

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

Ordinance No. 93

An ordinance relating to the use of off road vehicles, and providing for penalties for the violation of its provisions.

Multnomah County ordains as follows:

Section 1. Section Title, Pleading and Jurisdictional Scope.

This ordinance shall be known as the Multnomah County Off Road Vehicle Ordinance, may be so pleaded, shall be referred to herein as "this ordinance", and shall apply to the unincorporated areas of Multnomah County.

Section 2. Definitions.

A. For the purposes of this ordinance, unless the context requires otherwise, the following terms are defined as follows:

1. Nonroad Area: Any area that is not a road, or a road which is closed to off road vehicles and posted as such; except that areas commonly held open to vehicular use, such as parking lots and race tracks, shall not be considered off road areas.
2. Off Road Vehicle: Every self-propelled motor vehicle designed or capable of traversing on or over natural terrain, including but not limited to snowmobiles, minibikes, motorcycles, four-wheel drive trucks, pickups, all terrain vehicles,

jeeps, half tracks and helicopters.

a. The definition of off road vehicles does not include, unless used for purposes prohibited by this ordinance, implements of husbandry; nor does it include military, fire, emergency or law enforcement vehicles used for legal purposes.

3. Road: Every public way, thoroughfare, road, street or easement within the county used or intended for use by the general public for vehicular travel.

4. Sheriff: Director, Division of Public Safety, Department of Justice Services, his duly authorized representatives and deputies.

Section 3. Policy.

The Board has determined that off road vehicles can provide appropriate, useful and energy-efficient alternatives to automobiles when properly operated, but that the unregulated use of such vehicles is a nuisance to the people of Multnomah County and causes damage to and deterioration of the environment, detrimental to the health, safety and welfare of the people.

Section 4. Operation of Off Road Vehicles.

A. It shall be unlawful for any person to operate an off road vehicle on any non-road area which the operator does not own, unless:

1. The operator possesses written permission from the

owner, contract purchaser or lessee of the non-road area; or

2. The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser or lessee of the non-road area has given written permission and a copy of which has been filed with the Director; or
3. The owner, contract purchaser or lessee of the non-road area has designated the non-road area as open for recreational purposes in accordance with ORS 105.655 to 105.680 by filing such consent and other information necessary to identify the area, with the Director; or
4. The owner, contract purchaser or lessee has designated the non-road area as being open to off road vehicle use by posting notice thereof in a form and manner prescribed by the sheriff.

B. It shall be unlawful for any person to:

1. Falsify the written permission required by subsection A.1. of this Section;
2. Falsify the evidence of club or association membership or the written permission required by subsection A.2. of this Section;
3. Falsify the filing or consent required by subsection A.3. of this Section;
4. Post the notice or remove the posted notice required

the Director and approved by the Board, which bond or cash deposit shall be conditioned upon the return of the vehicle to the sheriff upon disposition of the judgment of the court.

1. If the person arrested is convicted of a violation of this ordinance, and he is the owner of the off road vehicle, the vehicle shall be subject to disposition as provided in Section 6.
- C. If the person arrested is not the legal owner of a seized vehicle, the sheriff shall make all reasonable efforts to identify the name and address of the owner. If the sheriff is able to determine the name and address of the owner, he shall notify the owner by registered or certified mail of the seizure and inform him of his rights under Section D.
- D. Any person notified under subsection C of this Section, or any owner of the vehicle, or any other person asserting a claim of lawful possession of a seized vehicle, may, prior to trial, move the court for return of the vehicle or obtain possession of the vehicle by posting bond or cash in accordance with subsection B of this Section.
1. The court shall, upon receipt of motion for return of vehicle, hold a hearing to determine if the owner, or other person asserting a lawful claim to the vehicle, had any knowledge that the vehicle would be used in violation of this ordinance.

2. If the court determines by clear and convincing evidence that the movant had knowledge that the person arrested would use the vehicle in violation of this ordinance, the vehicle shall not be returned to the movant except in accordance with subsection B of this Section and the vehicle shall be subject to forfeiture as specified in Section 6.
- E. If the person arrested is not convicted of a violation of this ordinance, and if the sheriff is in possession of the vehicle, it shall immediately be returned to the owner.

Section 6. Disposition of Vehicle.

- A. The court, upon conviction of the person arrested, may order a return of a seized vehicle to the owner after payment of all expenses, or it may, upon motion made by the district attorney, order forfeiture and sale of the vehicle at public auction by the sheriff.
 1. In determining whether to order a forfeiture and sale of the vehicle, the court shall consider the amount of damage caused by the use of the vehicle, and the willfulness or recklessness of the violation.
- B. If the court orders a forfeiture and sale of the vehicle, the sheriff, after deducting \$50.00 for administrative expenses plus all other expenses incurred, shall pay, to the extent of the remaining proceeds, all liens of record, ratably and according to their priorities. Any

balance remaining shall be paid into the general fund of the county.

- C. If no person claims the vehicle, the sheriff shall advertise the sale of the vehicle and the description thereof in accordance with the requirements of Ordinance No. 24. Proceeds from the sale of the property, after deducting the expenses and costs, shall be paid into the funds of the county to be used to develop a system of off road vehicle trails or facilities. The Board may authorize the Director to submit a bid for purchase at the public sale if the vehicle could be used for county purposes. Unsold property may be destroyed.

Section 7. System of Off Road Vehicle Trails and Facilities.

The Board of County Commissioners may develop, maintain and regulate facilities for the enjoyment of off road vehicles, and shall conspicuously post such areas as off road vehicle areas.

Section 8. Penalties.

- A. It shall be a violation of county law for any person to violate this ordinance.
- B. Any person convicted of a violation of this ordinance shall be punished by a term of not more than thirty (30) days in the county jail or by a fine of not more than \$500.00, or both, or by imposition of a requirement of public service work of a kind and for a duration, not to exceed one year, as it determines appropriate. The court may, in any event, order restitution for

damages.

Section 9. Conformance With Law.

This ordinance shall not be a substitute for or eliminate the necessity of conformity with any and all state laws, rules and regulations, and other ordinances which are now or may be in the future in effect which relate to the activities herein regulated.

Section 10. Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions of this ordinance.

Section 11. Adoption.

This ordinance, being necessary for the health, safety and welfare of the people of Multnomah County, shall take effect on the sixtieth (60th) day after its adoption, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 20th day of February, 1975, being the date of its second reading before the Board of County Commissioners of Multnomah County, Oregon.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By

Wm. S. Clark
Chairman