, maintenance, or repair of the road has an identifiable detrimental impact on a protected resource (such as, but not limited to, wetland, habitat, dune, or estuary);
 - 4. Conditions where maintenance and repair activities necessary to keep the road in service increase or exacerbate the detrimental impact of the road on the protected resource; or
- (b) locations subject to permitting requirements of State and/or Federal agencies for activities that would be considered routine maintenance and repair in other locations that are not subject to such requirements.

Meaningful access means the ability to use some type of commercially available land vehicle on a road or portion of a road owned and maintained by the County for access to private property. For property along formerly opened State or County roads, or portions thereof, meaningful access shall include access to such property by way of necessity by law or in fact.

Section 2. APPLICABILITY

This ordinance shall apply to existing County owned and maintained roads.

The County, by resolution, and considering factors such as environmental conditions, history and estimates of repair and maintenance costs, frequency of damage, and existing development in the area, may designate specific County owned and maintained roads, or portions thereof, as roads that are located in environmentally challenging locations, and thus subject to the Design Exception created herein.

Section 3. DESIGN CRITERIA

- (a) The design criteria listed herein are being adopted for the express purpose of serving as an approved Design Exception to the uniform minimum standards and criteria for the design, construction, maintenance, and operation of public roads, pursuant to Chapter 14 of the Florida Greenbook.
- (b) Due to forces of nature and environmental conditions, access to property accessed by roads that are located in environmentally challenging locations may be limited. In such instance, the Board of County Commissioners may determine that forces of nature and environmental conditions have made it cost prohibitive to maintain the County's general road standards, and may, by resolution, designate such a road as being located in an environmentally challenging location.
- (c) For existing County-owned and maintained roads that are or may be designated as being located in environmentally challenged locations, the minimum standards of maintenance shall differ from the County's general minimum standards of maintenance due to the naturally occurring conditions of environmentally challenging locations.
- (d) Roads in environmentally challenging locations may experience conditions that reasonably necessitate that the County's design criteria for general road standards are altered to the point that the following conditions may be present in providing meaningful access:
 - 1. Unpaved surfaces and sub-surfaces composed of material such as muck, sand, clay, or organic material.

2. Sub-standard lane widths, single lanes and varying maintained width in different locations along the roadway and at different points in time.
 3. Vehicle type, size and weight limitations.
 4. Periods of time when the road may be submerged, buried by soil, covered by sand, or blocked by vegetative debris.
 5. No assurance that emergency vehicles (e.g., fire, ambulance, police) or public service vehicles (e.g., garbage collection, mail service, parcel delivery, school bus service) can use or routinely use the road for access to improvements.
 6. Paved surfaces with intermittent pavement, 'potholes', cracks, or loose material.
 7. Other conditions that cause the road to be in substandard condition.
- (e) Property owners with existing improvements that are accessed by roads that are located in environmentally challenging locations may encounter access issues. Factors that may affect access to a parcel of property include, but are not limited to:
1. The original natural physical characteristics of the area where the parcel is located;
 2. The original planned method of access to the parcel from where the nearest County owned and maintained road is located;
 3. Any substantial changes to the physical characteristics of the area where the parcel is located, whether man-made or natural; and
 4. The inability of the County to repair a road due to regulations in place by any federal, state, or local government agency.
- (f) Access to private property served by existing County-owned and maintained roads in environmentally challenging locations may be limited by naturally occurring conditions beyond the reasonable control of the County. Resulting circumstances may include, but are not limited to:
1. Roadway conditions that require the use of a four wheel drive (or other specially designed) vehicle for passage.
 2. Periods of time before roadway repair will be accomplished when vehicular access is not possible or is more limited than usual.

3. Extended periods when access and the roadway is impassable to vehicles or more limited than usual within the right-of-way owned by the County.
 4. Instances where roadway repair cannot be accomplished without permits issued by State or Federal agencies for necessary impacts to a protected resource.
- (g) Any owner of real property located adjacent to a road in an environmentally challenging area that rents such property out for more than fourteen (14) days in a single calendar year is deemed to have meaningful access regardless of the roadway conditions. Any other parcels of real property located between such parcel and the nearest access road or cross street used for access to the road on which the real property is located shall also be deemed to have meaningful access.
- (h) Except as otherwise determined by the Board of County Commissioners, the County shall have no affirmative duty to construct, or permit others to construct, new roads or extend existing roads in environmentally challenging locations; nor shall the County have any affirmative duty to permit construction on property where the County determines that the access to such property is inadequate.
- (i) The County has no obligation to improve any portion of a County-owned and maintained road in an environmentally challenging location that is adjacent to a private property-owner who purchases such property at a time when any of the conditions or circumstances listed in section (3)(f) of this ordinance are already in existence, or after the County has acted to designate the road as provided by Section 2 of this Ordinance.
- (j) Nothing contained herein shall prohibit owners of private property served by existing County-owned and maintained roads in environmentally challenging locations from petitioning the Board of County Commissioners for a vacation of the road, or for the establishment of a Municipal Services Benefit Unit (MSBU) and/or a Municipal Services Taxing Unit (MSTU) for road improvement purposes.

Section 4. CONFLICTS OF LAW

Any provision of another County ordinance or regulation relating to road maintenance or development of private property on roads affected by forces of nature that is in conflict with this Ordinance is hereby repealed.

Except as provided in the paragraph above, whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

Section 5. SEVERABILITY

It is the Board's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

Section 6. EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

DULY PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 4th day of December, 2012.

ATTEST: Cheryl Strickland, Clerk

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: *Yvonne King*
Deputy Clerk

By: *[Signature]*
John H. Morris, Chair

Effective Date: 12/11/12

Rendition Date: 12/10/12



THE ST. AUGUSTINE RECORD

MINUTES AND RECORDS
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: L3299-12
P.O.#: HG 12-04

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 **STEVEN SMITH**

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 **ENVIRON CHALL ROADS - HEARING DECEMBER 4, 2012**

was published in said newspaper on **11/24/2012**

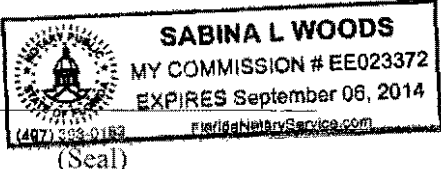
Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore has been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post 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 26th day of NOV - - 2012

by *Steven Smith* who is personally known to me or who has produced as identification

Sabina Woods

(Signature of Notary Public)



COF

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, December 4, 2012, 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 THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ESTABLISHING ADOPTED DESIGN CRITERIA AND STANDARDS FOR EXISTING COUNTY ROADS IN ENVIRONMENTALLY CHALLENGING LOCATIONS; RECOGNIZING AND DEFINING MEANINGFUL ACCESS FOR USERS OF SUCH ROADS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; AND 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
ST. JOHNS COUNTY, FLORIDA**
CHERYL STRICKLAND, ITS CLERK
By: Yvonne Kins, Deputy Clerk
L3299-12 Nov 24, 2012



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 11, 2012

Ms. Cheryl Strickland
Secretary
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

Attention: Ms. Yvonne King, Deputy Clerk

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated December 10, 2012 and certified copies of Ordinance Nos. 2012-34 and 2012-35, which were filed in this office on December 11, 2012.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/elr

2012 DEC 14 PM 2:50
RECEIVED
ST. JOHN'S COUNTY
FLORIDA