

9

**AGENDA ITEM  
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

*Deadline for Submission - Wednesday 9 a.m. – Thirteen Days Prior to BCC Meeting*

**9/19/2023**

**BCC MEETING DATE**

**TO:** Joy Andrews, Interim County Administrator **DATE:** August 1, 2023

**FROM:** Bradley Bulthuis, Senior Assistant County Attorney **PHONE:** 904 209-0805

**SUBJECT OR TITLE:** Second Reading of Proposed Amendments to St. Johns County Ordinance No. 2009-43, the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators

**AGENDA TYPE:** Business Item, Ordinance, Report

**BACKGROUND INFORMATION:**

At its regular meeting on August 1, 2023, the Board of County Commissioners heard the first reading of proposed amendments to the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators, Ordinance No. 2009-43. The ordinance seeks to reduce the 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. The proposed amendments to the ordinance (attached to this item) would include additional prohibitions on participation in holiday activities by sexual offenders and sexual predators and would remove a requirement regarding signage that may be subject to constitutional challenge under the First Amendment.

**1. IS FUNDING REQUIRED?**     No     **2. IF YES, INDICATE IF BUDGETED.**     No      
**IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED:**  
**INDICATE FUNDING SOURCE:**

**SUGGESTED MOTION/RECOMMENDATION/ACTION:**

Motion to enact Ordinance 2023- \_\_\_\_\_, amending Ordinance No. 2009-43, the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators.

**For Administration Use Only:**  
**Legal:** BB 8/17/2023 **OMB:** WS 8/25/2023 **Admin:** Brad Bradley 9/6/2023

ORDINANCE NO. 2023-\_\_\_\_\_

**AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AMENDING ST. JOHNS COUNTY ORDINANCE NO. 2009-43, PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; THIS ORDINANCE AMENDS SPECIFICALLY SECTION TWO, ENTITLED “DEFINITIONS,” TO REVISE CERTAIN DEFINITIONS AND PROVIDE DEFINITIONS OF “NON-FAMILIAL CHILDREN” AND “PRACTICE,” AND SECTION FOUR, ENTITLED “PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS,” TO CHANGE SECTION TITLE, TO PROHIBIT PARTICIPATION BY SEX OFFENDERS IN ANY PRACTICE OR EVENT PRIMARILY TARGETED TOWARD NON-FAMILIAL CHILDREN, TO PROHIBIT SEX OFFENDERS TO ALTER APPEARANCE IN CERTAIN CIRCUMSTANCES, TO PROHIBIT HALLOWEEN-RELATED CONTACT WITH CHILDREN BY SEX OFFENDER, TO PROHIBIT CERTAIN EXTERIOR DISPLAYS, DECORATIONS, AND LIGHTING ON RESIDENCE AND PROPERTY OF SEX OFFENDER, AND TO PROVIDE FOR CERTAIN EXCEPTIONS; MAKING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, on or about October 6, 2009, the Board of County Commissioners for St. Johns County (“Board”) passed and enacted the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators, Ordinance No. 2009-48, which prohibits sexual offenders and sexual predators from participating in certain 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, Florida (“County); and

WHEREAS, the Board supports doing anything within its power to protect its citizenry, particularly children, from becoming victimized by sexual offenders or sexual predators; and

WHEREAS, sexual offenders and sexual predators have been known to use certain holiday or seasonal events, decorations, and costumes to attract, entice, or lure children to areas in which those children are susceptible to harm by sexual offenders and sexual predators; and

WHEREAS, the Board is concerned with the secondary effects of any speech or expressive conduct that entices, attracts, or lures children to vulnerable areas or circumstances as noted by, among other courts, the court in *Hobbs v. County of Westchester*, 397 F.3d 133 (2d Cir. 2005); and

WHEREAS, the following amendments to St. Johns County Ordinance No. 2009-43 are intended to provide clarity as to what displays and decorations are prohibited so as to minimize or prevent attacks on children premised on decorations or costumes that attract, entice, or lure children into vulnerable areas or circumstances, while also conforming to First Amendment rights; recognizing, however, that the amendments herein are intended to be inclusive as of the date of

this enactment, but are not intended to include any and all displays and decorations which were not contemplated at the time of enactment (i.e., due to the advent of new technologies); and

WHEREAS, the Board finds that these amendments to St. Johns County Ordinance No. 2009-48 will preserve, promote, and protect the health, safety, and welfare of the citizens of the County, including the safety and well-being of the children of the County by limiting their contact with sexual offenders and sexual predators.

