

**Before the Board of County Commissioners
Pacific County, Washington**

ORDINANCE NO. 174

AN ORDINANCE ADOPTING REGULATIONS FOR, AND ALLOWING OF, WHEELED ALL-TERRAIN VEHICLES AND OFF-ROAD VEHICLES ON CERTAIN COUNTY ROADWAYS

WHEREAS, pursuant to the provisions of RCW 46.09 & Engrossed Substitute House 1632, the legislative body of a county with a population of fifteen thousand or more may adopt an ordinance adopting regulations for, and allowing operation of, Wheeled All-Terrain Vehicles (WATVs) on county roadways; and

WHEREAS, the COUNTY completed a State Environmental Policy Act (SEPA) checklist outlining possible environmental impacts related to the use of WATVs on county roadways which allowed for a public comment period; and

WHEREAS, the Board of County Commissioners held a series of public meetings to gather testimony regarding the use of WATVs and possible impacts; and

WHEREAS, the Board of County Commissioners has considered all testimony and public comments received as part of the SEPA review and public meetings, and accepts a Final Determination of Non Significance; and

WHEREAS, based on its review the Board of County Commissioners believe that WATVs should be allowed on certain designated county roads with speed limits thirty five (35) mph or less in which there appears to be no significant environmental impact; and

WHEREAS, the Board recognizes this is a change in the use of county roads and there may be additional unanticipated impacts that will need to be considered which may result in possible amendments to this ordinance; and

WHEREAS, the adoption of an ordinance allowing Wheeled All-Terrain Vehicles and Off-Road vehicles on certain county roadways does not affect existing laws related to the use these type of vehicles for emergency service vehicles, vehicles used for emergency management purposes, or vehicles used in the production of agricultural, aquaculture, and timber products, or operated on and across lands owned, leased, or managed by the owner or operator of the WATV or operator's employer.

NOW, THEREFORE, IN ACCORDANCE WITH CHAPTER 36.32 RCW AND CHAPTER 46.09 RCW, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS, PACIFIC COUNTY, WASHINGTON, AS FOLLOWS:

SECTION 1. Definitions

- A. **Highway** means the entire width between the boundary lines of every roadway publicly owned and maintained. 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.

- B. **Non-Highway Road** means any road owned or managed by a public agency, a primitive road or any private road that the owner has granted an easement for public use, and that did not receive funds from the Motor Vehicle Account for original construction or reconstruction in the last twenty-five(25) years or maintenance in the last four (4) years.
- C. **Operator** means each person who operates, or is in physical control of any non-highway vehicle.
- D. **Primitive Road** means a linear route managed for use for four-wheel drive or high-clearance vehicle that is generally **NOT** maintained or paved.
- E. **RCW** means Revised Code of Washington.
- F. **Nonhighway vehicle** means any motorized vehicle including an Off-Road Vehicle (ORV) when used for recreational purposes on highway roads, trails or a variety of other natural terrain. Nonhighway vehicle does not include any vehicle designed primarily for travel on, over, or in the water; snowmobiles or any military vehicles; or any vehicle eligible for a motor vehicle fuel tax exemption or rebate under 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.
- G. **Wheeled All-Terrain Vehicle** (WATV), shall mean:
 - a. Any motorized non-highway vehicle with handlebars that are fifty (50) inches or less in width, has a seat height of at least twenty (20) inches, weighs less than one thousand five hundred (1500) pounds, and has four tires having a diameter of thirty (30) inches or less, or
 - b. A utility-type vehicle designed for and capable of travel over designated roads that travels on four (4) or more low-pressure tires, has a maximum width less than seventy-four (74) inches, has a maximum weight less than two thousand (2000) pounds, has a wheelbase one hundred ten inches (110) or less, and satisfies at least one of the following
 - i. Has a minimum width of fifty (50) inches;
 - ii. Has a minimum weight of at least nine hundred (900) pounds; or
 - iii. Has a wheelbase of over sixty-one (61) inches.
- H. Specific types of vehicles **not approved** as WATVs for purposes of this Ordinance are:
 - a. Rails
 - b. Go Carts
 - c. Homemade unlicensed vehicles
 - d. Rally cars
 - e. Golf Carts

