

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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<b>Meeting Date:</b>	February 27, 2007	<input type="checkbox"/>	<b>Consent</b>	<input type="checkbox"/>	<b>Regular</b>
		<input type="checkbox"/>	<b>Ordinance</b>	<input checked="" type="checkbox"/>	<b>Public Hearing</b>
<b>Department:</b>	Administration				

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to adopt: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ENTITLED "ALL TERRAIN VEHICLE (ATV) OPERATION ON UNPAVED ROADWAYS"; PROVIDING FOR THE INAPPLICABILITY OF SECTION 316.2123, FLORIDA STATUTES IN PALM BEACH COUNTY; PROVIDING FOR ATV OPERATION; PROHIBITION; PROVIDING FOR APPLICABILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

**Summary:** Section 316.2123, Florida Statutes, related to Highway Safety, became effective October 1, 2006 and allows an ATV to be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour by a licensed driver, or by a minor under the supervision of a licensed driver. The law also allows for the governing body of the county, following a public hearing by majority vote to exempt the county from this section. Passage of this Ordinance will exempt Palm Beach County from Section 316.2123, Florida Statutes. Staff was directed at the January 9, 2007 meeting to prepare this Ordinance. Countywide (DW)

**Background and Policy Issues:** Enacted by the 2006 session of the Florida Legislature, House Bill 7079 created Florida Statute 316.2123, thereby allowing the operation of ATVs on county unpaved roads. The Board of County Commissioners finds that such law would endanger the health, safety, and welfare of its residents and visitors and desires to be exempt from this section of Florida Statute 316.2123, thereby prohibiting the operation of ATVs on county unpaved roads or streets.

**Attachments:**  
1. Ordinance

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**Recommended By:** \_\_\_\_\_  
Department Director Date

**Approved By:** Paul Williams  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	20__	20__	20__	20__	20__
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____

**NET FISCAL IMPACT** \_\_\_\_\_

**No. ADDITIONAL FTE POSITIONS (Cumulative)** \_\_\_\_\_

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

- B. Recommended Sources of Funds/Summary of Fiscal Impact:**  
*The fiscal impact of the \$500 fine should be minimal.*
- C. Departmental Fiscal Review:**

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

*[Handwritten signature]* 2-15-07  
 OFMB  
*[Handwritten signature]* 2-7-07 PM  
*[Handwritten signature]* 2-7-07 PM  
*[Handwritten signature]* 2/20/07  
 Contract Dev. and Control

**B. Legal Sufficiency:**  
*[Handwritten signature]* 2/20/07  
 Assistant County Attorney

**C. Other Department Review:**  
 \_\_\_\_\_  
 Department Director

ORDINANCE NO. 2007-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ENTITLED "ALL TERRAIN VEHICLE (ATV) OPERATION ON UNPAVED ROADWAYS"; PROVIDING FOR THE INAPPLICABILITY OF SECTION 316.2123, FLORIDA STATUTES IN PALM BEACH COUNTY; PROVIDING FOR ATV OPERATION; PROHIBITION; PROVIDING FOR APPLICABILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature enacted section 316.2123, Florida Statutes, to prohibit All-Terrain Vehicles ("ATVs") from being operated on public roads and streets; and

WHEREAS, the 2006 Florida Legislature created section 316.2123, Florida Statutes, to allow ATVs to be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour by a licensed driver or by a minor who is supervised by a licensed driver; and

WHEREAS, following a noticed public hearing, a County may exempt itself from section 316.2123, Florida Statutes, by majority vote of the governing board; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that ATVs are inherently dangerous due to the large number of fatalities and injuries that occur each year from operating ATVs; and

WHEREAS, the Board finds that the public health, safety, and welfare would be served by exempting Palm Beach County from section 316.2123, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

**Section 1. RECITALS:**

The foregoing recitals are true and correct and are incorporated herein.

**Section 2. TITLE:**

This Ordinance shall be entitled the Palm Beach County All Terrain Vehicle (ATV) Operation on Unpaved Roadways Ordinance.

**Section 3. ATV OPERATION; PROHIBITION:**

Palm Beach County is exempt from the provisions of section 316.2123, Florida Statutes, which allows All-Terrain Vehicles (ATVs) to be operated during the daytime on

1 unpaved roadways where the posted speed limit is less than 35 miles per hour by a licensed  
2 driver or by a minor under the supervision of a licensed driver. ATVs are defined in  
3 accordance with section 317.0003, Florida Statutes. ATVs may not be operated during anytime  
4 of day or night on an unpaved roadway within Palm Beach County.

5 **Section 4. APPLICABILITY:**

6 This Ordinance shall apply countywide.

7 **Section 5. ENFORCEMENT:**

8 This Ordinance is enforceable by all means provided by law. The provisions of this  
9 Ordinance shall be enforced by the Palm Beach County Sheriff's Office and municipal law  
10 enforcement officers within their jurisdiction. Additionally, the County may choose to enforce  
11 this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach County.

12 (1) Any violation of this Ordinance is a civil infraction.

13 (2) Any person who has committed an act in violation of this Ordinance shall  
14 receive a citation from the Sheriff or any law enforcement officer who has probable cause to  
15 believe that the person has committed a civil infraction in violation of this Ordinance.