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

**Section 1.** The above recitals are hereby adopted as legislative findings by the St. Johns County Board of County Commissioners and incorporated and made a part of this Ordinance.

**Section 2.** Section Three, “Definitions,” of St. Johns County Ordinance No. 2009-43 is amended to read as follows:

**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) *Non-familial children* shall mean those children who are not related to the sexual offender or sexual predator through biological means, marriage, or adoption.

(c) *Participation* shall mean to attend, take part in, or cooperate with the organization of an event.

(d) *Practice* shall mean to carry out or perform any particular activity or method that may be celebrated or recognize a particular season, customs, or beliefs.

(e) *Sexual offender or sexual predator* shall mean an individual who is registered or obligated to be registered by any state or federal agency as either a sexual offender or sexual predator and whose name is published or required to be 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.

**Section 3.** Section Four, “Prohibited Holiday Activity for Sexual Offenders; Exceptions,” of St. Johns County Ordinance No. 2009-43 is amended to read as follows:

**SECTION FOUR: PROHIBITED ACTIVITY FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; EXCEPTIONS**

(a) It is unlawful for any sexual offender or sexual predator to participate in any practice or event, including but not limited to, any event related to a nationally or locally recognized holiday or seasonal event, if such practice or event is primarily targeted toward non-familial children.

(b) It is unlawful for any sexual offender or sexual predator to wear costumes, clothing, make-up, masks, or anything that would alter a person's appearance in the presence of any non-familial child, if such altered appearance could or would entice, attract, or lure a child to congregate around, or move closer to, that person.

(c) Any person designated a sexual offender or sexual predator shall:

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

(2) Not display or allow any display of Halloween decorations to be visible from the exterior of the sexual offender's or sexual predator's residence, including a vehicle or vessel, or on any property which is leased, rented, owned, or occupied by the sexual offender or sexual predator, from 6:00 a.m. to 11:59 p.m. on October 31 (or any other day on which Halloween is celebrated);

(3) Except for lighting provided on a year-round basis by the owner or manager of a multi-family residential unit for the purpose of security or walkway or hallway illumination, leave all outside residential lighting off during the evening hours after 5:00 p.m. on October 31 (or any other day on which Halloween is celebrated); and

(4) Not place or allow the following displays or decorations on the exterior of the sexual offender's or sexual predator's residence, including a vehicle or vessel, or on any property which is leased, rented, owned or occupied by the sexual offender or sexual predator: inflatables, holograms, projections, displays over six feet in height, interactive displays, decorations or displays that include a fictitious character, decorations or displays that line a walkway or path to a door of the residence, or lights that are not affixed to the residence. Enforcement of this subsection (4) shall not be limited to the actual calendar date of any given nationally or locally recognized holiday or seasonal event or practice.

(d) Exceptions. The prohibitions established above shall not apply under the following circumstances:

(1) The sexual offender or sexual predator may attend a nationally or locally recognized holiday or seasonal event or practice if the sexual offender or sexual predator is the parent or guardian of the child or children involved and no non-familial children are present.

(2) The sexual offender or sexual predator is not present at the event location although such location may be owned, leased, rented, or occupied by the sexual offender or sexual predator.

**Section 4.** The remaining portions of St. Johns County Ordinance No. 2009-43 shall remain in full force and effect.

**Section 5.** Severance Clause. It is the intent of the Board of County Commissioners of St. Johns County, 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 sections, subsections, sentences, clauses, phrases, or provision of this Ordinance.

