

ORDINANCE NO. 09-22

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA; PROVIDING DEFINITIONS; ALLOWING THE USE OF GOLF CARTS UPON DESIGNATED COUNTY ROADS ON CAPTIVA ISLAND; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICT OF LAW; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 316.212(1), Florida Statutes, permits counties to allow golf carts to be operated on county roads provided the county first determines that they may safely travel on or cross such public roads upon considering the speed, volume, and character of motor vehicle traffic using those roads or streets; and

WHEREAS, Section 316.212(4), Florida Statutes, states that golf carts may only operate on such public roads during the hours between sunrise and sunset, unless the governmental agency specifically determines that such golf carts may also safely operate during the hours between sunset and sunrise and the golf carts possess headlights, brake lights, turn signals and windshields.

WHEREAS, Section 316.212(7), Florida Statutes, allows counties to enact restrictions and regulations regarding golf cart operations that are more restrictive than those contained in Section 316.212 on unlicensed golf cart operators; and

WHEREAS, the Lee County Department of Transportation is responsible for conducting studies to determine whether golf carts may safely travel on or cross public roads located in specific areas of Lee County, considering the following factors: speed, volume, and the character of motor vehicle traffic using the relevant roads; and

WHEREAS, the Board of County Commissioners has determined that golf carts may safely be operated in a limited manner on certain county roads on Captiva Island in Lee County; and

WHEREAS, the Board of County Commissioners desires to provide additional regulations for the operation of golf carts on designated roads on Captiva Island in Lee County, Florida; and

WHEREAS, the Board of County Commissioners believes that regulations proposed in this Ordinance promote and enhance the health, safety and welfare of its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

SECTION ONE: DEFINITIONS

1. The term "golf cart" is defined as stated in Florida Statutes, Subsection 320.01, as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty (20) miles per hour.

2. The term "County road" is defined as any public road, street or highway that is under the jurisdiction of Lee County on Captiva Island and is owned and/or operated and maintained by Lee County.

SECTION TWO: USE OF GOLF CARTS UPON DESIGNATED COUNTY ROADS ON CAPTIVA ISLAND

A. ROADS

1. Golf carts may be operated on those County roads on Captiva Island or portions thereof as designated by Lee County Department of Transportation. These

designations shall be in accordance with Florida Statute, Section 316.212 and shall be made in accordance with Lee County Administrative Code 11-3, Traffic Regulation Orders and Control Measurers.

2. In addition to the requirements of Florida Statutes, Section 316.212, which is applicable to the operation of golf carts on the aforementioned designated roads, the following restrictions shall also apply:

(a) No persons shall operate golf carts on designated County roads on Captiva Island without a valid driver's license issued in his or her home state or country.

(b) All golf carts operated under this Ordinance shall be restricted to a maximum attainable speed of twenty (20) miles per hour.

(c) All golf carts operating subject to this Ordinance must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear at all times while operated on the designated roads.

(d) Golf carts may only be operated on the designated County roads on Captiva Island during the hours between sunrise and sunset, unless otherwise designated by Lee County Department of Transportation.

(e) Golf carts equipped with headlights, brake lights, turn signals, and windshields may operate at night, if nighttime operation is designated by the Lee County Department of Transportation. In accordance with the provisions of Florida Statute 322.16, a person who

holds a driver's license and who is under 17 years of age, when operating a golf cart after 11:00 p.m. and before 6:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated and is at least 21 years of age, unless that person is driving directly to or from work. In accordance with the provisions of Florida Statute 322.16, a person who holds a driver's license who is 17 years of age, when operating a golf cart after 1:00 a.m. and before 5:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated, and is at least 21 years of age, unless that person is driving directly to or from work.

B. Violations of this section shall constitute a non-criminal infraction enforceable by all duly authorized law enforcement officers pursuant to the provisions of Florida Statutes, Section 316.212(8) and 318.

C. The Lee County Department of Transportation shall post signs along the designated roads where golf cart operation is allowed advising motorists of the possible presence of golf cart traffic and alerting the public that the operation of such golf carts is subject to the various requirements of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Lee County Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code; and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section," "Article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors and clarification of ambiguous

wording that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for public hearing.

SECTION FOUR: CONFLICT OF LAW

In the event this Ordinance conflicts with any other Ordinance of Lee County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FIVE: SEVERABILITY

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers herein provided for. If any provision of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION SIX: EFFECTIVE DATE.

This Ordinance shall take effect upon filing with the Florida Department of State.

Commissioner Hall made a motion to adopt the foregoing Ordinance, seconded by Commissioner Bigelow. The vote was as follows:

ROBERT P. JANES	<u>ABSENT</u>
BRIAN BIGELOW	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
TAMMARA HALL	<u>AYE</u>
FRANK MANN	<u>AYE</u>

DULY PASSED AND ADOPTED THIS 23RD day of June, 2009.

**ATTEST: CHARLIE GREEN
CLERK OF COURTS**

BY: marcia Wilson
Deputy Clerk



**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

BY: [Signature]
Chairman

APPROVED AS TO FORM:

BY: [Signature]
Office of the County Attorney



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

June 30, 2009

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 26, 2009 and certified copy of Lee County Ordinance No. 09-22, which was filed in this office on June 29, 2009.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

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DIRECTOR'S OFFICE

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