

ST. JOHNS COUNTY ORDINANCE 2016- 29

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS FOR ST. JOHNS COUNTY, FLORIDA PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT OF THE FLORIDA FIRE PREVENTION CODE; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE ARE CIVIL INFRACTIONS; PROVIDING PENALTIES; ESTABLISHING A FIRE CODE BOARD OF APPEALS; PROVIDING FOR BOARD OF APPEALS RULES AND REGULATIONS; ESTABLISHING AUTHORITY OF BOARD OF APPEALS; PROVIDING FOR MEANS OF APPEALS; PROVIDING FOR MEETINGS OF THE BOARD OF APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR VENUE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. Definitions.

A. *Board of Appeals* means the Fire Code Board of Appeals established in Section 4 of this ordinance.

B. *Code* means the Florida Fire Prevention Code, as adopted by the State Fire Marshal pursuant to Section 633.202, Florida Statutes.

C. *County* means St. Johns County, Florida.

D. *County Fire Marshal* means the St. Johns County Fire Marshal, or his or her designee.

E. *Days* means calendar days.

E. *Division* means the St. Johns County Fire Rescue Division.

F. *Officer* means any St. Johns County Fire Rescue Division employee whose duties include enforcement of the Florida Fire Prevention Code.

Section 2. Enforcement of Florida Fire Prevention Code.

A. The Florida Fire Prevention Code, as adopted by the State Fire Marshal pursuant to Section 633.202, Florida Statutes, shall be enforced by the Division.

B. The County Fire Marshal may use any means authorized by law to enforce the Code, including the issuance of civil citations. A civil citation issued pursuant to this ordinance shall comply with the requirements of Section 633.214, Florida Statutes, and shall contain the following information:

1. The date and time of issuance;
2. The name and address of the person to whom the citation is issued;
3. The date and time the civil infraction was committed;
4. The facts constituting probable cause of the violation;
5. The Code section or sections violated;
6. The name and authority of the fire safety inspector;
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
8. The applicable civil penalty if the person elects to contest the citation;
9. The applicable civil penalty if the person elects not to contest the citation; and
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, then she or he shall be deemed to have waived her or his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

Section 3. Violations and Penalties.

A. A violation of any section of the Code shall constitute a violation of this ordinance. Any such violation shall be a civil infraction. Violations of this ordinance shall be enforced as provided in Chapter 162, Part II, Florida Statutes.

B. Any officer who has probable cause to believe that a person has committed a violation of this ordinance may issue a civil citation that complies with the requirements set forth in Section 2.B above.

C. Violations of this ordinance shall include fines as follows:

	<u>Uncontested Violation</u>	<u>Contested Violation</u>
1. First violation:	\$75.00	\$93.00
2. Second violation:	\$150.00	\$168.00
3. Third violation:	\$250.00	\$268.00
4. Fourth and subsequent violation:	\$482.00	\$500.00

D. It shall be a violation of this ordinance for any person to willfully refuse to sign and accept a citation issued pursuant to this ordinance.

E. A citation issued pursuant to this ordinance may be contested in county court.

F. The provisions of this ordinance are intended to be supplemental in nature. Nothing in this ordinance shall prevent the enforcement of the provisions of this ordinance or the Code by any other lawful means.

Section 4. Fire Code Board of Appeals Established.

A. In accordance with the Code and NFPA 1, a Fire Code Board of Appeals is established to rule on matters relating to the Code and its enforcement.

B. Members of the Board of Appeals shall be appointed by the Board of County Commissioners.

C. The Board of Appeals shall consist of seven principal members and one non-voting ex officio representative of the County. Each principal member shall be permitted to have an alternate with similar experience to serve in his or her stead when necessary. Members and alternates shall be appointed based on their education, experience, and knowledge. Members and alternates shall be composed of individuals experienced in the following fields or professions:

1. Engineering or architectural design;
2. General contracting;
3. Fire protection contracting;
4. Fire department operations or code enforcement;
5. Building code enforcement;
6. Legal; and
7. General public.

No more than one member shall represent the same field or profession listed above at any given time.