**Section 6.** Effective Date. This Ordinance shall take effect upon its being filed with the Department of State of Florida.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2023.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: \_\_\_\_\_  
Christian Whitehurst, Chair

ATTEST: Brandon J. Patty, Clerk of the Circuit  
Court & Comptroller

By: \_\_\_\_\_  
Deputy Clerk

Effective Date: \_\_\_\_\_

REDLINE

(NOT TO BE  
RECORDED)

ORDINANCE NO. 2023-\_\_\_\_\_

AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AMENDING ST. JOHNS COUNTY ORDINANCE NO. 2009-43, PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; THIS ORDINANCE AMENDS SPECIFICALLY SECTION TWO, ENTITLED “DEFINITIONS,” TO REVISE CERTAIN DEFINITIONS AND PROVIDE DEFINITIONS OF “NON-FAMILIAL CHILDREN” AND “PRACTICE,” AND SECTION FOUR, ENTITLED “PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS,” TO CHANGE SECTION TITLE, TO PROHIBIT PARTICIPATION BY SEX OFFENDERS IN ANY PRACTICE OR EVENT PRIMARILY TARGETED TOWARD NON-FAMILIAL CHILDREN, TO PROHIBIT SEX OFFENDERS TO ALTER APPEARANCE IN CERTAIN CIRCUMSTANCES, TO PROHIBIT HALLOWEEN-RELATED CONTACT WITH CHILDREN BY SEX OFFENDER, TO PROHIBIT CERTAIN EXTERIOR DISPLAYS, DECORATIONS, AND LIGHTING ON RESIDENCE AND PROPERTY OF SEX OFFENDER, AND TO PROVIDE FOR CERTAIN EXCEPTIONS; MAKING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about October 6, 2009, the Board of County Commissioners for St. Johns County (“Board”) passed and enacted the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators, Ordinance No. 2009-48, which prohibits sexual offenders and sexual predators from participating in certain 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, Florida (“County); and

WHEREAS, the Board supports doing anything within its power to protect its citizenry, particularly children, from becoming victimized by sexual offenders or sexual predators; and

WHEREAS, sexual offenders and sexual predators have been known to use certain holiday or seasonal events, decorations, and costumes to attract, entice, or lure children to areas in which those children are susceptible to harm by sexual offenders and sexual predators; and

WHEREAS, the Board is concerned with the secondary effects of any speech or expressive conduct that entices, attracts, or lures children to vulnerable areas or circumstances as noted by, among other courts, the court in *Hobbs v. County of Westchester*, 397 F.2d 133 (2d Cir. 2005); and

WHEREAS, the following amendments to St. Johns County Ordinance No. 2009-43 are intended to provide clarity as to what displays and decorations are prohibited so as to minimize or prevent attacks on children premised on decorations or costumes that attract, entice, or lure children into vulnerable areas or circumstances, while also conforming to First Amendment rights; recognizing, however, that the amendments herein are intended to be inclusive as of the date of

this enactment, but are not intended to include any and all displays and decorations which were not contemplated at the time of enactment (i.e., due to the advent of new technologies); and

WHEREAS, the Board finds that these amendments to St. Johns County Ordinance No. 2009-48 will preserve, promote, and protect the health, safety, and welfare of the citizens of the County, including the safety and well-being of the children of the County by limiting their contact with sexual offenders and sexual predators.

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

**Section 1.** The above recitals are hereby adopted as legislative findings by the St. Johns County Board of County Commissioners and incorporated and made a part of this Ordinance.

**Section 2.** Section Three, “Definitions,” of St. Johns County Ordinance No. 2009-43 is amended to read as follows:

**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) *Non-familial children* shall mean those children who are not related to the ~~Sex Offenders~~sexual offender or sexual predator through biological means, marriage, or adoption.

(c) *Participation* shall mean to attend, take part in, or cooperate with the organization of an event.

(d) *Practice* shall mean to carry out or perform any particular activity or method that may be celebrated or recognize a particular season, customs, or beliefs.

