**ORDINANCE 2017-41**

**AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA; RECOGNIZING THE IMPORTANCE OF HOMEOWNERS ASSOCIATIONS AND PROPERTY OWNERS ASSOCIATION IN FURTHERING THE ORDERLY DEVELOPMENT OF ST. JOHNS COUNTY; DECLARING THAT CERTAIN REGISTERED ASSOCIATIONS RECEIVE NOTICE OF DEVELOPMENT PERMIT APPLICATIONS THAT MAY REQUIRE ARCHITECTURAL REVIEW BY AN ASSOCIATION; CREATING A REGISTRATION AND NOTIFICATION PROCESS FOR REGISTERED ARCHITECTURAL REVIEW ASSOCIATIONS; CREATING APPLICABLE FEES; PROVIDING AN EFFECTIVE DATE.**

## RECITALS

**WHEREAS**, Chapter 720, Florida Statutes, allows Home Owners Associations to establish private declarations, covenants, and restrictions on real property subject to the jurisdiction of those Associations; and

**WHEREAS**, the County does not have or enjoy the legal right to enforce private covenants and restrictions on real property; and

**WHEREAS**, former Land Development Code (LDC) Section 5.03.02.H required approval from a Registered Architectural Review Association (RARA) prior to the approval of a building permit; and

**WHEREAS**, the Board of County Commissioners intends to avoid unnecessary public and private expense by providing that a Registered Community with Architectural Review Authority is made aware that a Development Permit may be issued within their Community; and

**WHEREAS**, the Board of County Commissioners desires to establish a procedure to assure that Owners in a Community where the Association exercises Architectural Review Authority pursuant to the Declaration, are provided notice upon submission of a Development Permit; and

**WHEREAS**, this notice procedure is in lieu of the approval required by former LDC Section 5.03.02.H;

**BE IT ORDAINED** by the Board of County Commissioners of St. Johns County:

Section 1. Adoption of Recitals.

The above recitals are adopted and incorporated in this Ordinance as legislative findings of fact.

Section 2. Short Title.

This Ordinance shall also be known as the Registered Architectural Review Association (RARA) ordinance.

Section 3. Definitions.

a. "Architectural Approval" means the approval given to the Owner of a Parcel of the plans and specifications for the location, size, type, or appearance of any structure or other improvement (temporary or permanent) on a Parcel by an Association which is empowered with Architectural Review Authority for the particular type of improvement or activity, for the Community in which the Parcel is situated.

b. "Development Permit" for the purposes of this Ordinance means a required clearance sheet, building permit, or other required development permit authorizing an Owner to construct, alter, renovate, rehabilitate, reconstruct, or demolish buildings, structures, or other improvements, on the Owner's Parcel. The term "Development Permit" includes, where applicable, permits for:
   (1) Single-Family and Multi-Family structures
   (2) Temporary structures, modular buildings, modular homes.
   (3) Signs.
   (4) Portable housing units.
   (5) Accessory structures.
   (6) Awnings.
   (7) Additions to existing structures.
   (8) Land alteration as it relates to construction.
   (9) Land clearing as it relates to construction.
   (10) Tree removal.
   (11) Swimming pools.

c. Notwithstanding the preceding, the term "Development Permit" excludes permits whose scope is limited to:
   (1) Non-commercial signs.
   (2) Public signs.
   (3) Interior improvements, alterations, renovations, reconstruction, rehabilitation or demolition where the permitted work will be wholly conducted within an existing structure and which not affect the exterior appearance of such structure.
   (4) Emergency repairs reasonably necessary to avoid damage to persons or property.
   (5) Construction or alterations of the roads, utilities, stormwater management facilities and similar improvements pursuant to a Final Subdivision Plat and related Development Plan.
   (6) Work within areas in the Community other than within a Parcel, such construction or alteration of roads, utilities, or stormwater management facilities even if such work incidentally alters one or more Parcels.
   (7) Subdivision entrance signs even if within a Parcel; any work within the Community initiated by the Association, governmental body, or utility.

