

Chapter 10.10

ATV DIVERSION ORDINANCE

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10.10.010 Creation of program. There is hereby created an ATV diversion program for ATV safety violations that occur on or near the sand in or near Winchester Bay that are filed in Reedsport Justice Court. The program is not available for criminal actions or for actions filed anywhere other than Reedsport Justice Court. The program is not available for ATV safety violations that occur anywhere other than on or near the sand in or near Winchester Bay.

10.10.020 Definitions. As used in this chapter, the following definitions apply:

- A. "Court" means Reedsport Justice Court.
- B. "Traffic violation" has the definition set forth in ORS 801.557, except that for purposes of this chapter it is limited to ATV safety violations that occur on or near the sand in or near Winchester Bay that are filed in Reedsport Justice Court.
- C. "Sheriff" means the Douglas County Sheriff or his or her designee.

10.10.030 Notice of availability of diversion. The court shall inform a defendant cited for a traffic violation that diversion may be available if the defendant meets the criteria set out in this chapter.

10.10.040 Program criteria. A defendant shall be required to:

- A. Plead guilty or no contest to the traffic violation(s) with which he or she has been charged;
- B. Agree to complete a Sheriff sponsored ATV safety class;
- C. Pay a class fee in an amount to be determined by the court and the Sheriff;
- D. Agree not to commit traffic violations in the future;
- E. Agree that the diversion will be considered to be violated if the court receives notice that the defendant at any time prior to completing the ATV safety class or paying the fee in full commits another traffic violation; and

F. Waive any rights that the court deems necessary for the court to be able to implement the program.

G. A defendant may not seek diversion after commencement of any trial on the traffic violation.

H. A defendant is not eligible for diversion if he or she has already been in diversion under this chapter before.

I. The Sheriff must approve a defendant's eligibility for diversion.

J. Pursuant to ORS 153.090(7), if a person holds a commercial driver license, the court may not allow the person to enter into the diversion program, except for parking violations.

10.10.050 Matters to be considered by court in determining to allow diversion. The court shall determine whether to allow or deny a defendant's request to enter diversion. In making a determination under this section, the court:

A. Shall consider whether the diversion will be of benefit to the defendant and the community.

B. May take into consideration whether there was an early recognition by the defendant during the proceeding that completion of an ATV safety class would be beneficial to him or her.

C. May take into consideration whether there is a probability that the defendant will cooperate with the program and ATV safety class.

10.10.060 Dismissal of traffic violation.

A. If the defendant fully complies with the conditions of the diversion program, the court may dismiss the traffic violation with prejudice.

B. If the court finds that the defendant failed to comply with the requirements of the diversion program, the court may enter the guilty plea or no contest plea, shall enter a judgment of conviction, and shall impose the appropriate sentence.

10.10.070 Program Revenue. Revenue from the ATV diversion program may be used to defray the costs of the program, program administration, and other related expenses including (but not limited to) dunes rescue response equipment, deputy patrol of the dunes and maintenance and upkeep of the dunes rescue building.