(e) *Sexual offender or sexual predator* shall mean an individual who is registered or obligated to be registered by any state or federal agency as either a sexual offender or sexual predator and whose name is published or required to be 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.

**Section 3.** Section Four, “Prohibited Holiday Activity for Sexual Offenders; Exceptions,” of St. Johns County Ordinance No. 2009-43 is amended to read as follows:

**SECTION FOUR: PROHIBITED ~~HOLIDAY~~ ACTIVITY FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; EXCEPTIONS**

(a) It is unlawful for any sexual offender or sexual predator to participate in any practice or event, including but not limited to, any event related to a nationally or locally recognized holiday or seasonal event, if such practice or event is primarily targeted toward non-familial children.

(b) It is unlawful for any sexual offender or sexual predator to wear costumes, clothing, make-up, masks, or anything that would alter a person's appearance in the presence of any non-familial child, if such altered appearance could or would entice, attract, or lure a child to congregate around, or move closer to, that person.

(c) Any person designated a sexual offender or sexual predator shall:

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

(2) Not display or allow any display of Halloween decorations to be visible from the exterior of the sexual offender's or sexual predator's residence, including a vehicle or vessel, or on any property which is leased, rented, owned, or occupied by the sexual offender or sexual predator, from 6:00 a.m. to 11:59 p.m. on October 31 (or any other day on which Halloween is celebrated);

(3) Except for lighting provided on a year-round basis by the owner or manager of a multi-family residential unit for the purpose of security or walkway or hallway illumination, leave all outside residential lighting off during the evening hours after 5:00 p.m. on October 31 (or any other day on which Halloween is celebrated); and

(4) Not place or allow the following displays or decorations on the exterior of the sexual offender's or sexual predator's residence, including a vehicle or vessel, or on any property which is leased, rented, owned or occupied by the sexual offender or sexual predator: inflatables, holograms, projections, displays over six feet in height, interactive displays, decorations or displays that include a fictitious character, decorations or displays that line a walkway or path to a door of the residence, or lights that are not affixed to the residence. Enforcement of this subsection (4) shall not be limited to the actual calendar date of any given nationally or locally recognized holiday or seasonal event or practice.

(d) Exceptions. The prohibitions established above shall not apply under the following circumstances:

(1) The sexual offender or sexual predator may attend a nationally or locally recognized holiday or seasonal event or practice if the sexual offender or sexual predator is the parent or guardian of the child or children involved and no non-familial children are present.

(2) The sexual offender or sexual predator is not present at the event location although such location may be owned, leased, rented, or occupied by the sexual offender or sexual predator.

**Section 4.** The remaining portions of St. Johns County Ordinance No. 2009-43 shall remain in full force and effect.

**Section 5.** Severance Clause. It is the intent of the Board of County Commissioners of St. Johns County, 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 sections, subsections, sentences, clauses, phrases, or provision of this Ordinance.

**Section 6.** Effective Date. This Ordinance shall take effect upon its being filed with the Department of State of Florida.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2023.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: \_\_\_\_\_  
Christian Whitehurst, Chair

ATTEST: Brandon Patty, Clerk of the Circuit Court & Comptroller

By: \_\_\_\_\_  
Deputy Clerk

Effective Date: \_\_\_\_\_

CURRENT  
ORDINANCE  
NO. 2009-43

**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 1<sup>st</sup>, 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

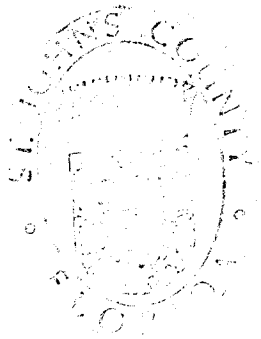
By: Cyndi Stevenson  
Cyndi Stevenson, Chair

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

SJC MINUTES & RECORDS C/O CLER  
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**

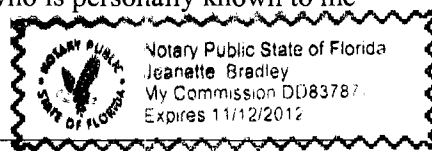
Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore has been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post 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 22<sup>nd</sup> 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)