D. Members and alternates shall be appointed to 3-year terms.

E. Members of the Board of Appeals shall be subject to the provisions of Chapter 112, Part III, Florida Statutes, including the requirement to file a limited financial disclosure in accordance with the requirements of Section 112.3145, Florida Statutes.

F. The Board of Appeals shall select one of its members to serve as chair and one member to serve as vice chair.

G. The County ex officio member shall be a Division employee. The ex officio member shall be entitled to participate in all discussions but shall not be entitled to vote.

Section 5. Board of Appeals Rules and Regulations.

The Board of Appeals may establish rules and regulations for conducting its business that are consistent with the provisions of the Code.

Section 6. Authority of Board of Appeals.

A. The Board of Appeals shall provide for the reasonable interpretation of the provisions of the Code and issue rulings on appeals of decisions of the County Fire Marshal.

B. The rulings of the Board of Appeals shall be consistent with the letter of the Code or, when involving issues of clarity, ensuring that the intent of the Code is met with due consideration for public safety and fire fighter safety.

C. The Board of Appeals shall have the authority to grant alternatives or modifications through procedures outlined in Section 1.4 of the Code.

D. The Board of Appeals shall not have the authority to waive the requirements of the Code.

E. Board of Appeals decisions shall not be precedent-setting.

Section 7. Means of Appeals.

A. Any person with standing shall be permitted to appeal a decision of the County Fire Marshal to the Board of Appeals when it is claimed that one or more of the following conditions exist:

1. The true intent of the Code has been incorrectly interpreted;
2. The provisions of the Code do not fully apply; or
3. A decision is unreasonable or arbitrary as it applies to alternatives or new materials.

B. An appeal shall be submitted to the County Fire Marshal in writing within 30 calendar days of notification of violation. The appeal shall outline all of the following:

1. The Code provision(s) from which relief is sought;
2. A statement indicating which provisions of Section 7.A apply;
3. Justification as to the applicability of the provision(s) cited in Section 7.A;
4. A requested remedy; and

5. Justification for how the requested remedy stating specifically how the Code is complied with, public safety is secured, and fire fighter safety is secured.

The appeal shall be accompanied by a Fire Code appeals fee at the time the appeal is submitted. The amount of the Fire Code appeals fee shall be set by resolution of the Board of County Commissioners. No appeal shall be accepted unless it is accompanied by payment of the fee. Upon receipt of an appeal, the County Fire Marshal shall forward the appeal, along with all supporting documentation, to the Board of Appeals

C. A hearing before the Board of Appeals shall be held within 30 days of submission of the appeal to the County Fire Marshal. Notice of the hearing shall be provided to all parties at least 10 days prior to the hearing. Documentation supporting the appeal shall be submitted to the County Fire Marshal at least 7 days prior to the hearing. All hearings before the Board of Appeals shall be open to the public.

D. Pending the disposition of an appeal, the order or decision of the County Fire Marshal sought to be appealed shall be stayed unless the County Fire Marshal certifies under oath that an extreme danger to life or property exists warranting immediate compliance under the Code. Such certification shall be included in the Fire Marshal's order or decision and shall be forwarded to the Board of Appeals within 10 days after the appeal is filed.

Section 8. Board of Appeals Meetings.

A. Meetings of the Board of Appeals shall be held at the call of the chair, at such other times as the Board of Appeals determines, and within 30 days of the filing of a notice of appeal.

B. Meetings of the Board of Appeals shall be subject to all requirements of Florida's Government in the Sunshine Law.

C. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, these actions shall be recorded in the minutes.

D. The Board of Appeals shall keep records of its examinations and other official actions.

E. Minutes and records of the Board of Appeals shall be public record.

F. A quorum shall consist of no less than 5 members or alternates.

G. In varying the application of any provision of the Code, or in modifying an order of the County Fire Marshal, a two-thirds vote of the quorum shall be required.

Section 9. Board of Appeals Decisions.

A. Every decision of the Board of Appeals shall be entered into the minutes of the board meeting.

B. A decision of the Board of Appeals to modify an order of the County Fire Marshal shall be in writing and shall specify the manner in which such modification is made, the conditions upon which it is made, and justification linked to specific Code sections. Decisions of the Board of Appeals shall be provided to the Fire Marshal and the appellant.