SECTION 2. Operating a WATV on County Roads

- A. WATVs operating on county roads must comply with Washington State requirements for registration, WATV use permits and equipment laws:

- a. Operators of WATVs must be at least sixteen (16) years of age **and** possess a current valid driver's license to operate a WATV on or to cross county roads [RCW 46.20 Driver's Licenses – Identcards].
- b. WATVs must be registered through the Washington State Department of Licensing (DOL). The DOL will issue metal license plates (motorcycle size) that must be attached to the rear of the WATV. An On-Road and/or Off-Road sticker must be issued and affixed to the proper location:
 - i. The words "RESTRICTED VEHICLE" must be at the top of the license plate.
 - ii. Off-Road tab must be affixed to the bottom left corner of the license plate.
 - iii. On-Road tab must be affixed to the bottom right corner of the license plate;
- c. WATV registration, decals and tabs must be obtained through the DOL. Decals must be affixed to the WATV in a manner prescribed by the DOL. Decals serve as the same function as license plates for vehicles registered under RCW 46.16A;
- d. WATV registration must be carried with the vehicle for which it was issued at all times during operation.
- e. The owner of a WATV must, within fifteen (15) days of taking possession of said WATV, transfer the registration through the DOL.
- f. WATV fees will be set by the DOL.
- g. Off-Road Vehicle registrations **are not** required for:
 - i. ORVs owned and operated by the United States, another state or political subdivision of the United States or another state.
 - ii. Off-Road Vehicles owned and operated by this state, a municipality, or a political subdivision of this state or the municipality.
 - iii. Off-Road Vehicles operated on and across lands owned, leased, or managed by the owner or operator of the off-road vehicle or the operator's employer.
 - iv. Off-Road Vehicles owned by a resident of another state that have a valid Off Road Vehicle use permit or vehicle registration issued in accordance with the laws of the other state. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state.
 - v. ORVs being used under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency as defined in RCW 16.52.011.
 - vi. Vehicles registered under chapter 46.16A RCW or, in the case of nonresidents, vehicles validly registered for operation over public highways in the jurisdiction of the owner's residence.
 - vii. Off-Road vehicles operated by persons who, in good faith, render emergency care or assistance with respect to an incident involving off-road vehicles. Persons who operate Off-Road vehicles to render such care, assistance, or advice are not liable for civil damages resulting

from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

- h. WATV equipment must comply with Washington State regulations as follows:
- i. Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion on a county roadway.
 - ii. One tail lamp meeting the requirements of RCW 46.37.525 and used at all times when the vehicle is in motion upon a county roadway; however a utility-type vehicle, as described by RCW 46.09.310 (ORV with 4 wheels) must have two tail lamps used at all times when vehicle is in motion on a county roadway.
 - iii. Stop lamp meeting the requirements of RCW 46.37.200.
 - iv. Reflectors meeting the requirements of RCW 46.37.060.
 - v. Turn signals meeting the requirements of RCW 46.37.200 must be used during hours of darkness as defined in RCW 46.04.200. Outside the hours of darkness hand signals may be used per RCW 46.61.310.
 - vi. Mirrors. A mirror attached to either the right or left handlebar, which must be located to given the operator a complete view of the roadway for a distance of at least two hundred (200) feet to the rear of the vehicle. A utility-type vehicle (ORV with 4 wheels) must have two (2) mirrors (located on the left and right) meeting the requirements of RCW 46.37.400.
 - vii. Windshield meeting the requirement of RCW 46.37.430, unless the operator wears glasses, goggles, or a face shield while operating the vehicle, or a type conforming to the rules adopted by the Washington State Patrol
 - viii. Horn or warning device meeting the requirements of RCW 46.37.380
 - ix. Brakes in working order
 - x. Spark Arrester and Muffling Device meeting the requirements of RCW 46.09.470.
 - xi. Seatbelts for utility-type vehicles (ORV with 4 wheels) per RCW 46.37.510.
 - xii. Motorcycle helmet: A Department of Transportation approved helmet is required and must be fastened securely to operator's head while the WATV is in motion, except for WATVs equipped with steering wheel, seat belts, roll bars or an enclosed passenger compartment per RCW 46.37.530(c) and 46.09.470 (3) (a). This does not apply to an ORV vehicle operator operating on his or her own land, or ORV used in production of agricultural and timber products on and across lands owned, leased, or managed by the owner or operator of the ORV or the operator's employer (RCW 46.09.470 (3) (b) (c)).
 - xiii. Tires – No sand paddle or "Slicks" are authorized for On-Road use.
 - xiv. This section does not apply to emergency service vehicles, vehicles used for emergency management purposes, or vehicles used in the production of agricultural and timber products or operated on and

