

1 **Changes to Ordinance 3973 as proposed by FOGR**

2 **ORDINANCE NO. 3973**

3 **AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE**
4 **OF CALIFORNIA, REPEALING AND RE-ENACTING CHAPTER 4**
5 **OF DIVISION 8 OF TITLE 2 OF THE SAN BERNARDINO COUNTY**
6 **CODE, RELATING TO OFF-HIGHWAY MOTOR VEHICLE USE.**

7 The Board of Supervisors of the County of San Bernardino, State of
8 California, ordains as follows:

9 **SECTION 1.** The Board of Supervisors of the County of San
10 Bernardino hereby finds:

- 11 (a) Many rural or unoccupied areas within the County of San
12 Bernardino are rapidly urbanizing with residential uses;
- 13 (b) As of 2003, the California Department of Parks and Recreation
14 reports that the number of registered off-highway motor vehicles in
15 Southern California exceeds 312,000, and that ownership and
16 recreational use of off-highway motor vehicles is continuing to increase
17 in popularity;
- 18 (c) As a result of the urbanization of previously rural areas and the
19 growing popularity of off-highway motor vehicles, the unregulated use
20 of offhighway motor vehicles within San Bernardino County is
21 increasingly jeopardizing the health, safety, and welfare of many
22 residential neighborhoods due to the secondary effects of off-highway
23 motor vehicle use such as noise, dust, smoke, and fumes;
- 24 (d) The climatic conditions in the County of San Bernardino, such as
25 extreme dryness, wind, and open desert environments, tend to
26 increase the secondary effects of off-highway motor vehicles operated
27 in and around urbanizing areas;
- 28 (e) Local, state, and federal agencies have designated and set-aside
specific areas, trails, and routes for the express purpose of allowing the
safe and non-offensive recreational use of off-highway motor vehicles,
many of which are located within the County of San Bernardino;
- (f) Pursuant to Article XI, Section 7, of the Constitution of the State of
California, the County of San Bernardino is authorized to adopt and
enforce regulations for the protection of the public health, safety, and
welfare that are not in conflict with the general laws of the state; and
- (g) Pursuant to Section 38301 of the California Vehicle Code, the
County of San Bernardino is authorized to adopt special regulations
related to the operation of off-highway motor vehicles on public lands.
- (h) Based on the forgoing, the Board of Supervisors of the County of
San Bernardino is repealing and re-enacting Chapter 4 of Division 8 of
Title 2 of the San Bernardino County Code.

SECTION 2. Chapter 4 of Division 8 of Title 2 of the San Bernardino
County Code is repealed in its entirety.

SECTION 3. Chapter 4 is added to Division 8 of Title 2 of the San
Bernardino County Code, to read:

Chapter 4: OFF-HIGHWAY MOTOR VEHICLE USE

Sections:

28.0401 Definitions.

28.0402 Applicability.

~~**28.0403 Operating Without Permission on Private or Public
Property**~~

~~Prohibited.~~

~~28.0404 Staging; Permit Required.~~

28.0405 Noise Limits.

28.0406 Disturbing the Peace and Quiet Prohibited.

28.0407 Penalty.

28.0401 Definitions.

For purposes of this chapter, the following words and terms shall have the definitions and meanings set forth below:

(a) .Highway. means any road, street, way, or place, publicly maintained and open to use by the public for purposes of vehicular travel. For purposes of this chapter, the term .highway. does not include fire trails, logging roads, service roads regardless of surface composition, any dedicated roadway or easement for road purposes that has not been accepted into the road system of the appropriate governmental jurisdiction, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) .Motor vehicle. shall have the meaning set forth in section 415 of the California Vehicle Code.

(c) .Off-highway motor vehicle. shall have the meaning set forth in section 38006 of the California Vehicle Code.

~~(d) "Staging" shall mean a formal or informal assembly or gathering of offhighway vehicles, or other vehicles and equipment accessory thereto, including any related camping or establishment of temporary accommodations, on private or public property for purposes of coordinating the use and operation of such offhighway vehicles on such property or the surrounding areas.~~

28.0402 Applicability.

Except for section ~~28.0405~~28.0403, this chapter shall not apply to the proper and legal operation of an off-highway motor vehicle on a highway or within any area, trail or route specifically designated or authorized by a local, state, or federal government agency for use by off-highway motor vehicles.