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) 209-0450 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



## 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 THE 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  
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT  
850.245.6600 • FAX: 850.245.6643

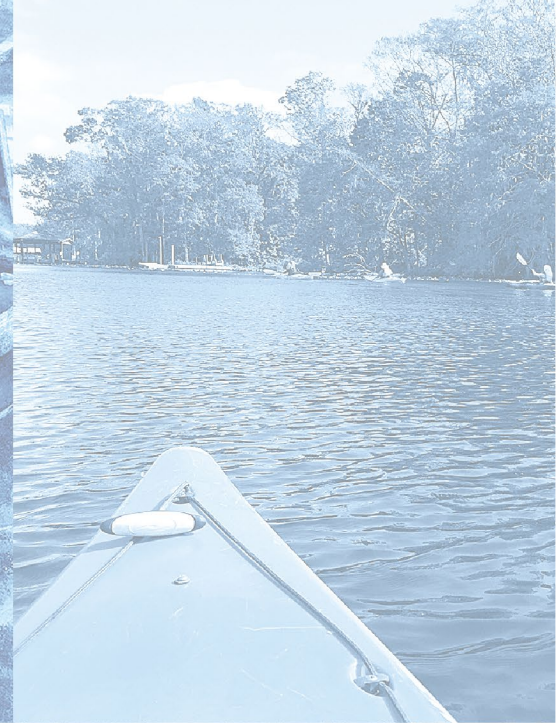
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**PROPOSED  
AMENDMENTS TO  
ORDINANCE NO.  
2009-43**



# Background

- At its August 1, 2023 regular meeting, the Board heard the first reading of proposed amendments to Ordinance No. 2009-43, the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators.

# Current Law

- Under Florida law, “sexual offenders” and “sexual predators” must, among other things, register with the local sheriff’s office upon release from custody, establishing residency in the state, or being designated as a sexual offender/predator, and must regularly update their registration, including for changes to the information.

# Current Law (cont'd)

- St. Johns County Ordinance No. 2009-43 makes it unlawful for registered sexual offenders/predators to participate in any holiday event involving children under 18, including distributing candy to children or wearing costumes to entertain or attract children.
- Halloween-specific prohibitions.

# Proposed Amendments

- New or revised definitions.
- Prohibit participation in any practice or event (not limited to national holidays) primarily targeting non-familial children.
- Prohibit alteration of appearance to entice, attract, or lure children.
- List prohibited exterior displays and decorations.
- Revised Halloween restrictions, remove sign requirement.
- Additional exception when sexual offender/predator not present.
- Correction of typos since first reading.

# Correspondence/Public Input

- The Sheriff's Office and the State Attorney's Office have both reviewed the proposed amendments and have no changes.
- Staff has not received any correspondence or calls from the public regarding the proposed amendments.

# Recommended Action

- Motion to enact Ordinance No. 2023-\_\_\_\_\_, amending Ordinance No. 2009-43, the St. Johns County Prohibited Holiday Activity Ordinance for Sexual Offenders and Sexual Predators.



# Proposed Amendments (cont'd)

- New defined terms:
  - “*Non-familial children* shall mean those children who are not related to the sexual offender or sexual predator through biological means, marriage, or adoption.”
  - “*Practice* shall mean to carry out or perform any particular activity or method that may be celebrated or recognized a particular season, customs, or beliefs.”

# Proposed Amendments (cont'd)

- Revised definitions:
  - “*Sexual offender* or sexual predator shall mean an individual who is registered or obligated to be registered by any state or federal agency as either a sexual offender or sexual predator and whose name is published or required to be 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.”

# Proposed Amendments (cont'd)

- Revised Definitions (cont'd):
  - “*Participation shall mean to attend, take part in, or cooperate with the organization of an event.*”

# Proposed Amendments (cont'd)

- “It is unlawful for any sexual offender or sexual predator to participate in any practice or event, including but not limited to, any event related to a nationally or locally recognized holiday or seasonal event, if such practice or event is primarily targeted toward non-familial children.”
- Examples: Trunk-or-Treat, Easter Egg Roll, school field day, etc.

