

ORDINANCE #10-01

ORDINANCE RELATING TO OFF-ROAD VEHICLE USE ON COUNTY ROADS

Sections:

1. Purpose:

It shall be the purpose and intent of these regulations is to provide for public use of non-highway roads by the public for Off-Road/Non-Highway Vehicle (ORV) use. As the use of ORVs has grown over the years off-road vehicle activities have increased around schools, residential areas, city limits and businesses and the desire to use ORVs on County roads has increased. This results in concerns for the health and safety of Columbia County citizens and visitors and concerns regarding potential damage to county roads and right-of-ways. Given these developments this chapter is adopted to protect the public peace, health and safety by establishing certain permissible use of non-highway roads by the public for ORV use.

2. Authority:

This chapter is adopted pursuant to authority granted in RCW § 46.09.180 and as further amended or revised.

3. Applicability of Provisions:

The provisions of this Chapter shall apply to all non-highway roads within the borders of the county and outside the borders of the city of Starbuck and the city of Dayton. Nothing in this chapter authorizes trespass on private property.

3.01. Exceptions - the provisions of this Chapter shall not apply to:

- 3.01.01. ORVs owned and operated by the United States, another state, or a political subdivision thereof.
- 3.01.02. ORVs owned and operated by the state, or by any municipality or political subdivision thereof.
- 3.01.03. ORVs owned and operated by the county.
- 3.01.04. ORVs while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue, emergency management or law enforcement agency.
- 3.01.05. ORVs while being used for fire suppression purposes under the authority or direction of an appropriate fire department, emergency management or law enforcement agency.
- 3.01.06. ORVs while being used for agricultural uses.

- 3.0107. Fork lifts operated during daylight hours adjacent to and within one hundred feet of warehouses which they serve.

4. Definitions:

As used in this chapter the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context otherwise indicates:

- 4.01. "Agricultural Activities" for the purpose of this chapter only, means agricultural uses and practices currently existing or legally allowed pursuant to the Columbia County Zoning Ordinance in rural and/or agricultural lands, including, but not limited to: Producing, breeding, or increasing agricultural products or livestock; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural and livestock operations; maintaining, repairing, and replacing agricultural and livestock equipment; maintaining, repairing, and replacing agricultural and livestock facilities.
- 4.02 "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.
- 4.03. "Non-highway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years and for which the County has designated for use by ORVs.
- 4.04. "Off-road/non-highway vehicle" (ORV)
Means any non-licensed, motorized vehicle manufactured primarily for recreational non-highway travel on any one or more of the following: land, water, snow, ice, marsh, swampland and other natural terrain. Such vehicles include but are not limited to: off-road vehicles, two-, three- four-, or six-wheel vehicles, motorcycles, trail bikes, four-wheel drive vehicles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles and any other means of land transportation deriving from any source other than muscle or wind.
- Off-road/non-highway vehicle
4.04.01 Exclusions
4.04.01.a. Any vehicle designed primarily for travel on, over, or in the water,

- 4.04.01.b. Snowmobiles,
- 4.04.01.c. Military vehicles,
- 4.04.01.d. Dune Buggies,
- 4.04.01.e. Go Carts,
- 4.04.01.f. Golf Carts,
- 4.04.01.g. Homemade/Kit unlicensed vehicles,
- 4.04.01.h. Rally/Race cars, and
- 4.04.01.i. Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exception includes but is not limited to farm, construction, and logging vehicles.

- 4.05. "Operator"
Each person who operates, or is in physical control of, any ORV on non-highway roads.
- 4.06. "Owner"
Person(s) other than lien holder, having an interest in or title to an ORV and entitled to the use or possession thereof.
- 4.07. "Person"
Any individual, firm, partnership, association, corporation or entity.

5. Operation of ORVs in the County.

Except as otherwise provided in this chapter, and subject to the requirements of this chapter and applicable state and federal law, it is lawful to operate an ORV upon county designated non-highway roads.

6. Operating of ORVs in county – regulations.

- 6.01. Operators must comply with all federal state and county regulations including but not limited to:
 - 6.01.01. No person under the age of 16 may operate an ORV pursuant to this chapter.
 - 6.01.02. No person without a valid operators license required pursuant to Chapter 46.61 RCW may operate an ORV pursuant to this chapter.
 - 6.01.03. Compliance with Chapter 46.09 RCW, Off-Road and Non-highway Vehicles law as amended.
 - 6.01.04. Compliance with Chapter 46.61 RCW, Rules of the Road law as amended.

