

**ORDINANCE NO.: 2002-09**

**AN ORDINANCE OF HERNANDO COUNTY, FLORIDA; TO BE KNOWN AS THE DRAINAGE RETENTION, LAKE, POND, UTILITY PROPERTY, AND EASEMENT PROTECTION ORDINANCE; PROHIBITING THE PARKING, STANDING, OR THE PRESENCE OF VEHICLES IN, ON, OR UPON DRAINAGE RETENTION AREAS, LAKES, PONDS, UTILITY PROPERTY, OR EASEMENTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCLUSION IN THE HERNANDO COUNTY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Hernando County owns or maintains numerous drainage retention areas, lakes and ponds throughout the County which serve to retain water drainage from precipitation falling on surrounding areas, and

**WHEREAS**, the effective functioning of these drainage retention areas, lakes and ponds, for their intended purposes depends on the drainage areas, lakes and ponds, being left in the state as constructed or as they currently exist and maintained by the county; and

**WHEREAS**, some of these drainage retention areas retain water and can serve as attractive nuisances; and

**WHEREAS**, drainage retention areas, lakes and ponds are meant to serve drainage purposes and they are not meant to serve as parking places for vehicles or recreational areas; and

**WHEREAS**, there can be some danger to individuals congregating in drainage retention areas and these activities may damage the drainage retention areas, lakes and ponds thereby causing the County to expend unnecessary funds for the repair and maintenance of drainage retention areas, lakes and ponds damaged by individuals congregating in them, and

**WHEREAS**, the county has numerous utility rights-of-way and utility properties that are required by utility companies to provide electrical service to county residents, and

**WHEREAS**, these utility easements may often be occupied by high tension wires causing some danger to unauthorized persons present in the areas, and

**WHEREAS**, either utility easements or utility property may contain dangerous apparatus and equipment that could cause serious injury to persons coming into contact with such equipment, and

**WHEREAS**, unauthorized persons may intentionally or inadvertently damage expensive electrical transmission equipment or power poles causing power disruptions which may have an adverse impact on the public.

FILED  
2002 JUN 25 PM 1:54  
CLERK OF COUNTY OF HERNANDO  
TALLAHASSEE, FLORIDA

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, THAT:**

**SECTION 1. SHORT TITLE**

This ordinance may be known as the drainage retention areas, lakes, ponds, utility easements and property protection ordinance.

**SECTION 2. DEFINITIONS**

The following words and phrases when used in this ordinance shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

- A. **Vehicle** - every device in, on, or upon which any person or property is or may be transported. The vehicle does not include devices used exclusively upon stationary rails or tracks.
- B. **Motor Vehicle** - any self-propelled vehicle including motorcycles and all terrain vehicles not operated upon rails or tracks, but not including any bicycle or moped.
- C. **Motorcycle** - any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.
- D. **All Terrain Vehicles ("ATV")** - any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 600 pounds or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and having handlebars for steering control.
- E. **Drainage Retention Area** - any parcel of property generally, but not necessarily, having sloped soil sides sometimes covered by vegetation or containing water and with an arenaceous or soil bottom with inlets to deliver storm water runoff and designed for the purpose of retaining storm water runoff; or any area or parcel of property generally recognized as a drainage retention area or any property certified by the County Engineer or his designee that the area is currently being used and serves the purpose of a drainage retention area.
- F. **Lake or Pond** - a body of water that in its natural state is substantially at rest with a discernible shoreline regardless of the depth of the water or whether the water is navigable or whether the land surface is wholly or partly submerged or at certain periods the surface is entirely exposed to the atmosphere.

**SECTION 3. PRESENCE OF VEHICLES IN, ON, OR UPON DRAINAGE RETENTION AREAS, UTILITY PROPERTY OR EASEMENTS**

It shall be a violation of this ordinance for any motor vehicle, including motorcycles and ATV's to be in, on, or upon any lakes, ponds, or county drainage retention areas regardless whether the drainage retention area is denoted as such by a sign or other notice. It shall further be a violation of this ordinance for any motor vehicle including recreational or camper type vehicle, motorcycles and ATV's to be in, on, or upon any right-of-way, easement, or utility property with electrical apparatus or equipment including, but not limited to electric towers, electric transmission lines , poles, or other support structures, fans, cooling apparatus, or transformers where the utility is regulated either by the Florida Public Service Commission or the Natural Rural Utilities Service. This provision also applies to areas where any utility has an easement within a right-of-way, including, but not necessarily limited to electric substations or other apparatus used for the transmission or delivering of electricity even where such equipment is isolated and stands apart. Further, it shall also be a violation of this ordinance for anyone to damage such equipment including but not limited to hurling or shooting any projectiles or missiles at any electric substation, other electrical generating equipment, or towers or by hurling other objects including, but not limited to rocks, stones, dirt, debris, or trash.

**SECTION 4. TERRITORIAL APPLICABILITY**

This ordinance shall be applicable in all the unincorporated areas of Hernando County.

**SECTION 5. PENALTIES**

Any violation of this article may be prosecuted as follows:

- A. For the first violation of any provision of this ordinance, any law enforcement officer with jurisdiction in the unincorporated areas of Hernando County, may issue a written warning.
- B. For the second violation of any provision of this ordinance, any law enforcement officer with jurisdiction in the unincorporated areas of Hernando County, may issue a citation with a fine not to exceed fifty (\$50.00) dollars.
- C. For the third violation of any provision of this ordinance, any law enforcement officer with jurisdiction in the unincorporated areas of Hernando County, may issue a citation for a fine not to exceed one hundred (\$100.00) dollars.
- D. For any violations subsequent to the fourth violation, a law enforcement officer with jurisdiction in the unincorporated areas of Hernando County, shall issue a mandatory court appearance where the violation may be prosecuted in the same manner as misdemeanors. Such violations shall be prosecuted in the name of the state and in

the court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed five hundred (\$500.00) dollars or by imprisonment in the county jail, not to exceed sixty (60) days, or by both fine and imprisonment. Each violation of this ordinance shall be deemed a separate offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In assessing fines hereunder, the court may consider whether the violator has been convicted of or pleaded guilty to prior violations of this article.

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

**SECTION 6. SEVERABILITY**

It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, that if any section, subsection, clause, sentence phrase or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

**SECTION 7. INCLUSION IN THE CODE**

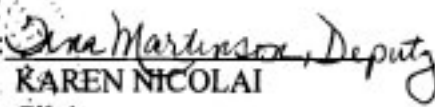
It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Hernando County Code of Ordinances. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

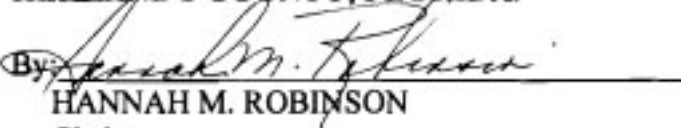
**SECTION 8. EFFECTIVE DATE**

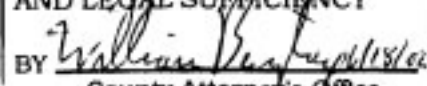
This ordinance shall become effective upon filing with the Department of State.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS** in Regular Session this 18th day of June 2002 A.D.

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA.**

Attest:  Deputy  
KAREN NICOLAI  
Clerk

By:   
HANNAH M. ROBINSON  
Chairwoman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY  6/18/02  
County Attorney's Office