

ORDINANCE NO. 2006- 141

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RELATING TO THE CREATION OF FLORIDA STATUTE §316.2123, ALL-TERRAIN VEHICLE (ATV) OPERATION ON CERTAIN UNPAVED ROADWAYS, AS ENACTED BY THE 2006 SESSION OF THE FLORIDA LEGISLATURE; PROVIDING FOR THE INTENT OF THE COUNTY TO BE EXEMPT FROM SUCH SECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body in and for St. Johns County, a political subdivision of the State of Florida; and,

WHEREAS, the Florida Legislature recently enacted Florida Statute §316.2123, effective October 1, 2006, which allows ATV's to be operated during the daytime by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. All-terrain vehicles ("ATV's") are currently defined in the applicable Florida statutes as any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator with no passenger. The definition of "ATV" also includes any "two-rider ATV"; and,

WHEREAS, the Board of County Commissioners, upon advice from the St. Johns County Sheriff's Office, has determined that to permit the use of ATV's on its unpaved roads would be unsafe, and could lead to accidents, roll overs, serious injury and death. Also, the Board further recognizes that there are serious risks associated in allowing children to operate an adult sized ATV on a public road. Statistics demonstrate that on an annual basis, there are many people – especially children – that are severely injured proximately related to ATV accidents. Such injuries have included brain damage and paralysis; and,

WHEREAS, the newly created Florida Statute §316.2123 contains a provision which allows the County to be exempt from such section if "the governing body of the county, by a majority vote, following a noticed public hearing, votes to exempt the county from such section"; and,

WHEREAS, the Board of County Commissioners has held a properly noticed public hearing and finds that the public health, safety and welfare of its residents and visitors would be served by exempting St. Johns County from §316.2123, Florida Statutes, thereby prohibiting the operation of ATV's on County paved or unpaved roads or streets.

NOW THEREFORE, BE IT RESOLVED BY THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS THAT:

Section 1. Recitals. The above recitals are hereby accepted and approved as being true and accurate, and are adopted and incorporated herein as if set out further at length.

Section 2. The Board hereby exempts St. Johns County from the provisions of section 316.2123, Florida Statutes. ATVs may not be operated during anytime, day or night, on an unpaved roadway within St. Johns County.

Section 3. Severability. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Ordinance. It is hereby declared to be the Board's legislative intent that this Ordinance would have been adopted had such an unconstitutional provision not been included herein.

Section 4. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Board of County Commissioners.

Enacted in Regular Session this 14th day of November, 2006.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

Attest: Cheryl Strickland, Clerk

Yvonne King
Deputy Clerk

By: James E. Bryant
James E. Bryant, Chairman

Rendition Date: 11/16/06

Effective Date: 11/21/06

NOTICE OF 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, November 14, 2006 at 9:00 a.m. in the County Auditorium at the County Administration Complex, 4020 Lewis Speedway (County Road 16-A) and U.S.1 North, St. Augustine, Florida, to consider adoption of the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RELATING TO THE CREATION OF FLORIDA STATUTE §316.2123, ALL-TERRAIN VEHICLE (ATV) OPERATION ON CERTAIN UNPAVED ROADWAYS, AS ENACTED BY THE 2006 SESSION OF THE FLORIDA LEGISLATURE; PROVIDING FOR THE INTENT OF THE COUNTY TO BE EXEMPT FROM SUCH SECTION; PROVIDING FOR SEVERABILITY; 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 St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties interested prior to the public hearing.

Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made,

which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Courthouse, 4010 Lewis Speedway, Room 276, 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
L3207-6 Nov 2, 2006

The St. Augustine Record

PUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

COPY OF /

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **SARAH SELFRIDGE**

who on oath says that she is an Accounting Clerk of the St. Augustine Record,

a daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being **NOTICE OF HEARING**

in the matter **TERRAIN ATV VEHICLE**

was published in said newspaper in the issues of

NOVEMBER 02, 2006.

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 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 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 2ND day of **NOVEMBER, 2006.**

by Sarah Selfridge who is personally known to me
or who has produced **PERSONALLY KNOWN** as identification.

Patricia A. Bergquist

(Signature of Notary Public)



Patricia A. Bergquist
My Commission DD275991
Expires December 18, 2007

(Seal)

PATRICIA A. BERGQUIST