C. The decision of the Board of Appeals shall be final, subject to such remedy as any aggrieved party may have through legal, equity, or other avenues of appeal or petition.

D. If a decision of the Board of Appeals reverses or modifies a refusal, order, or disallowance of the County Fire Marshal, or varies the application of any provision of the Code, the County Fire Marshal shall take immediate action in accordance with the decision.

Section 10. Applicability of Board of County Commissioners Rules and Policies.

The Board of County Commissioners Rules and Policies with respect to appointed boards and committees shall apply to the Board of Appeals. To the extent that the Board of County Commissioners Rules and Policies conflict with the provisions of this ordinance, the provisions of this ordinance shall control.

Section 11. Severability.

To the extent any part of this ordinance is deemed invalid, unconstitutional, or otherwise unenforceable by a court of competent jurisdiction, such part shall be severable and shall not affect the remainder of this ordinance, not having been deemed invalid, unconstitutional, or otherwise unenforceable.

Section 12. Venue.

Venue for any legal or administrative action arising under this ordinance shall lie exclusively in St. Johns County, Florida.

Section 13. Effective Date.

This ordinance shall be effective upon being filed with the Secretary of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County this 7th day of June, 2016.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

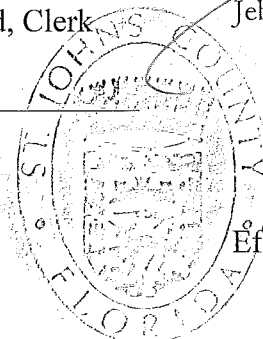
By: Jeb S. Smith
Jeb S. Smith, Chair

ATTEST: Hunter S. Conrad, Clerk

By: Yvonne King
Deputy Clerk

RENDITION DATE June 9, 2016

Effective Date: June 9, 2016



THE ST. AUGUSTINE RECORD

MINUTES AND RECORDS
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: 16756570D
P.O.#:

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

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

NOTICE OF A PUBLIC HEARING OF 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 to consider adoption of the following proposed ordinance at a regular meeting on Tuesday, June 7, 2016, at 9:00 a.m., in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT OF THE FLORIDA FIRE PREVENTION CODE; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE ARE CIVIL INFRACTIONS; PROVIDING PENALTIES; ESTABLISHING A FIRE CODE BOARD OF APPEALS; PROVIDING FOR BOARD OF APPEALS RULES AND REGULATIONS; ESTABLISHING AUTHORITY OF BOARD OF APPEALS; PROVIDING FOR MEANS OF APPEALS; PROVIDING FOR MEETINGS OF THE BOARD OF APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR VENUE; AND PROVIDING AN EFFECTIVE DATE

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, and may be examined by parties interested prior to the said public hearing. 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 hearing.

If a person decides to appeal any decision made with respect to any matter considered at the hearing, 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: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact the ADA Coordinator at (904) 209-0650 at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, Florida 32084. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the meeting.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
HUNTER S. CONRAD, ITS CLERK
By: Yvonne King, Deputy Clerk

16756570A May 24, 2016

Before the undersigned authority personally appeared **NICOLE CORRIVEAU**

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 **FIRE PREVENTION CODE - HEARING 6/7/16**

was published in said newspaper on **05/24/2016**

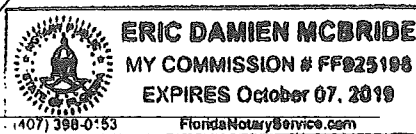
Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore has been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post 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 _____ day of MAY 24 2016

by Mick Corvian who is personally known to me
or who has produced as identification



(Signature of Notary Public)



(Seal)



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 9, 2016

Honorable Hunter S. Conrad
Clerk of Court
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

Attention: Ms. Yvonne King, Deputy Clerk

Dear Mr. Conrad:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of St. Johns Ordinance No. 2016-29, which was filed in this office on June 9, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

FILED June 9 2016
ST. JOHNS COUNTY
CLERK OF COURT
BY: Yvonne King
DEPUTY CLERK