d. "Architectural Review Authority" means the particular authority vested by the Declaration in an Association to review and approve certain plans and specifications for the location, size, type, or appearance of any applicable structure or other improvement (temporary or permanent) on a Parcel, or to enforce standards for the external appearance of any structure or improvement (temporary or permanent) located on a Parcel.

e. "Association" means a Florida corporation responsible for the operation of a Community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term "Association" does not include a community development district or other similar special taxing district created pursuant to statute. The term "Association" also includes any architectural review board or committee appointed by the Association to review proposed improvements or alterations within the community, when exercising Architectural Review Authority on behalf of the Association.

f. "Community" means the real property that is or will be subject to a Declaration which is recorded in St. Johns County, Florida. The term "Community" includes all real property, including undeveloped phases, that is or was the subject of a planned unit development ordinance or development-of-regional-impact development order, together with any approved modifications thereto.

g. "Declaration" means a recorded written instrument, including any supplements, modifications, or amendments, in the nature of covenants running with the land which subjects the land comprising the Community to the jurisdiction and control of an Association or Associations in which the owners of the parcels, or their Association representatives, must be members. "Declaration" also includes any other instrument referred to in the Declaration such as architectural guidelines, articles of incorporation or bylaws which pertain to Architectural Review Authority for the Community.

h. "Developer" means a person or entity that creates the Community served by the Association; or succeeds to the rights and liabilities of the person or entity that created the Community served by the association, provided that such is evidenced in writing.

i. "Owner" means the record owner of legal title to a Parcel.

j. "Parcel" means a platted or unplatted lot, tract, unit, or other subdivision of real property within a Community intended for the construction of a private dwelling or other buildings that requires an Development Permit. The term "Parcel" does not

include lands within a Community owned by the Association, governmental body, or utility.

k. "Registered Community" means a Community which has been registered by its Association with the County according to the provisions of this Ordinance. A Community will no longer be considered a "Registered Community" upon expiration of the registration term, unless the registration is timely renewed.

l. "Turnover" means the transition of control of the Association in a Community from the Developer to the other members of Association pursuant to Section 720.307, Florida Statutes.

Section 4. Purpose and Scope.

The purposes of this Ordinance are to establish a procedure to assure that Owners in a Community where the Association exercises Architectural Review Authority pursuant to the Declaration, are provided notice upon submission of a Development Permit.

This Ordinance is intended to avoid unnecessary public and private expense by providing that a Registered Community with Architectural Review Authority is made aware that a Development Permit may be issued within their Community. This Ordinance does not delegate final authority to any Association to deny or delay the issuance of a Development Permit, or to obligate the County to interpret or enforce any provisions of a Declaration. No Association will be deemed to be acting as an agent, committee, or authority of the County by reason of registration under the provisions of this Section. This Ordinance is not a guarantee of notice, nor does any failure to comply with this Ordinance constitute a jurisdictional defect requiring revocation, delay, modification, or denial of a Development Permit.

Section 5. Registration.

Any Association which by a Declaration is vested with Architectural Review Authority for its Community and which otherwise satisfies the requirements of this Ordinance may register its Community with the County.

a. Eligibility Requirements.

The subject Community and its Association must meet the following requirements:

(1) The Association must be a Florida domestic non profit corporation with active status according to the records of the Florida Department of State.
(2) The Association must be a "homeowners association" as defined by Chapter 720, Florida Statutes.
(3) The Declaration for the Community must vest the Association with Architectural Review Authority for the Community.
(4) The Community must contain not less than 10 individual Parcels.
(5) The Association must be actively exercising Architectural Review Authority for its

Community including adoption and implementation of procedures to timely receive, review, and respond to applications by Owners for Architectural Approval.

b. Registration Procedures

Registration of an eligible Association and Community must be made according to the following procedures:

(1) Applications are submitted to the Growth Management Department upon forms promulgated by the Growth Management Department.

