

CLARK COUNTY STAFF REPORT

DEPARTMENT: Clark County Council

DATE: September 1, 2020

REQUESTED ACTION: Consider approval of an ordinance authorizing use of wheeled all-terrain vehicles (WATVs) on county roads with a posted speed limit of 35 mph or less.

_____ Consent X Hearing _____ County Manager

BACKGROUND

In 2013, Washington state legislature modified the authority of local jurisdictions to allow use of some off-road vehicles on public roads. These changes are found in RCW 46.09. Per state law, local jurisdictions may authorize wheeled all-terrain vehicles (WATVs) to be operated on public roads when:

- The road has a posted speed limit of 35 mph or less;
- The list of approved roads is made accessible from the local jurisdiction's main webpage.

In response to inquiries from interested constituents, the County Council directed staff to prepare a draft ordinance authorizing use of WATVs on county roads with a posted speed limit of 35 mph or less.

COUNCIL POLICY IMPLICATIONS

The ordinance authorizes WATVs to be used on all county roads in the unincorporated county when:

- There is a posted speed limit of 35 mph or less;
- The driver complies with all state law requirements regarding WATV registration;
- The WATV has all required equipment, including headlights and tail lamps, and is certified by a Washington state licensed WATV dealer or motor vehicle repair shop confirming the WATV meets the equipment requirements;
- The driver has a valid driver's license;
- The driver obeys all traffic laws.

The ordinance prohibits a WATV from pulling a sled, toboggan, trailer, or other device while on a county road.

Violations of the ordinance may subject the driver to traffic infractions, or if the conduct constitutes a criminal traffic offense, may be prosecuted criminally. Additionally, per the ordinance, the driver of the WATV is liable for any damages to property that result from the operation of the WATV.

ADMINISTRATIVE POLICY IMPLICATIONS

N/A

COMMUNITY OUTREACH

The Council held multiple discussions during Council Time, and this hearing is being conducted at a duly noticed Public Hearing.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation.
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

DISTRIBUTION:

County Council staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Lindsey Shafar
Senior Policy Analyst
564-397-4157

Kathleen Otto
County Manager

APPROVED: _____
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: _____

SR# _____

APPROVED: _____
Kathleen Otto, County Manager

DATE: _____

ORDINANCE NO.

AN ORDINANCE creating Clark County Code Chapter 12.04, creating a new section defining all-terrain vehicles and 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 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 (MPH) 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 designates 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 County Council desires to restrict WATV operation on rural county roads only to persons possessing a valid license to operate a motor vehicle under Chapter 46.20 RCW; and

WHEREAS, the County Council 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 County Council is considering this matter at a duly-advertised public hearing and concludes that adoption will further the public health, safety, and welfare; now, therefore:

BE IT ORDERED, RESOLVED, AND DECREED BY THE CLARK COUNTY COUNCIL, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. **New.** A new section is added to Clark County Code Title 12 to read:

Wheeled all-terrain vehicles on county roadways

Section 12.04.010	Purpose and Applicability
Section 12.04.020	Definitions
Section 12.04.040	Operation on County Roads
Section 12.04.040	Operations by Persons Not Possessing a Valid License
Section 12.04.050	Roads Designated for WATV use
Section 12.04.060	Prohibited Activities
Section 12.04.070	Exemptions
Section 12.04.080	Violations and Penalties
Section 12.04.090	Disposition of Traffic Fines and Forfeitures
Section 12.04.100	Severability

12.04.010 Purpose and Applicability

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

12.04.020 Definitions

For purposes of this chapter, the definitions contained in RCW 46.04 and 46.09 are adopted and incorporated by reference.

12.04.030 Operation on County Roads

All WATVs operating on county roads shall:

- (1) 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;
- (2) Meet all equipment requirements, be certified by a Washington state licensed WATV dealer or motor vehicle repair shop, and all declaration requirements per RCW 46.09.457;
- (3) Meet all registration and licensing requirements per RCW 46.09;
- (4) Obey all traffic laws including but not limited to the rules of the road, RCW 46.61 and the Clark County Code, parking regulations, road closure restrictions and any and all other requirements for the operation of motor vehicles found in state law or code

- unless expressly exempted by RCW 46.09. WATV operators shall follow posted speed limits while traveling along county roads;
- (5) Have affixed headlights meeting the requirements of RCW 46.37.030 and RCW.37.040 and in use at all times when the vehicle is operated on a county road; and
 - (6) 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 road.

12.04.040 Operation 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 vehicle on county roads.

12.04.050 Roads Designated for WATV Use

County roads or portions thereof designated for WATV use are those with a posted speed limit of 35 MPH or less. These roads shall be listed and updated on the Clark County website.

12.04.060 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 a WATV side-by-side with any other WATV in a single lane of traffic; and
- (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.

12.04.070 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 official duties of the agency.

12.04.080 Violations and Penalties

(1) It is a violation of this Chapter for any person to operate a WATV on a county road in a manner inconsistent with this Chapter. Any person violating a provision of this Chapter may be subject to a traffic infraction punishable in accordance with the relevant provisions of RCW 46.63. If the conduct constitutes a criminal traffic offense as defined by the RCW, the conduct may be charged as such and subject to the maximum penalties allowed for such offense.

(2) In addition to the penalties provided in Section (1), the owner and/or operator of the WATV shall be liable for any damages to property, including but not limited to: trees, shrubs, crops, or any ornamental vegetation damaged as a result of the operation of a WATV.

12.04.090 Disposition of Traffic Fines and Forfeitures

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

12.04.100 Severability

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

Section 2. Effective Date. This ordinance shall be effective the 10th day following adoption.

Section 3. Instructions to the Clerk. The Clerk of the Council shall:

- A. Record a copy of this Ordinance with the Clark County Auditor; and
- B. Cause notice of adoption of this Ordinance to be published forthwith, pursuant to Clark County Code 1.02.140; and
- C. Provide a copy of this Ordinance to Code Publishing; and
- D. Provide a copy of this Ordinance to county staff for creation of a webpage listing county roads approved for WATV use.

Section 4. Roll Call Vote. The following persons voted in favor of the above ordinance:

The following persons voted in opposition to the above ordinance:

ADOPTED on this _____ day of _____, 2020.

CLARK COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

Attest:

Clerk to the Council

Eileen Quiring, Chair

Approved as to form only:
ANTHONY GOLIK
Prosecuting Attorney

Temple Lentz, Councilor

By: _____
Emily Sheldrick
Chief Civil Deputy

Julie Olson, Councilor

John Blom, Councilor

Gary Medvigy, Councilor