

From: [County Ordinances](#)
To: [Ordinances](#); [County Ordinances](#)
Cc: [Heidi Kurppe](#)
Subject: RE: Hernando County Ordinance No. 2023-05 - Adopted on April 25, 2023
Date: Monday, May 1, 2023 12:57:11 PM
Attachments: [Hernando20230428_Ordinance2023_05_Ack.pdf](#)

Good afternoon,

Please find the attached acknowledgment letter for Hernando County Ordinance No. 2023-05, which was filed in this office on April 28, 2023.

Best,

County Ordinances
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida

From: Ordinances <ord@hernandoclerk.org>
Sent: Friday, April 28, 2023 11:30 AM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Cc: Heidi Kurppe <hkurppe@hernandoclerk.org>
Subject: Hernando County Ordinance No. 2023-05 - Adopted on April 25, 2023

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Sender Full Name:	Heidi Kurppe
Sender Phone number:	352-754-4970
County Name:	Hernando
Ordinance Number:	2023-05

Thank You,

Heidi Kurppe
Administrative Services | Administrative Services Supervisor
Office of Doug Chorvat Jr., Clerk of Circuit Court and Comptroller
Phone: (352)754-4201 | Email: hkurppe@hernandoclerk.org
20 N Main Street, Brooksville, FL 34601

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NOTICE:

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FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 1, 2023

Honorable Doug Chorvat, Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 362
Brooksville, Florida 34601

Attention: Heidi Kurppe

Dear Honorable Doug Chorvat Jr.,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2023-05, which was filed in this office on April 28, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

ORDINANCE NO.: 2023 -05

1
2 AN ORDINANCE RELATING TO FLORIDA STATUTE § 316.2123, WHICH
3 ALLOWS FOR THE OPERATION OF ALL TERRAIN VEHICLES ON
4 UNPAVED ROADWAYS UNDER SPECIFIED CIRCUMSTANCES;
5 INCORPORATING RECITALS; AMENDING SECTION 20-2 AND CREATING
6 SECTION 20-4 TO EXEMPT HERNANDO COUNTY FROM FLORIDA
7 STATUTE § 316.2123; PROVIDING FOR SEVERABILITY; PROVIDING FOR
8 INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF
9 CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

10 WHEREAS, the Florida Legislature has enacted Fla. Stat. § 316.2123 regarding the operation
11 of all terrain vehicles (“ATV’s”); and,

12 WHEREAS, Fla. Stat. § 316.2123 prohibits people from driving ATV’s upon public roads
13 or streets; provided, that a licensed driver, or a minor under the supervision of a licensed driver, may
14 drive an ATV during the daytime on an unpaved roadway where the posted speed limit is less than
15 35 miles per hour; and,

16 WHEREAS, Fla. Stat. § 316.2123 further provides that a county may exempt itself from the
17 provision which allows for the operation of an ATV on unpaved roadways, if its governing body,
18 by majority vote following a noticed public hearing, votes to exempt the county from this provision;
19 and,

1 WHEREAS, the Board of County Commissioners of Hernando County, Florida, finds that
2 it is in the best interest of the health, safety and welfare of the citizens of Hernando County, Florida
3 to exempt Hernando County from the provision of Fla. Stat. § 316.2123 which allows for the
4 operation of an ATV during the daytime on unpaved roadways within the County where the posted
5 speed limit is less than 35 miles per hour.

6 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
7 COMMISSIONERS OF HERNANDO COUNTY:

8 **Section 1. Incorporation of Recitals.** The above-stated recitals are hereby accepted and
9 approved as being true and accurate, and are adopted and incorporated herein as if set out further at
10 length.

11 **Section 2. Repealing Authorization for ATV's to Be Operated on Unpaved Roads.**
12 Hernando County Code § 20-2, "Parking, Standing or the Presence of Vehicles in, on, or upon
13 Drainage Retention Areas, Lakes, Ponds, Utility Property or Easements Prohibited," is hereby
14 amended to read as follows:

15 Sec. 20-2. Parking, Standing or the Presence of Vehicles in, on, or upon Drainage
16 Retention Areas, Lakes, Ponds, Utility Property or Easements Prohibited.