across lands owned, leased, or managed by the owner or operator of the WATV or operator's employer.

- B. The owner of the WATV must sign a release verified by the DOL or county auditor that releases the State from any liability and outlines that the owner understands that the original WATV was not manufactured for on-road use and that it has been modified for use on public roadways.
- C. A person who operates a WATV on county roads is granted all rights and are subject to all duties applicable to the operator of a motorcycle.
- D. The maximum speed limit for operation of a WATV on county roads shall be thirty five (35) mph or the posted limit, whichever is lower.
 - a. The speed limit for a WATV when passing livestock and/or horseback riders shall be ten (10) mph.
 - b. The speed limit for a WATV when passing fifty (50) feet of an occupied dwelling on a dirt or gravel road shall be twenty (20) mph.
 - c. All WATV traveling on county roads shall be single-file.
 - d. WATV traveling on paved county roads shall be with all four (4) wheels of the WATV on the roadway. No shoulder driving, except for slowing to allow vehicle traffic to pass.
 - e. Spinning tires or intentional throwing of gravel with tires is hereby prohibited on public property and shall be considered "Negligent Driving" in the second degree per [RCW 46.61.525].
 - f. WATVs shall not operate on state numbered highways except to cross such highway from a county designated road allowing WATV use that starts and ends with a speed limit of thirty-five (35) mph or less.
- E. It is a traffic infraction for a person to operate a WATV:
 - a. On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner as to unreasonably expose the underlying soil to, or to create an erosion condition, or to injure, damage or destroy trees, growing crops or other vegetation.
 - b. On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail when there are restricted to pedestrian or animal travel.
 - c. On any public lands in violation of rules and regulations of the agency administering such lands per RCW 46.09.470 (g), (h), (i).
- F. Any law enforcement officer may issue a notice of traffic infraction for a violation of subsection 2 (E) of this Ordinance whether or not the infraction was committed in the officer's presence, as long as there is reasonable evidence presented that the operator of the WATV committed a violation of this Ordinance. At a minimum, the evidence must include information relating to the time and location at which the violation occurred, and the WATV metal tag number or a description of the vehicle involved in the incident. If after investigation of the reported violation of this subsection has occurred, the law enforcement officer will prepare a notice of traffic infraction and have it served upon the operator of the WATV.

SECTION 3. Declaration Requirements

- A. A person who operates a WATV must provide a declaration that includes the following:
- a. Documentation of a safety inspection that is completed by a licensed WATV dealer or repair shop in the State of Washington that outlines the vehicle information and certifies under oath that the WATV meets equipment requirements as required by state and federal law. A person who makes false statement regarding the inspection of equipment is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.
 - b. Documentation that the WATV dealer did not charge more than the amount prescribed by the State per safety inspection and that the entire safety inspection fee is paid directly and only to the licensed WATV dealer or repair shop.
 - c. A statement that the licensed WATV dealer or repair shop is entitled to the full amount charged for the safety inspection.
 - d. A vehicle identification number verification completed by a licensed WATV dealer or repair shop in the State of Washington; and
 - e. A release signed by the owner of the WATV and verified by the Department of Licensing, county auditor or other agent that releases the State from any liability and outlines the owners understanding that the original WATV was not manufactured for On-Road use and that it has been modified for use on public roadways.