~~28.0403 Operating Without Permission on Private or Public Property Prohibited.~~

~~—Every person who operates an off-highway motor vehicle upon the private property of another or upon any public property, except a highway, at all times while so operating shall maintain in his or her possession written permission from the person or entity that is in possession of the property or that owns the property granting permission to operate off-highway motor vehicles thereon; except that if the same document grants permission to two (2) or more persons, a person named in such document need not have such document in his or her possession while another person named in the same document, riding in the same group, and no t more than three hundred (300) feet from such person, has such document in his or her possession. This section shall not apply to the proper and legal operation of an off-highway motor vehicle by a property owner on a dedicated roadway or easement for road purposes (whether or not accepted into the road system of the appropriate governmental jurisdiction), if such dedicated roadway or easement is for access to and from the property owner.s property.~~

~~28.0404 Staging; Permit Required.~~

~~No person shall organize, conduct, or participate in staging, as defined herein, involving ten (10) or more persons, without first obtaining and maintaining on the property where such staging is occurring, a~~

1 ~~Temporary Special Event Permit for a Minor Event pursuant to section~~
2 ~~84.0745 of the County Code, even though, pursuant to sub-section~~
3 ~~84.0745(a)(2), such a Minor Event, involving less than two hundred~~
4 ~~(200) persons, would not normally be subject to the Temporary Special~~
5 ~~Event Permit process.~~

6 **~~28.0405~~28.0403 Noise Limits.**

7 No off-highway motor vehicle shall exceed the noise standards
8 established in California Vehicle Code applicable to off-highway motor
9 vehicles.

10 **~~28.0406~~28.0404 Disturbing the Peace and Quiet Prohibited.**

11 Notwithstanding any other provision in this chapter, no person shall
12 operate any motor vehicle (including any off-highway motor vehicle), or
13 the motor thereof, nor shall any person organize, conduct, or
14 participate in staging (as defined herein), in a manner that disturbs the
15 peace or quiet of any neighborhood or person by noise, dust, smoke,
16 or fumes caused by such motor vehicle or staging activity. The Code
17 Enforcement Division of Land Use Services Department shall establish
18 procedures for the investigation and enforcement of this section, which
19 shall be substantially similar to those contained in section 32.0119 of
20 the County Code, except that if the offending activity occurs in the
21 presence of a code enforcement officer or peace officer, the officer
22 shall have the authority to issue a citation to the offending party
23 pursuant to applicable provisions of this Code.

24 **28.0407 Penalty.**

25 (a) Except as provided in subdivisions (b), (c) and (d), a violation of this
26 chapter is an infraction punishable by a fine of not more than two
27 hundred dollars (\$200), **or by provision, the successful completion**
28 **of San Bernardino County's OHV "Responsible Intensive Driver**
Education" (RIDE) program. The successful completion of the
RIDE program shall serve in lieu of a fine and recorded first
violation. Unsuccessful completion of the program will nullify this
provision and a total fine of four hundred dollars (\$400) shall be
levied and the offence recorded. Offenders under sixteen years of
age must be accompanied by their parent or legal guardian to
participate in this provision.

(b) A second violation of this chapter that is committed within three
years after a prior violation for which there was a conviction is an
infraction, punishable by a fine of not more than four hundred dollars
(\$400).

(c) A third violation of this chapter that is committed within three years
after two violations for which there were convictions is an infraction,
punishable by a fine of not more than five hundred dollars (\$500).

(d) A fourth or subsequent violation of this chapter that is committed
within three years after three or more prior violations for which there
were convictions is a misdemeanor, punishable by a fine of not more
than one thousand dollars (\$1,000) or by imprisonment in county jail for
not more than ninety (90) days, or by both fine and imprisonment.

SECTION 4. This ordinance shall take effect thirty (30) days after the
date of its adoption.

BILL POSTMUS, Chairman

Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE

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CHAIRMAN OF THE BOARD
DENA SMITH,
Clerk of the Board of Supervisors of the County of San Bernardino

STATE OF CALIFORNIA)
)SS.
COUNTY OF SAN BERNARDINO)

I, DENA SMITH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the _____ day of _____, 2006 at which meeting were present Supervisors:

and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES:
NOES:
ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this _____ day of _____, 2006.

DENA SMITH,
Clerk of the Board of Supervisors of the County

Deputy