

ORDINANCE NO.

**ORDINANCE AMENDING THURSTON COUNTY CODE CHAPTERS 12.04 AND 12.61, "TRAFFIC CODE", CREATING A NEW SECTION DEFINING WHEELED ALL-TERRAIN VEHICLES AND A NEW SECTION ALLOWING THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES ON COUNTY ROADS WITH POSTED SPEED LIMITS OF 35 MILES PER HOUR OR LESS**

WHEREAS, the Washington State legislature passed Engrossed Substitute House Bill (ESHB) 1632 in 2013, amending Revised Code of Washington (RCW) Chapter 46.09 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, pursuant to RCW Chapter 46.09.310(19), WATVs are described and classified as non-highway vehicles; and

WHEREAS, RCW Chapter 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 Chapter 46.09.455(1)(c)(i) requires counties with a population of fifteen thousand or more, who desire to allow operation of WATVs on county roadways, to approve an ordinance that designate public roadways within county boundaries for said usage, not including non-highway roads and trails; 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 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 finds that allowing WATVs, as described in Chapter 46.09 RCW, promotes increased opportunities for tourism by providing a variety of outdoor recreation activities in the county; and

WHEREAS, the Board finds that allowing WATVs, as described in Chapter 46.09 RCW, preserves and protects the environment by providing users of WATVs an optional place to operate outside of outdoor off-road areas and trails; and

WHEREAS, the Board held a public hearing on \*\* \*\* to hear public comment on the proposed amendment to TCC Title 12; and

WHEREAS, the Board finds that it is in the best interest of the public to adopt provisions to allow operation of WATVs on county roadways, as described in RCW Chapter 46.09, provided that 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; and

WHEREAS, the Board concludes that TCC Title 12 should be amended as set forth herein.

**NOW, THEREFORE, IT IS ORDERED:**

Section 1. A New Section is added to Title 12.04 of the Thurston County Code to read:

**12.04.390 Wheeled All-Terrain Vehicle.**

“Wheeled All-Terrain Vehicle” means (a) any motorized nonhighway 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, or (b) 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.

Section 2. A New Chapter is added to Title 12 of the Thurston County Code, Chapter 12.80, to read:

**Chapter 12.80**

**WHEELED ALL-TERRAIN VEHICLES ON COUNTY ROADWAYS**

Sections:

- 12.80.010 Purpose and Applicability
- 12.80.020 Definitions
- 12.80.030 Operation on County Roads
- 12.80.040 Operations by persons Not Possessing a Valid License
- 12.80.050 Roads Designated for WATV Use
- 12.80.060 Prohibited Activities

- 12.80.070 Exemptions
- 12.80.080 Reporting Requirement
- 12.80.090 Violations and Penalties
- 12.80.100 Disposition of Traffic Fines and Forfeitures
- 12.80.110 Severability

**12.80.010 Purpose and Applicability.**

The purpose of this chapter is to enact provisions in accordance with Revised Code of Washington 46.09 regarding the use of wheeled all-terrain vehicles (WATVs). This chapter shall apply to operation of all WATVs on county roads in unincorporated areas of Thurston County Washington.

**12.80.020 Definitions.**

(1) For the purposes of this chapter, the definitions contained in Revised Code of Washington chapters 46.04 and 46.09 are adopted and incorporated by reference.

(2) For the purposes of this chapter, “county road” shall have the same meaning as defined in TCC 12.04.075.

**12.80.030 Operation on County Roads.**

- (1) All WATVs operating on county roads shall:
  - (a) Comply with all Washington State registration requirements in accordance with RCW 46.09.410 and 46.09.420 and all WATV use permits in accordance with RCW 46.09.430; and
  - (b) Meet all equipment requirements, be certified by a Washington State licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop, and all declaration requirements as required by RCW 46.09.457.
- (2) All persons operating WATVs on county roads shall meet all registration and licensing requirements as required in RCW 46.09.
- (3) All persons operating WATVs on county roads shall obey all traffic laws including but not limited to the rules of the road, RCW 46.61 and TCC 12.61, parking regulations, road closure restrictions and any and all other requirements for the operation of motor vehicles found in state law or code unless otherwise expressly exempted by RCW 46.09. WATV operators shall posted speed limits while traveling along open county roads.
- (4) Have affixed headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and in use at all times when the vehicle is operated on a county roadway.
- (5) Have affixed tail lamps meeting the requirements of RCW 46.37.525 and in use at all times when the vehicle is operated on a county roadway.

#### **12.80.040 Operations by Persons Not Possessing a Valid License.**

Any person not possessing a valid license to operate a motor vehicle under RCW chapter 46.20 shall not operate any WATV or off-road vehicles on county roads.

#### **12.80.050 Roads designated for WATV use.**

(1) County Roads or portions thereof designated for WATV use with a posted speed limit of 35 mph or less shall be listed and updated on the Thurston County website pursuant to RCW 46.09.455(1)(c)(iii).

(2) Any other “county road” as defined by TCC 12.04.075 with a posted speed limit of less than 35 miles per hour is designated for WATV use.

#### **12.80.060 Prohibited Activities.**

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

(2) No person shall operate any WATV side-by-side with any other WATV in a single lane of traffic.

(3) No person shall operate or park any WATV on any sidewalk, walkway, pedestrian trail, designated bicycle lane or bridge where the operation of motor vehicles is prohibited.

#### **12.80.070 Exemptions.**

This chapter shall not apply to an appropriate local, state and/or federal agency that engages in emergency management functions as defined by state law, or to those individuals associated with such agencies and are 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.

#### **12.80.080 Reporting Requirement.**

The Director of the Department of Public works and the Sheriff or their designees shall report to the Board of County Commissioners every two years during the third quarter of the year regarding traffic safety data and reports related to the permissive use of WATV within unincorporated Thurston County.

#### **12.80.090 Violations and Penalties.**

(1) It is a violation of this Chapter for any person to operate a WATV on a county road inconsistent with the provisions herein. Any person violating a provision of this Chapter shall be guilty of a traffic infraction punishable in accordance with TCC Chapter 12 and/or the relevant provisions of RCW 46.63, provided that conduct that constitutes a criminal traffic offense as defined by the Revised Code of Washington may be charged as such and subject to the maximum penalties allowed for such offense.

(2) In addition to the penalties provided herein in Section (1), the owner and/or operator of any WATV shall be liable for any damages to property including but not limited to damage to: trees, shrubs, crops or any other ornamental vegetation damaged as a result of the operation of a WATV. The owner of said damaged property may recover from the person treble damages pursuant to RCW 46.09.490(2).

**12.80.100 Disposition of Traffic Fines and Forfeitures.**

All fines and/or forfeitures collected upon a finding of committed or conviction of a violation of any provision of this Chapter or upon the forfeiture of bail of any person charged with a violation of any provision of this Chapter shall be paid into the Thurston County general fund and shall be available for general county purposes.

**12.80.100 Severability.**

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of any other provision to other persons or circumstances shall not be affected.

Section 3. Consistent with the requirements of RCW46.09.455(1)(c)(iii), the Board authorizes Central Services Information Technology to make accessible from the County website main page a listing of all county roadways, not including non-highway roads and trails that are authorized for use by WATVs consistent with Table 1 contained herein at TCC 12.80.050.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Bud Blake, Chair

\_\_\_\_\_  
John Hutchings, Vice-Chair

\_\_\_\_\_  
Gary Edwards, Commissioner

Approved as to Form  
JON TUNHEIM  
Prosecuting Attorney

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Deputy Prosecuting Attorney