# Proposed Amendments (cont'd)

- “It is unlawful for any sexual offender or sexual predator to wear costumes, clothing, make-up, masks, or anything that would alter a person’s appearance in the presence of any non-familial child, if such altered appearance could or would entice, attract, or lure a child to congregate around, or move closer to, that person.”
- Examples: Santa Claus, Easter Bunny, movie character, etc.

# Proposed Amendments (cont'd)

- The following exterior displays or decorations are not allowed at residence (including vehicle or vessel) or other property:
  - Inflatables
  - Holograms
  - Projections
  - Displays over six feet in height
  - Interactive displays
  - Decorations or displays that include a fictitious character
  - Decorations or displays lining a walkway or path to door of residence
  - Lights not affixed to residence
- Enforcement is not limited to actual date of holiday.

# Proposed Amendments (cont'd)

- Halloween-specific provisions:
  - Must avoid all Halloween-related contact with children.
  - No Halloween decorations visible from the exterior of residence (including vehicle vessel) or other property from 6:00 a.m. to 11:59 p.m. on Halloween.
  - All outside residential lights must be off after 5:00 p.m. on Halloween (except for security or walkway or hallway lighting at multi-family residential units kept on year-round).

# Proposed Amendments (cont'd)

- Removes provision requiring sexual offender/predator to post a sign on October 31 to reduce risk of potential constitutional challenge.
- Recent U.S. Court of Appeals, Eleventh Circuit opinion held that a potentially analogous policy constituted compelled government speech in violation of the First Amendment. *McClendon v. Long*, 22 F.4th 1330 (11th Cir. 2022).

# Proposed Amendments (cont'd)

- Exceptions:
  - Events or practices where the sexual offender/predator is the parent or guardian of the child(ren) involved and non non-familial children are present.
  - The sexual offender/predator is not present at the event location, even if they own, lease, rent, or occupy it otherwise.

## Govt Bids & Proposals

Originally published at [staugustine.com](http://staugustine.com) on 09/07/2023

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 19, 2023, 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, AMENDING ST. JOHNS COUNTY ORDINANCE NO. 2009-43, PROHIBITED HOLIDAY ACTIVITY ORDINANCE FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS; THIS ORDINANCE AMENDS SPECIFICALLY SECTION TWO, ENTITLED "DEFINITIONS," TO REVISE CERTAIN DEFINITIONS AND PROVIDE DEFINITIONS OF "NON-FAMILIAL CHILDREN" AND "PRACTICE," AND SECTION FOUR, ENTITLED "PROHIBITED HOLIDAY ACTIVITY FOR SEXUAL OFFENDERS; EXCEPTIONS," TO CHANGE SECTION TITLE, TO PROHIBIT PARTICIPATION BY SEX OFFENDERS IN ANY PRACTICE OR EVENT PRIMARILY TARGETED TOWARD NON-FAMILIAL CHILDREN, TO PROHIBIT SEX OFFENDERS TO ALTER APPEARANCE IN CERTAIN CIRCUMSTANCES, TO PROHIBIT HALLOWEEN-RELATED CONTACT WITH CHILDREN BY SEX OFFENDER, TO PROHIBIT CERTAIN EXTERIOR DISPLAYS, DECORATIONS, AND LIGHTING ON RESIDENCE AND PROPERTY OF SEX OFFENDER, AND TO PROVIDE FOR CERTAIN EXCEPTIONS; MAKING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR 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

persons needing a special accommodation to participate in this proceeding should contact ADA Coordinator, at (904-209-0400 or at the Facilities Management Department, 2416 Dobbs Road, St. Augustine, FL 32086. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of this hearing.

**BOARD OF COUNTY COMMISSIONERS**

**OF ST. JOHNS COUNTY, FLORIDA**

**BRANDON J. PATTY, ITS CLERK**

**By: Yvonne King, Deputy Clerk**

**September 7, 2023 (9250807)**