

Disclaimer:

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ORDINANCE No. 903**AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON
PROVIDING FOR PROHIBITION OF OFF-ROAD VEHICLES AND WHEELED ALL-
TERRAIN VEHICLES WITHIN THE CITY LIMITS, PROVIDING FOR PROTECTION OF
THE DUNE AREA FROM VEHICLE DAMAGE, AND PROVIDING FOR REPEAL OF ALL
ORDINANCES IN CONFLICT**

WHEREAS, in June 2014, the Washington State Legislature passed Engrossed Substitute House Bill 1632 regulating the use of off-road vehicles in certain areas; and

WHEREAS, the City of Long Beach City Council has received input from City and area citizens as well as Pacific County law enforcement and government officials on this matter; and

WHEREAS, pursuant to RCW 35A.11.020, the Long Beach City Council has all powers possible under the Constitution not specifically denied by law which may be exercised for the protection and maintenance of public ways; and

WHEREAS, regarding ORVs other than WATVs, pursuant to RCW 46.09.360(1) a city may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of RCW 46.09; and

WHEREAS, regarding WATVs, pursuant to RCW 46.09.455(1)(d)(i) a person may not operate a WATV on a public roadway within the boundaries of a city or town, not including nonhighway roads and trails, unless the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways, not including nonhighway roads and trails; and

WHEREAS, pursuant to RCW 79A.05.693, ocean beaches in Seashore Conservation Areas are declared public highways, and pursuant to RCW 79A.05.605, the ocean beach of the Long Beach Peninsula is established as a Seashore Conservation Area, and pursuant to RCW 79A.05.610 the Washington State Parks and Recreation Commission has jurisdiction over the Shoreline Conservation Area; and.

WHEREAS, pursuant to WAC 352-37-190 only legally licensed and operated "street legal" vehicles may be operated on the ocean beach; and

WHEREAS, under a mutual aid agreement with Pacific County, the City of Long Beach Police Department may enforce driving laws in the Seashore Conservation Area immediately west of the City's western limits;

WHEREAS, the City recognizes that decisions it makes and actions it takes regarding this issue may affect its citizens as well as citizens of Pacific County located near Long Beach; and

WHEREAS, it is the duty of the City to protect the health, safety, and welfare of its citizens and to protect the natural environment of the City, including the dunal area of the City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Definitions

- A. "Emergency management" means the carrying out of emergency functions related to responding and recovering from emergencies and disasters, and to aid victims suffering from injury or

damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress.

- B. "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. 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.
 - C. "Land owned or controlled by the City" means any land owned by the City of Long Beach, or any land controlled by easement, lease, license, right-of-entry, or other written agreement giving the City use of the subject property.
 - D. "on-highway road" means any road owned or managed by a public agency, a primitive road, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years. In Long Beach the only non-highway roads are 2th Street northwest west of Seacrest Avenue and 3rd Street northeast east of Washington Avenue.
 - E. "Off-road vehicle" or "ORV" means a non-street registered vehicle when used for recreational purposes on non-highway roads, trails, or a variety of other natural terrain. Off-road vehicle or ORV includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.
- "Seashore Conservation Area" means all lands now or hereafter under state ownership or control lying between Cape Disappointment and Leadbetter Point and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located; and shall also include all state-owned nontrust accreted lands along the ocean.
- "Wheeled all-terrain vehicle" or "WATV" means (a) any motorized non-highway 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 . Proitions on Oertin ORVWATV in te Cit of Lon Bec

- A. **Eetions.** This ordinance shall not apply to the use of an ORV/WATV when operated for emergency management, City property and Discovery Trail maintenance, or law enforcement purposes. The ordinance shall also not apply to use of an ORV/WATV when operated as farming, construction, or logging equipment, and such operation is exempt or eligible for rebate under RCW 2.3.
- B. **ORV Proiition.** It shall be unlawful for a person to operate any off road vehicle (ORV) on any highway, non-highway road or street, on or across the Discovery Trail in the City of Long Beach, or on any land owned or controlled by the City of Long Beach located within the City of Long Beach.
- C. **WATV Proiition.** It shall be unlawful for any person to operate any wheeled all-terrain vehicle (WATV) on any highway, non-highway road or street, on or across the Discovery Trail

in the City of Long Beach, or on any land owned or controlled by the City of Long Beach located within the City of Long Beach.