(2) A Registration Fee must accompany an Application for registration. Fees for implementation of this Ordinance are set by resolution of the Board of County Commissioners.

(3) Applicants must certify that they are in compliance with the eligibility requirements of this Section.

(4) Applications must include the following information:

(A) Registration Fee.
(B) Name of the Association.
(C) Corporate Document Number assigned by the Florida Department of State.
(D) E-mail, name, mailing address, and phone number for the Association's representative responsible for coordination of Architectural Approval.
(E) Legal description by written legal description, or property appraiser's parcel number of the Community.
(F) Opinion letter issued by an active member of the Florida Bar certifying, based upon review of the Declaration, applicable public records, and corporate documents of the Association that:
  (i) The Association is a Florida not for profit corporation in good standing.
  (ii) The Association, or a committee appointed by the Association has and is actively exercising, Architectural Review Authority for the Community.
  (iii) Turnover for the Community has occurred.
  (iv) The Association by Declaration is vested with Architectural Review Authority for its Community.
  (v) The specific scope by type of improvement and activity of Architectural Review Authority.
(G) Any other information determined by the County Administrator to be reasonably necessary to ensure eligibility as provided by paragraph 3.a. above.
(H) (OPTIONAL) Facsimile of the stamp which the Association proposes to affix to plans which have received Architectural Approval.

(5) Within thirty (30) days after the receipt of the application each registration is reviewed by Growth Management and either (i) accepted, (ii) determined incomplete, or (iii) disapproved. The Growth Management Department will notify the applicant within such 30 day period specifying missing documentation or reason for disapproval. An applicant may supplement an incomplete application within 30 days of notice that the application was incomplete. If not supplemented and determined to be complete, an incomplete application is deemed withdrawn 30 days after notice that the application was incomplete.

(6) Registrations are valid for 5 years after an application is approved. In order to promote efficiency and flexibility in the administration of this program, the County Administrator may establish a uniform expiration day and month for all registrations and in such event all registrations shall expire on the first uniform expiration date which is at least 5 years following approval of the registration application.

(7) Any Registered Community may renew its registration for additional terms of 5 years each. Renewal applications are the same as initial registration and must be submitted no sooner than 6 months prior to the expiration of the current registration. If approved, the renewal term will be for 5 years from the expiration date of the current term.

c. Effect of Registration.

Upon acceptance of a registration application the Community is considered a Registered Community so long as there is a valid, unexpired registration. If a registration expires for a Community, that Community will no longer be considered a Registered Community and will no longer receive notice of Development Permits. Registration does not cause the Association to be considered an agent or agency of the County for any purpose, nor does registration cause the Association to be subject to the quasi-judicial procedures of the County or other laws or regulations applicable to the County or its agencies.

d. Changes to submitted information.

Registered Communities may submit changes and update the information on file with the County.

Section 6. Notice and Issuance of Permits in Registered Communities.

Automatic Notice to ARB upon submission of Permit Application:

Notification of the submission for a Development Permit shall be provided to the e-mail address of the Association's Representative upon intake and processing of the application for a Development Permit. Notices will include, but are not limited to, the following information:

a. The address, Tax Parcel Number, or provided location associated with the Development Permit.

b. The type of Development Permit.
c. File Number of the Development Permit.
d. Contact information of the Owner of the Parcel or the Owner's representative or agent.

Notices will be marked as important or with importance. Notices will also have a statement that the Declarations or architectural design are not enforced by St. Johns County nor is the County able to provide information of a Development Permit's compliance with Declarations. Representatives should contact the applicant for compliance and consistency with the Declarations.

Development Permits will be issued by St. Johns County pursuant to the applicable County codes or ordinances the County may enforce. Nothing in this Ordinance constitutes a waiver by an Association of applicable portions of its Declaration.

Section 7. Communities Registered Prior to this Ordinance.