16 (3) The county court shall have jurisdiction over all violations of this  
17 Ordinance.

18 (4) The county clerk shall:

19 (a) Accept designated fines and issue receipts therefore;

20 (b) Provide a uniform citation form serially numbered for notifying alleged  
21 violators to appear and answer to charges of violation of this Ordinance.

22 (5) Violation of any provision of this Ordinance shall be punishable by a fine of  
23 Five Hundred dollars (\$500.00).

24 (6) Any person issued a citation shall be deemed to be charged with a civil violation  
25 and shall comply with the directives on the citation.

26 (7) Payment shall be made, either by mail or in person, to the Violations Bureau  
27 within the time specified on the citation. If a person follows this procedure, s/he shall be  
28 deemed to have admitted the infraction and to have waived his/her right to a hearing on the  
29 issue of commission of the infraction.

30 (8) All fines collected as a result of said citations (except those fines collected as a  
31 result of citations issued by municipal law enforcement officers, which shall be remitted by the

1 Clerk of the Court directly to the municipality issuing the citation) shall be paid into the County  
2 Treasury and deposited into the County's general fund.

3 (9) Any person who fails to make payment within the specified period shall be  
4 deemed to have waived his/her right to pay the civil penalty as set forth in the citation.

5 (10) Any person who elects to appear before the court to contest the citation shall be  
6 deemed to have waived his/her right to pay the civil penalty. The court, after a hearing, shall  
7 make a determination as to whether a violation has occurred and may impose a civil penalty of  
8 Five Hundred dollars (\$500.00) plus court costs.

9 (11) If a person fails to pay the civil penalty, or fails to appear in court to contest the  
10 citation, s/he shall be deemed to have waived his/her right to contest the citation; and in such  
11 case, a default judgment may be entered and the judge shall impose a fine at that time. An order  
12 to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is not  
13 paid, judgment may be entered up to the maximum civil penalty.

14 (12) Any person cited for an infraction under this Ordinance shall sign and accept the  
15 citation indicating a promise to pay the fine or appear in court. Any person who willfully  
16 refuses to sign and accept a citation issued by an officer shall be guilty of a misdemeanor of the  
17 second degree, punishable as provided by Sections 775.082 or 775.083, Florida Statutes.

18 (13) Failure to comply with the requirements of this Ordinance shall constitute a  
19 violation of a County Ordinance, and shall be punishable, upon conviction, pursuant to Section  
20 125.69(1), Florida Statutes, by a fine of Five Hundred dollars (\$500.00) per violation or  
21 imprisonment not exceeding sixty (60) days, or both such fine and imprisonment. In addition to  
22 the sanctions contained herein, the County shall take any other appropriate legal action,  
23 including, but not limited to, administrative action and requests for temporary and permanent  
24 injunctions to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to  
25 provide additional cumulative remedies.

26 **Section 6. PENALTY:**

27 Any violation of any portion of this Ordinance shall be punishable as provided by law.  
28 A person who violates this Ordinance shall be punished by a fine of \$ 500.00 or by  
29 imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment. Any  
30 person violating any of the provisions of this Ordinance shall be prosecuted in the same manner  
31 as misdemeanors are prosecuted.

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**Section 7. SEVERABILITY:**

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

**Section 8. REPEAL OF LAWS IN CONFLICT:**

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 10. CAPTIONS:**

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

**Section 11. EFFECTIVE DATE:**

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2007.

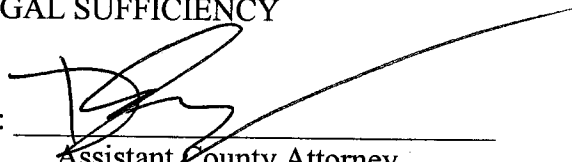
SHARON R. BOCK  
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

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

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
Assistant County Attorney

EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2007.

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
(CODRS) CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: Palm Beach ) COUNTY ORDINANCE # ( \_\_\_\_\_ )  
(e.g., 00-001)

PRIMARY KEYFIELD  
 DESCRIPTOR: ( Motor Vehicles )

SECONDARY KEYFIELD  
 DESCRIPTOR: ( Sheriffs )

OTHER KEYFIELD  
 DESCRIPTOR: ( \_\_\_\_\_ )

ORDINANCE DESCRIPTION: ATV Exemption )  
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: ( \_\_\_\_\_ ) AMENDMENT # 2: ( \_\_\_\_\_ )

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: ( \_\_\_\_\_ ) REPEAL # 3: ( \_\_\_\_\_ )

REPEAL # 2: ( \_\_\_\_\_ ) REPEAL # 4: ( \_\_\_\_\_ )

(Others repealed: List all that apply): \_\_\_\_\_

(FOR OFFICE USE ONLY):

KEYFIELD 1 CODE: ( \_\_\_\_\_ ) COUNTY CODE NUMBER: ( \_\_\_\_\_ )

KEYFIELD 2 CODE: ( \_\_\_\_\_ )

KEYFIELD 3 CODE: ( \_\_\_\_\_ )

Rev. 4/10/04