17 (a) Short Title. This section may be known as the Drainage Retention Areas,
18 Lakes, Ponds, Utility Easements and Property Protection Ordinance.

1 (b) Definitions. The following words and phrases when used in this ordinance
2 shall have the meanings respectively ascribed to them in this section, except where
3 the context otherwise requires:

4 *All-Terrain Vehicle* (“ATV”) means any motorized off-highway or all-terrain
5 ~~vehicle fifty (50) inches or less in width, having a dry weight of one thousand two~~
6 ~~hundred (1,200) pounds or less, designed to travel on three (3) or more non-highway~~
7 ~~tires, manufactured for recreational use by one (1) or more persons~~ shall have the
8 same definition as provided for in Fla. Stat. § 316.2074(2), as it may be amended or
9 renumbered from time to time.

10 *Drainage Retention Area* means any parcel of property generally, but not
11 necessarily, having sloped soil sides sometimes covered by vegetation or containing
12 water and with an arenaceous or soil bottom with inlets to deliver storm water runoff
13 and designed for the purpose of retaining storm water runoff; or any area or parcel
14 of property generally recognized as a drainage retention area or any property certified
15 by the county engineer or his designee that the area is currently being used and serves
16 the purpose of a drainage retention area.

17 *Lake or Pond* means a body of water that in its natural state is substantially
18 at rest with a discernible shoreline regardless of the depth of the water or whether the
19 water is navigable or whether the land surface is wholly or partly submerged or at
20 certain periods the surface is entirely exposed to the atmosphere.

1 ~~Motor Vehicle means any self-propelled vehicle including motorcycles and~~
2 ~~all terrain vehicles not operated upon rails or tracks, but not including any bicycle or~~
3 ~~moped shall have the same definition as provided for in Fla. Stat. 316.003(46), as it~~
4 ~~may be amended or renumbered from time to time.~~

5 ~~Motorcycle means any motor vehicle having a seat or saddle for the use of the~~
6 ~~rider and designed to travel on not more than three (3) wheels in contact with the~~
7 ~~ground shall have the same definition as provided for in Fla. Stat. 316.003(47), as it~~
8 ~~may be amended or renumbered from time to time.~~

9 ~~Vehicle means every device in, on, or upon which any person or property is~~
10 ~~or may be transported. The vehicle does not include devices used exclusively upon~~
11 ~~stationary rails or tracks shall have the same definition as provided for in Fla. Stat.~~
12 ~~316.003(106), as it may be amended or renumbered from time to time.~~

13 (c) Presence of vehicles in, on, or upon drainage retention areas, utility property
14 or easements. It shall be a violation of this section for any motor vehicle, including
15 motorcycles and ATV's to be in, on, or upon any lakes, ponds, or county drainage
16 retention areas regardless whether the drainage retention area is denoted as such by
17 a sign or other notice. It shall further be a violation of this ordinance for any motor
18 vehicle including recreational or camper type vehicle, motorcycles and ATV's to be
19 in, on, or upon any right-of-way, easement, or utility property with electrical
20 apparatus or equipment including, but not limited to electric towers, electric

1 transmission lines, poles, or other support structures, fans, cooling apparatus, or
2 transformers where the utility is regulated either by the state public service
3 commission or the natural rural utilities service. This provision also applies to areas
4 where any utility has an easement within a right-of-way, including, but not
5 necessarily limited to electric substations or other apparatus used for the transmission
6 or delivering of electricity even where such equipment is isolated and stands apart.
7 Further, it shall also be a violation of this ordinance for anyone to damage such
8 equipment including but not limited to hurling or shooting any projectiles or missiles
9 at any electric substation, other electrical generating equipment, or towers or by
10 hurling other objects including, but not limited to rocks, stones, dirt, debris, or trash.
11 ~~ATVs may be operated upon any unimproved roadways in Hernando County where the~~
12 ~~posted speed limit is less than thirty-five (35) miles per hour.~~

13 (d) Territorial Applicability. This section shall be applicable in all the
14 unincorporated areas of Hernando County.