SECTION 4. Pacific County Roads designated for WATV use

All County roads with speed limits posted at thirty five (35) mph or less **ARE OPEN** to WATV use **EXCEPT the following roads (see attached map):**

Long Beach Peninsula

All county roads westerly of the northerly and southerly extension of the east right of way line of US 101 Alternate By-Pass said line extending northerly to its intersection with the line of extreme low tide of Willapa Bay and said line extending southerly to its intersection with the line of extreme low water of the Columbia River. Also the extension of 67th Place lying easterly of the above described line. Said US 101 Alternate By-Pass located in Sec 26 T10N R11W and also appears of record as the Skinville Cut Off Rd.

Tokeland/North Cove/Grayland Area

All county roads lying westerly of the thread of North River from its mouth to its intersection with the Grays Harbor County line in Sec 18 T15N R9W W.M.

Government Road

Sections 10 and 15 T11N R10W northerly of the mouth of the Naselle River.

SECTION 5. Penalties for Violation of this Ordinance.

- A. Unless otherwise stated in this Ordinance, or specified by state law, violation of this Ordinance is a traffic infraction punishable per state law.

SECTION 6. Civil Liability

In addition to the penalties provided in this Ordinance, the owner and/or operator of any nonhighway 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 (3) times the amount of the damage per RCW 46.09.490 (2).

SECTION 7. Severability

Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portion of this ordinance or its application to other persons or circumstances.

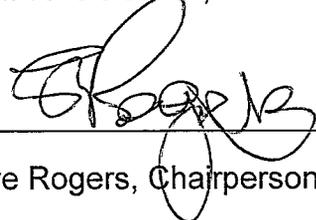
SECTION 8. Effective Date

This ordinance is effective August 13, 2014.

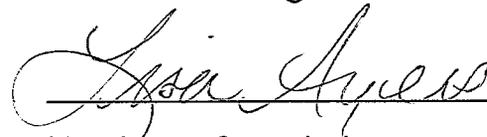
PASSED by the Board of Pacific County Commissioners meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 12 day of August, 2014.