- 6.01.05. No person shall operate any ORV in such a manner as to endanger the property of another;
- 6.01.06. No person shall use any ORV without a lighted headlight and taillight;
- 6.01.07. No person shall use any ORV without an adequate braking device;
- 6.01.08. No person shall use any ORV without a spark arrester approved by the department of natural resources;
- 6.01.09. No person shall use any ORV without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:
 - 6.01.09.a. At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;
 - 6.01.09.b. With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and
 - 6.01.09.c. With the microphone placed ten inches from the side of the vehicle, one-half between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;
- 6.01.10. No person shall operate on an ORV without at least one mirror located to reflect to the Operator a view of the roadway for a distance of at least two hundred feet (200") to the rear of the ATV.
- 6.01.11. No person shall operate or ride on an ORV on a non-highway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion, unless the ORV is equipped with seat belts and roll bars or an enclosed passenger compartment. For

purposes of this section, "motorcycle helmet" has the same meaning as provided in RCW 46.37.530 as amended.

- 6.01.12. No person shall use any ORV on the shoulder or inside bank or slope of any highway, or upon the median of any divided highway;
- 6.01.13. No person shall use any ORV in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;
- 6.01.14. No person shall use any ORV on any non-highway road which is restricted to pedestrian or animal travel;
- 6.01.15. No person shall use any ORV on any non-highway road in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any ORV vehicle except by permit issued by the director of fish and wildlife under RCW 77.32.237; provided that it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon an ORV if the person complies with the terms and conditions of chapter 9.41 RCW.
- 6.01.16. No person shall use any ORV on any non-highway road within 100 feet of an occupied residence between the hours of 10:00 p.m. and 6:00 a.m. unless use is agricultural use as defined in this chapter.
- 6.01.17. Compliance with the following speed restrictions:
 - 6.01.17.a. Maximum speed limit for an ORV on non-highway roads shall be 35 MPH or the posted speed limit whichever is lower.
 - 6.01.17.b. Maximum speed limit for an ORV when approaching livestock, horses, horseback riders, horses being driven or horse drawn carts, wagons or any other conveyance that involves livestock or horses shall be 10 MPH.
 - 6.01.17.c. When a person operating an ORV when approaching pedestrians or bicyclists shall be 5 MPH or less if necessary for the safety of the pedestrian or bicyclist.
 - 6.01.17.d. Maximum speed limit for an ORV when passing within 100 feet of an occupied dwelling on a dirt or gravel road shall be 10 MPH.

6.01.17.e. When another vehicle is overtaking an ORV, the Operator must reduce his or her speed to 10 MPH, allow the vehicle to pass and accelerate only when can be done safely.

6.01.18. Compliance with the following rules of the road:

6.01.18.a. Operate ORVs only on the right side of the non-highway road.

6.01.18.b. Operate ORVs, at all times possible, when safe, with right side wheel(s) on the right shoulder of the road;

6.01.18.c. Operate ORVs, at all times possible, on the far right side of the lane of travel.

6.01.18.d. When crossing another non-highway road, highway or other street, road or way, cross only at a 90-degree angle to the center of the road being crossed.

6.01.18.e. Yield to all other traffic while crossing non-highway roads, highways, or other streets, roads or ways.

6.01.18.f. When being overtaken by other traffic, reduce speed to 10 MPH and move as far right as safely possible to allow other traffic to pass.

6.01.18.g. When operating with one or more other ORV operators, operators shall not travel side-by-side but shall travel in a uniform line.

6.01.18.h. When operating with one or more other Operators, maintain enough space between other Operators to allow for passing vehicle to safely move into lane between ORV Operators.

6.01.18.i. Utilize hand signals for turning and/or stopping when the ORV is not equipped with illuminated turn signals and/or brake light.

7. **Trespass.** It is unlawful to operate an ORV upon a private road if the road owner has not authorized the use of ORVs. Trespass is punishable pursuant to applicable trespass laws in Chapter 9A.52 RCW.