15 (e) Penalties. Any violation of this section may be prosecuted as follows:

16 (1) For the first violation of any provision of this section, any law
17 enforcement officer with jurisdiction in the unincorporated areas of Hernando
18 County, may issue a written warning.

1 (2) For the second violation of any provision of this section, any law
2 enforcement officer with jurisdiction in the unincorporated areas of Hernando
3 County, may issue a citation with a fine not to exceed fifty dollars (\$50.00).

4 (3) For the third violation of any provision of this section, any law
5 enforcement officer with jurisdiction in the unincorporated areas of Hernando
6 County, may issue a citation for a fine not to exceed one hundred dollars (\$100.00).

7 (4) For any violations subsequent to the fourth violation, a law
8 enforcement officer with jurisdiction in the unincorporated areas of Hernando
9 County, shall issue a mandatory court appearance where the violation may be
10 prosecuted as described in Chapter 2, Article III as amended from time to time. Each
11 violation of this ordinance shall be deemed a separate offense and a separate offense
12 shall be deemed committed on each day during or on which a violation occurs or
13 continues. In assessing fines hereunder, the special master may consider whether the
14 violator has been convicted of or pleaded guilty to prior violations of this section.

15 (5) Notwithstanding the above, a law enforcement officer in his or her
16 own discretion in light of the circumstances, including their experience as law
17 enforcement officers, the number of people observed violating the ordinance,
18 potential damage to public or private property or other activities occurring in the area
19 may arrest an individual even for a first offense and prosecute them pursuant to the
20 provisions of subsection (e)(4) of this section.

1 **Section 3. Prohibiting the Operation of ATV's on County Roads.** A new Hernando
2 County Code Section 20-4, to be entitled "Operation of All Terrain Vehicles on Unpaved
3 Roadways," is hereby enacted to read as follows:

4 Sec. 20-4. Operation of All Terrain Vehicles on Unpaved Roadways.

5 (a) Exemption. Pursuant to Fla. Stat. § 316.2123(2), Hernando County shall be
6 exempt from the provision of Fla. Stat. § 316.2123(1) which would otherwise allow
7 the operation of an all terrain vehicle ("ATV") during the daytime on an unpaved
8 roadway where the posted speed limit is less than 35 miles per hour by a licensed
9 driver or by a minor under the supervision of a licensed driver. The term "ATV" shall
10 have the same definition as provided for in Fla. Stat. § 316.2074(2), as it may be
11 amended or renumbered from time to time.

12 (b) Territory Embraced. Pursuant to Fla. Stat. § 316.2123(2), this section shall
13 apply to both the incorporated and unincorporated areas of the county.

14 **Section 4. Severability.** It is declared to be the intent of the Board of County
15 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
16 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
17 validity of the remaining portions of this ordinance.

18 **Section 5. Inclusion in the Code.** It is the intention of the Board of County Commissioners
19 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
20 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the

1 sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that
2 the word "ordinance" may be changed to "section," "article," or any other appropriate designation.

3 **Section 6. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
4 conflict with the provisions of this ordinance are hereby repealed.

5 **Section 7. Effective Date.** This ordinance shall take effect immediately upon receipt of
6 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
7 been filed with said office.

8 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
9 **HERNANDO COUNTY** in Regular Session this 25th day of April 2023.

10
11 **BOARD OF COUNTY COMMISSIONERS**
12 **HERNANDO COUNTY, FLORIDA**

13
14
15
16 Attest: Heidi Kumpke, Deputy Clerk
17 DOUGLAS CHORVAT, JR.
18 Clerk and Comptroller

19
20 By: [Signature]
21 JOHN ALLOCCO
22 Chair

23 Approved for Form and Legal Sufficiency

24 [Signature]
County Attorney