Registered Communities previously approved pursuant to Ordinance 2010-23, as amended, Section 5.03.02.H of the St. Johns County Land Development Code (Ordinance 99-51), upon payment of the Registration Fee, shall automatically be considered to have registered and have received approval pursuant to this Ordinance. Re-registration of these previously approved Communities shall be at the date normally required for re-registration pursuant to former Section 5.03.02.H of the Land Development Code.

Section 8. Enforcement. Disclaimer.

A. Errors by St. Johns County staff pertaining to this Ordinance shall not be deemed grounds for a cause of action, petition for writ of certiorari, or any element thereof.
B. No right to notice or participation in local government matters provided for in this Ordinance shall cancel or replace any concurrent right of a person or entity under another provision of federal, state, or local law.
C. The County makes every effort to send the notification to the designated representative but are not responsible for e-mails not received.
D. Non-compliance of a Development Permit with a Declaration is not grounds for delay, revocation, denial, or modification of the Permit or interference with the application review process by St. Johns County.
E. Nothing in this Ordinance constitutes a waiver of any person or association to appeal or contest the issuance of a Development Permit, or constitutes a waiver of any applicable time frame for appeal.

Section 9. Modification.

It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance enacted by the Board and filed with the Clerk to the Board.

Section 10. Ordinance to be Liberally Construed. This ordinance shall be liberally construed to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 11. Severability.

It is the intent of the Board and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid, or unconstitutional the remaining provisions, sections, subsections, clauses, phrases or provisions of this Ordinance.

Section 12. Effective Date.

This Ordinance shall be effective upon a certified copy being filed with the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 5th day of September, 2017.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____
James K. Johns, Chair

ATTEST: Hunter S. Conrad, Clerk of Court

By: Jonne King
Deputy Clerk

Effective Date: SEP 07 2017

RENDITION DATE SEP 07 2017

ST. JOHNS COUNTY FLORIDA

# THE ST. AUGUSTINE RECORD

COPY OF AD

MINUTES AND RECORDS
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: 17387811A
P.O.#:

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 **JAMIE WILLIAMS** 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 **9/5 RARA ORDINANCE - 9/5 RARA ORDINANCE** was published in said newspaper on **08/21/2017**

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 AUG 2 1 2017

by Jamie Williams who is personally known to me or who has produced as identification

ERIC DAMIEN MCBRIDE
MY COMMISSION # FF925198
EXPIRES October 07, 2019
(407) 398-0153 FloridaNotaryService.com

(Signature of Notary Public) (Seal)

NOTICE OF 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 ordinance at a regular meeting on Tuesday, September 5, 2017, at 9:00 a.m. in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida:

AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA; RECOGNIZING THE IMPORTANCE OF HOMEOWNERS ASSOCIATIONS AND PROPERTY OWNERS ASSOCIATION IN FURTHERING THE ORDERLY DEVELOPMENT OF ST. JOHNS COUNTY; DECLARING THAT CERTAIN REGISTERED ASSOCIATIONS RECEIVE NOTICE OF DEVELOPMENT PERMIT APPLICATIONS THAT MAY REQUIRE ARCHITECTURAL REVIEW BY AN ASSOCIATION; CREATING A REGISTRATION AND NOTIFICATION PROCESS FOR REGISTERED ARCHITECTURAL REVIEW ASSOCIATIONS; CREATING APPLICABLE FEES; 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 interested parties prior to the said public hearing. Please take note that the proposed ordinance is subject to revision prior to 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.

BOARD OF COUNTY
COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
HUNTER S. CONRAD, ITS CLERK
By: Yvonne King, Deputy Clerk
17387811A August 21, 2017

# FLORIDA DEPARTMENT of STATE

**RICK SCOTT**
Governor

**KEN DETZNER**
Secretary of State

September 7, 2017

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

Attention: Ms. Yvonne King

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. 2017-41, which was filed in this office on September 7, 2017.
Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

SEP 07 2017
FILED
ST. JOHNS COUNTY
CLERK OF COURT
BY: Yvonne King
DEPUTY CLERK

**R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250**
**Telephone: (850) 245-6270**
**www.dos.state.fl.us**