8. **Reckless driving, driving under the influence, vehicular homicide and assault.** To operate an ORV on a non-highway road recklessly, while under the influence of intoxicating

liquor or any drug, with disregard to the safety of others, or negligently and while endangering or likely endangering any person or property and is punishable pursuant to applicable laws in Chapter 46.61 RCW.

9. Parent/Legal Guardian Obligations.

No parent or legal guardian shall permit their child or dependant to operate or ride on any ORV in violation of this chapter. Violation of this provision is a traffic infraction punishable pursuant to section 9.02. herein.

10. Penalties and enforcement.

- 10.01. Any person found to be in violation of any provision of this chapter is guilty of a traffic infraction, unless such other, stricter, penalty is prescribed by another state and/or county regulation.
- 10.02. Unless stated otherwise, a traffic infraction issued pursuant to this ordinance is punishable by a fine not less than \$_____ or more than \$500. Any misdemeanor, gross misdemeanor or felony offense shall be punishable pursuant to the applicable state criminal law, Chapter 9.94A RCW.
- 10.03. In addition to any penalty provided for in this chapter, the Owner and/or Operator of any ORV found to have violated any provision of this chapter may be liable to a landowner for any damage to property or injury to persons or livestock. Any injured person, owner of property or livestock that is damaged may recover double damages, as well as costs, expenses and reasonable attorney's fees.
- 10.04. The Columbia County Sheriff's Office is authorized to promulgate policies and procedures to enforce this ordinance.

11. Designated non-highway roads.

- 11.01. The County shall designate the non-highway roads as the only permissible areas for ORV usage within the county limits. The County is authorized to promulgate rules for designation and undesignation of non-highway roads for ORV usage.
- 11.02. The County may undesignated non-highway roads for ORV usage at any time and without notice to the public.
- 11.03. The County shall post all designated non-highway roads for ORV usage on the County maintained website. The pubic is encouraged to review the non-highway designations prior to operating ORVs on a non-highway road.

12. Agricultural use of ORVs.

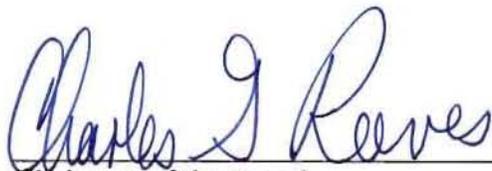
- 12.01 Operators using ORVs solely for agricultural use are required to comply with this ordinance.
- 12.02 Operators using ORVs solely for agricultural use may operate ORVs on non-designated non-highway roads only
 - 12.02.01 By permit pursuant to ordinance #09-05.

- 12.02.02. within a radius of fifteen miles:
 - 12.02.02.a of the rural/agricultural land where the ORV is used.
 - 12.02.02.b of where the ORV is usually stored or garaged.
 - 12.02.02.c of where farm vehicles, tractors, trailers and/or implements regularly used are regularly stored, garaged or used.
- 12.02.02. for temporary livestock/animal herding in association with agricultural use.
- 12.02.03 for temporary location or relocation of farm trailers and/or implements used for agricultural use.

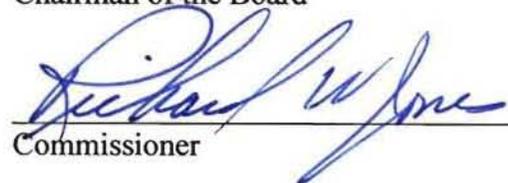
- 13. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts which shall remain in full force and effect.
- 14. **Effective Date.** This Ordinance shall become effective from and after its passage by the Board of County Commissioners.

NOW, THEREFORE, BE IT HEREBY ORDAINED

Dated this 26 day of April, 2010.



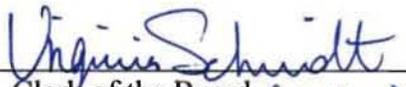
 Chairman of the Board



 Commissioner



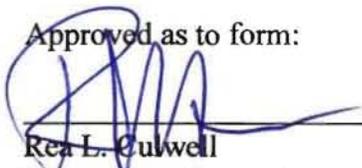
 Commissioner

Attest 

 Clerk of the Board (acting)

Constituting the Board of County
 Commissioners of Columbia County, Washington

Approved as to form:



 Rea L. Culwell
 Prosecutor, Columbia County

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COPY

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