

ORDINANCE NUMBER 13868
GARFIELD COUNTY, WASHINGTON

GARFIELD COUNTY OFF-ROAD VEHICLE ORDINANCE

WHEREAS pursuant to the provisions of RCW.36.32.120(6), the Board of County Commissioners of Garfield County (hereinafter sometimes referred to as the "Board"), has the care of County property and the management of County funds and business; and

WHEREAS pursuant to the provisions of RCW 46.09.180, a county may adopt an ordinance adopting regulations for, and allowing operation of, Off-Road Vehicles within the County on non-highway roads; and

WHEREAS the County, as a land owner, wishes to allow members of the public to use portions of said land for the purposes of outdoor recreation; and

WHEREAS the standards have now been reviewed by the Prosecuting Attorney acting in the capacity of county civil counsel, and having been recommended to the Board of County Commissioners for adoption; and

WHEREAS the Board of County Commissioners set Monday, JUNE 1, 2009 at 2 : 00 p.m. in the Commissioners' Room in the Garfield County Courthouse as the time and place to take action on an Ordinance establishing regulations for the operation of Off-Road vehicles within Garfield County; and

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Board of County Commissioners of Garfield County, that Garfield County Ordinance Number 13868 read as follows:

SECTION 1. Definitions

- A. An off-road vehicle, hereinafter ORV, shall mean a 2, 3, 4, or 6 wheel non-highway vehicle, commonly known as an ATV, UTV, or motorized off road motorcycle, manufactured primarily for recreational non-highway all terrain use.

- B. Specific types of vehicles *excluded* from this ordinance are:
 - 1) Dune Buggies
 - 2) Rails
 - 3) Go carts
 - 4) Golf Carts (except in Pomeroy on the city streets for the purpose of traveling to and from the golf course)
 - 5) Homemade unlicensed vehicles
 - 6) Rally cars

SECTION 2. Operating an ORV on Garfield County Roads and City of Pomeroy Streets.

Unless otherwise specified, violation of any portion of this ordinance shall be a traffic infraction.

- A. ORV's operating on Garfield County Roads and/or City of Pomeroy streets must comply with state requirements for registration, ORV use permits and equipment laws.

- B. Persons operating ORV'S on Garfield County Roads and/or City of Pomeroy streets must comply with all state and local laws, including statutes for operating ORV's;
 - 1. In addition to state laws, Garfield County and the City of Pomeroy require operators of ORV's to be at least 16 years of age and possess a current valid driver's license.
 - 2. ORV equipment must comply with state regulations RCW 46.09.120 as follows:
 - a. Headlight, taillight, adequate brakes and state approved spark arrester. Headlight and taillight must be turned-on and illuminated at all times while operating on a County or City roadway.
 - b. A DOT approved helmet is required and must be fastened securely to operator's head while in motion. Operator must also

- have a windshield or use eye glasses, goggles or a face shield to protect driver's eyes.
- c. One mirror on ATV so located to reflect to the driver a view of the roadway for a distance of two hundred feet (200') to the rear of the ATV.
 - d. Operator of an ORV must also use hand signals for turning and/or stopping if the ORV is not equipped with turn signals and/or brake light.
3. The ORV must be equipped with an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured.
- C. The maximum speed limit for operating an ORV on Garfield County Roads shall be 35 mph or the posted speed limit, whichever is lower, and 20 mph on City of Pomeroy Streets or posted speed limit, whichever is lower.
1. The speed limit for operating when approaching livestock and/or horseback riders shall be 10 mph.
 2. The speed limit for an ORV when passing within 100 feet of an occupied dwelling on a dirt or gravel road shall be 10 mph.
 3. All ORV travel on Garfield County Roads and City of Pomeroy Streets shall be single-file with the headlight of the ORV turned on. There shall be enough room between each ORV for a full-sized vehicle to pass each ORV safely if need be.
 4. ORV's shall pull over and yield to all automobiles and trucks traveling in the same direction as the ORV.
 5. ORV travel on paved Garfield County Roads shall be with two wheels of the ORV placed on the shoulder of the road when a shoulder is available and suitable for ORV use.
 6. Spinning of 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.