- D. **Ocen Bec Proiition.** Under mutual aid agreements, the City of Long Beach shall enforce existing laws and as they are amended regarding ORVs and WATVs in the Seashore Conservation Area.

Section . Protection of te Dne fro Veicr De

- A. **Bec Access.** It is unlawful for anyone to access the ocean beach by any motorized vehicle via any other route than the City's two beach approaches at Bolstad Avenue and Sid Snyder Drive.
- B. **Dne Proiition.** It is unlawful to drive any motorized vehicle, other than for short-term (less than a day) property maintenance purposes, in any non-paved portion of area west of Ocean Beach Boulevard and east of the line of vegetation. In addition, it is unlawful to operate any motor vehicle either across or on the Discovery Trail.

Section . Penties

Violation of any section of this ordinance by any person shall be punishable by a fine of up to 1,000 per violation. The parent or legal guardian of a minor who knowingly allows the minor to operate an ORV/WATV in violation of this ordinance shall be punished by a fine of up to 1,000 per violation.

Section . Enforceent

- A. **Infrcion Cssifiction Ecetions:** Violations of this chapter shall be classified as traffic infractions, except as otherwise provided. Traffic infractions are noncriminal offenses.
- B. **Notice of Infrcion Contents:**
1. A notice of infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.
 2. The form for the notice of infraction shall include the following:
 - a. A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter.
 - b. A statement that an infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction.
 - c. A statement of the specific infraction for which the notice was issued.
 - d. A statement of the monetary penalty established for the particular infraction.
 - e. A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options.
 - f. A statement that at any hearing to contest the determination, the city has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction.
 - g. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction, the person will be deemed to have committed the infraction and may not subpoena witnesses.
 - h. A statement that the person must respond to the notice as provided in this chapter within fifteen (15) days.
 - i. A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter.
 - j. A statement that failure to respond to a notice of infraction will result in the imposition of the penalties prescribed above.
- C. **Resonse to Notice Contestin Deterintion Herin :**
1. Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen (15) days of the date of the notice.

2. If the person determined to have committed the infraction does not contest the determination, the person responds by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the municipal court. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court records.
3. If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the municipal court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.
4. If the person determined to have committed the infraction does not contest the determination but wishes to explain the mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the municipal court. The court shall notify the person in writing of the time, place, and date of the hearing.
5. If any person issued a notice of infraction:
 - a. fails to respond to the notice of infraction within fifteen (15) days as required by this section; or
 - b. fails to appear at a hearing requested pursuant to subsection C3 or C4 of this section, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction.

D. Herins Res of Procede Conse:

1. Infractions under this chapter shall be heard and determined by the municipal court.
2. Procedures in the municipal court for infractions under this chapter shall conform generally to those followed for traffic infractions under Revised Code of Washington chapter 46.63. The infraction rules for courts of limited jurisdiction (IRLJ) shall, to the extent they are not inconsistent with this chapter, apply to cases under this chapter.
3. Any person subject to proceedings under this chapter may be represented by counsel.
4. Any attorney representing the city may, but is not required to, appear at any infraction proceedings under this chapter.

E. Contestin Deterintion Ae:

1. A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.
2. The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officers personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.
3. The burden of proof is upon the city to establish the commission of the infraction by a preponderance of the evidence.
4. After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court records.

. Ention of Mititin Circstnces :

1. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may

not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

2. After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court records.
3. There may be no appeal from the courts determination or order. (Ord. 633, -3-1992)

Section . Ree of Section -1- of te Lon Bec Cit Code nd Seer Associted

Ordinnces

Section 7-1-3: Off Road Operation of Vehicle of the Long Beach City Code as well as ordinance sections 10.16.010 (19 code), 10.16.020 (19 code, amended by the 2007 code) are hereby repealed.

Section . Seeriit

Should any provision, 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 portions of this Ordinance or its application to other persons or circumstances.

Section . Ree

Any existing ordinances that may conflict with this ordinance are hereby repealed.

Section . Effectie Dte

This Ordinance shall be in full force and effect five (5) days from and after its passage, approval, and publication in the manner reuired by law.

Section 1. Adotion Dte

ADOPTED by the City Council of the City of Long Beach, Pacific County, Washington at a regular open public meeting held the 1th day of August, 2014.

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Robert Andrew, Mayor

ATTEST:

David lason, City Clerk