3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON



Steve Rogers, Chairperson



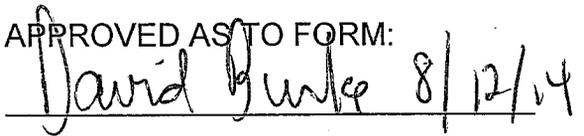
Lisa Ayers, Commissioner

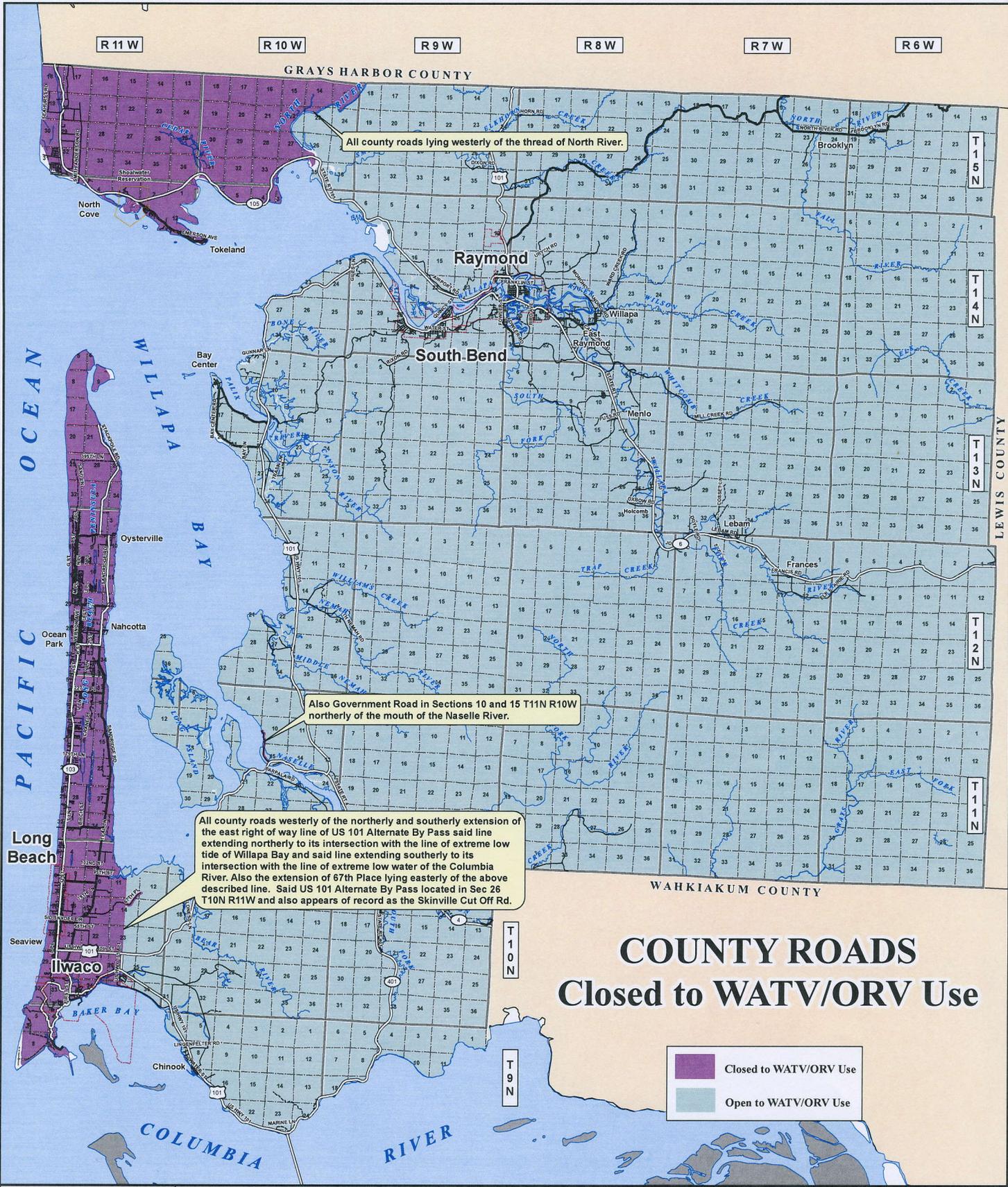


Frank Wolfe, Commissioner

ATTEST:

Marie Guernsey, Clerk of the Board

APPROVED AS TO FORM:

David Burke, Prosecuting Attorney



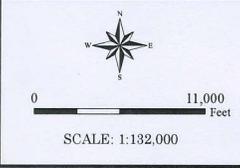
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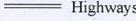
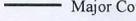
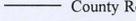
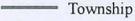
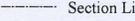
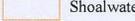
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COUNTY ROADS Closed to WATV/ORV Use

 Closed to WATV/ORV Use
 Open to WATV/ORV Use



Legend	
	Highways
	Major County Roads
	County Roads/City Streets
	Main Rivers/Streams
	Township Line
	Section Line
	City Limits
	Shoalwater Reservation

Pacific County
 Department of Public Works
 Geographic Information System
 300 Memorial Drive
 P.O. Box 66
 South Bend, WA 98586
 Phone: (509) 876-8382



This map is intended for reference purposes only. Any other use other than that intended shall be at the sole responsibility of the user.