7. ORV's shall not operate or park on SR 12, Main Street, except to cross at a 90 degree angle at an intersection, except Elm Street, the crossing will be 5th street driving with traffic flow.
- D. It is a violation for any person to operate an ORV on lands not owned by the operator or owner of the ORV in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation. [RCW 46.09.120 (1)(g)]
- E. It is a misdemeanor for any person to operate an ORV while under the influence of intoxicating liquor and/or a controlled substance. [RCW 46.09.120 (2)]
- F. It is a misdemeanor for a person to operate an ORV on any City or County road that has been Closed by the City or County Engineer (including but not limited to seasonal and emergency closures and restrictions). [RCW 47.48.040]
- G. No person may operate an ORV in such a way as to endanger human life. [RCW 46.09.130]
- (2) No person shall operate an ORV in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, an ORV except by permit issued by the director of Fish and Wildlife under RCW 77.32.237: PROVIDED, that it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon an ORV if the person complied with the terms and conditions of chapter 9.41.RCW. [RCW 46.09.130]
- (3) For the purposes of this section, "HUNT" means any effort to kill, injure, capture, or purposely disturb a wild animal or bird. [RCW 46.09.130]
- (4) Violation of this section is a gross misdemeanor.
- H. Operators using a paved highway shoulder trail are required to operate on the trail at all times except when crossing the highway, which shall be done at a 90 degree angle.

- I. This ordinance shall not apply to the agricultural use of an ATV/ORV when used as a farm implement by a land-owner/tenant or his/her employee accessing agricultural lands.

SECTION 3. Penalties for violation of this ordinance.

- A. Unless stated otherwise, violation of any section of this ordinance, known as THE GARFIELD COUNTY AND CITY OF POMEROY ORV ORDINANCE, is a traffic infraction, punishable by a fine not less than \$25.00 or more than \$500.00. Any misdemeanor offense may be punishable by up to 90 days in jail and/or up to \$1000.00 in fines. Any gross misdemeanor may be punishable by up to 365 days in jail and/or \$5000.00 in fines.
- B. The parent or legal guardian of a child violating Section 2 (B) (1) of this ordinance, who knowingly allows the child to operate an ORV in violation of this ordinance is guilty of an infraction punishable by a fine not to exceed \$500.00.

SECTION 4. Civil Liabilities

- A. In addition to the penalties provided in this ordinance, the owner and or operator of any ORV as described by the ordinance 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 an ORV. The owner of such property may recover from the person responsible three (3) times the amount of the damage.

SECTION 5. Garfield County roads, segments of roads, shoulders, and shoulder trails designated for ORV use providing access to or between ORV recreation areas.

- A. Peola Road shall be closed to ATV traffic from the city of Pomeroy to the Hutchens Hill Road intersection.
- B. All roads designated for ORV use providing access to or between ORV recreation areas are designated in the attached map.

Specifically:

- Dutch Flat Rd
- Peola Rd, from Hutchens Hill Rd/Lewis Rd Intersection to Mountain Rd
- Geiger Gulch Rd
- Tatman Mountain Rd from Niebel Grade to Lewis Rd
- Kimes Rd
- Bartels Rd
- Linville Ridge Rd
- Niebel Grade
- Mountain Rd from Lewis Rd to NFS boundary
- Bosley Grade Rd
- Pataha Creek Rd
- Hutchens Hill Rd

SECTION 6. EXPIRATION.

- A. This ordinance shall be effective for one year from the date of adoption. At the expiration of one year, the Garfield County Board of County Commissioners may review the ordinance, make any necessary amendments, and adopt the ordinance for additional time; OR the Board may do nothing and allow the ordinance to sunset.

APPROVED THIS 1 DAY OF June, 2009.

BOARD OF GARFIELD COUNTY COMMISSIONERS

/s/ Dean D. Burton
Dean D. Burton

/s/ Robert K. Johnson
Robert K. Johnson

/s/ Wynne J. McCabe
J. Wynne J. McCabe

Content of OFF-ROAD VEHICLE ordinance, approved by:

GARFIELD COUNTY PROSECUTOR

/s/ Matthew L. Newberg
Matthew L. Newberg

GARFIELD COUNTY SHERIFF

/s/ Larry R. Bowles (120)
Larry R. Bowles