

ORDINANCE NO. 19-046**AN ORDINANCE OF COWLITZ COUNTY ADOPTING CHAPTER 12.65 OF THE COWLITZ COUNTY CODE.**

WHEREAS, the Washington State legislature passed Engrossed Substitute House Bill (ESHB) 1632 in 2013, amending chapter 46.09 RCW Off-Road, Non-Highway, and Wheeled All-Terrain Vehicles (WATVs) to allow, among other things, counties to regulate the operation of non-highway vehicles on streets, roads, or highways, and

WHEREAS, RCW 46.09.310(19) describes and classifies WATVs as non-highway vehicles; and

WHEREAS, RCW 46.09.455 sets forth prohibited and authorized uses of WATVs that include the authorization of operation of WATVs on any public roadway of the state having a speed limit of thirty-five (35) miles per hour or less subject to restrictions and requirements; and

WHEREAS, RCW 46.09.455(1)(c)(iii) requires counties with a population of fifteen thousand or more to list publicly and make accessible from the main page of the county website any public roadways, not including non-highway roads and trails, that are authorized for use by WATVs; and

WHEREAS, the Board of County Commissioners desires to restrict WATV operation on county roads only to persons possessing a valid license to operate a motor vehicle under chapter 46.20 RCW; and

WHEREAS, the Board of County Commissioners held a public hearing on May 21, 2019 to hear public comment on the proposed adoption of Chapter 12.65 of the Cowlitz County Code; and

WHEREAS, the Board of County Commissioners finds that it is in the best interest of the public to adopt provisions to allow operation of WATVs on certain county roadways, as described in chapter 45.09 RCW, provided they are operated on county maintained roads that have posted speed limits of 35 miles per hour or less, and to impose penalties for the violation thereof.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Cowlitz County, State of Washington that:

Section 1. Section **12.65** of the Cowlitz County Code is hereby adopted, as follows:

12.65.010 Title.

This chapter shall be known and may be cited as the "Wheeled All-Terrain Vehicle Ordinance".

12.65.020 Purpose and Applicability.

The purpose of this chapter is to enact provisions in accordance with Chapter 46.09 RCW

regarding the use of wheeled all-terrain vehicles (WATVs). This chapter shall apply to operation of all WATVs on those county roads in unincorporated areas of Cowlitz County, Washington as designated in CCC 12.65.050.

12.65.030 Definitions.

A. The definitions in chapters 46.04 and 46.09 are adopted and incorporated by reference, with the following exceptions:

1. "Wheeled all-terrain vehicle" or "WATV" includes ATV, UTV and ORV as defined below.
2. "All-terrain vehicle" or "ATV" means any motorized non-highway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less.
3. "Utility all-terrain vehicle" or "UTV" means a utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a maximum width less than seventy-four inches, has a maximum weight less than two thousand pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following: (i) has a minimum width of fifty inches; (ii) has a minimum weight of at least nine hundred pounds; or (iii) has a wheelbase of over sixty-one inches. Unless specifically cited, for the purpose of this chapter the term "Wheeled all-terrain vehicle" includes those vehicles meeting the definition of "Utility all-terrain vehicle".
4. "Off-road vehicle" or "ORV" means a non-street registered vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

12.45.035 Operation on county roads

A. All WATVs operating on county roads must:

1. Comply with all Washington State registration requirements in accordance with RCW 46.09.410 and 46.09.420 and WATV use permits in accordance with RCW 46.09.430; with the following additions:

- a. Decals required by 46.09.410(7) shall be affixed to the ORV where it is clearly visible.

2. Meet all equipment requirements, be certified by a Washington State licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop, and declaration requirements in accordance with RCW 46.09.457.

B. All persons operating WATVs on county roads must meet all registration and licensing

requirements as set forth in chapter 46.09 RCW, with the following addition:

1. Registration must be provided to a duly licensed law enforcement officer upon request.

C. All persons operating WATVs on county roads must obey all traffic laws including but not limited to rules of the road, traffic law or code, parking regulations, and road closures or restrictions, unless otherwise expressly exempted by chapter 46.09 RCW. WATV operators must obey posted speed limits while traveling on county roads outlined in CCC 12.65.050.

D. Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and tail lamp meeting the requirements of RCW 46.37.525 must be used at all times the vehicle is in motion.

E. Documentation of safety inspection required by RCW 46.09.457(1)(b)(i) must be carried in the vehicle and provided to a duly licensed law enforcement officer upon request

F. All occupants of a WATV shall wear a DOT approved helmet unless it has an Original Equipment Manufacturing (OEM) Roll Over Protection System (ROPS).

G. The operator and all passengers in a Utility All-Terrain Vehicle shall wear safety belts. Safety belts are required even if not provided by the manufacturer.

~~12.65.040 Hours of operation~~

~~A. Hours of WATV use are limited to one hour before dawn until one hour after dusk.~~ ACM
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12.65.045 Operations by persons not possessing a valid license.

A. Any person not possessing a valid license to operate a motor vehicle under chapter 46.20 RCW may not operate any WATV on county roads.

12.65.050 Roads designated for WATV use.

A. County roads with a posted speed limit of 35 miles per hour (mph) or less ~~and outside identified urban areas~~ are designated for WATV use. Roads designated for WATV use shall be on file with the County Engineer, ~~and~~ posted on the County website. ACM
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B. The boundaries of roads designated under this chapter start and stop at intersections of these roads with other roads not designated.

12.65.055 Prohibited activities

A. No operator may use any WATV to pull a sled, toboggan, inner tube, wagon, trailer, or any other similar device.

B. No person shall operate or park any WATV on any sidewalk, walkway, pedestrian trail or bridge where the operation of motorized vehicles is prohibited.

12.65.060 Exemptions.

This chapter shall not apply to an appropriate local, state, and/or federal agency that engages in emergency management, as defined by state law, or to those individuals associated with such agencies and engaged in search and rescue operations, as defined by state law, or law enforcement agencies when operation of any such vehicle is in accordance with the scope of the official duties of the agency.

12.65.070 Violation and penalties.

A. It is a violation of this chapter for any person or WATV to operate on county roads inconsistent with this chapter. Any person violating this chapter shall be guilty of a traffic infraction punishable in accordance with chapter 46.63 RCW; provided, conduct that constitutes a criminal traffic offense may be charged as such and subject to the maximum penalties allowed for such offenses.

B. In addition to the penalties provided in this chapter the owner and/or operator of any non-highway vehicle shall be liable for any damage to property including, but not limited to, damage to trees, shrubs, or growing crops as the result of operating a WATV. The owner of such property may recover from the person responsible three times the amount of the damage per RCW 46.09.490(2).

12.65.075 Severability.

If any section, subsection, clause, phrase or word in this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section shall be deemed a separate provision and such holding shall not affect the validity of the remaining portion of this chapter.

Section 2. Severability. The provisions of this ordinance are declared separate and severable. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, paragraph subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraph subsections, clauses or phrases may subsequently be found to be unconstitutional or invalid.

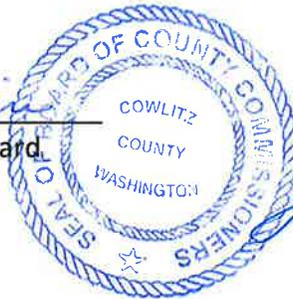
Section 3. Codification. Code adoptions and amendments shall be codified in Chapter 12.65.

Section 4. Effective Date. These regulations are in the public interest and shall take effect immediately upon adoption by the Board.

APPROVED THIS 21st day of May, 2019, after public hearing pursuant to Notice published on the 8th day of May, 2019 in The Daily News.

ATTEST:

Tiffany Ostreim
Tiffany Ostreim, Clerk of Board



BOARD OF COUNTY COMMISSIONERS
OF COWLITZ COUNTY, WASHINGTON

Joe Gardner
Joe Gardner, Chairman

APPROVED AS TO FORM:
Cowlitz County Prosecuting Attorney

Douglas E. Jensen, Chf. Civil Deputy

absent - excused
Dennis P. Weber, Commissioner

Arne Mortensen
Arne Mortensen, Commissioner

