

MARION COUNTY BOARD OF COMMISSIONERS SET TO SEVERELY RESTRICT THE RIGHT TO OPERATE OFF-ROAD VEHICLES ON PRIVATE PROPERTY

Background: As a result of complaints and pressure applied by a small number of “Not In My Back Yard” (NIMBY) people, who appear to have excessively elevated sensitivities, exaggerated and unsubstantiated claims, and unreasonable demands, the Board of County Commissioners (BCC) has decided to restrict the operation of off-road vehicles on private property in Marion County. Unfortunately what the NIMBY people really mean is “Not In Your Backyard Either.” They will be satisfied with nothing less than a ban on all operation of off-road vehicles on private property. Their “right” to “peace and quiet” supercedes your right to use your private property for legal recreational purposes.

To resolve the complaints the BCC initially directed that a nuisance ordinance be developed. This proposed ordinance was terribly written and would have effectively banned the operation of all off-road vehicles on private property in Marion County. In addition, it would have put severe restrictions on the use of firearms on private property. The National Rifle Association made the County aware that the making of all laws relating to firearms in the State of Florida is reserved to the state government. The proposed ordinance was scrapped and new approach was decided upon to achieve the original objectives in regard to off-road vehicles.

Current Situation: The new approach is to create an amendment to the Land Development Code (LDC) that will require Special Use Permits (SUP) to operate off-road vehicles on private property. The proposed definition to which the SUP will apply reads as follows:

“Motorized Vehicle Racetrack or Practice Facility - Defined as a place where ATV’s, Motorcross (sic) Bikes, Go Carts, Off Road Vehicles, or similar vehicles, gather to compete against each other or against time on a tract of land or course constructed or designed for such purpose. A place to train, develop form, techniques or other skills related to competition.”

While this may appear to affect only those with purpose built tracks, beware. In theory, if you don’t have a track it would not apply but in fact, if a track is developed through repetitive use of the same area it can be declared to fit this definition. Also, the appearance of using it for skill development or friendly competition can throw it into the SUP category. Basically anything except “putting around” (however that is defined) can fit this definition.

A provision of this change to the LDC would grandfather existing tracks as long as they comply with the current noise ordinance. If you have a track, don’t relax. Even though you would not need to get a permit, your property will be declared to have a non-conforming use and restrictions may be placed on you if you want to continue operating off-road vehicles on your private property. Failure to comply will result in a violation of the LDC and legal action if you do not stop.

While the BCC has stated a number of times that its intent is not to ban operation of off-road vehicles on private property, the requirement to have a SUP may have that result over time. The likelihood of obtaining a SUP to operate off-road vehicles on your private property is probably small and if authorized will probably carry restrictions such that it will be impossible for the average person to comply. This will limit the number of new properties where this activity can be carried out and by placing restrictions on

existing properties it will cause many of them to be phased out. What few properties remain or are permitted will only last until a NIMBY moves in near-by and starts to complain. And you don't even want to know the process of getting a SUP. It starts with paying \$300 and would take 3 pages to fully describe. Three major steps include the Planning Department review, then the Zoning Commission review with public hearings, and finally the BCC review with public hearings. The BCC makes the final decision on Yes or No and any restrictions.

Change Procedure: This change will be instituted using a "resolution" to the LDC. A "resolution," unlike an "ordinance," does not require a public hearing. In fact, public comments are not required although the BCC has said they will accept them. A resolution is effective immediately after it is approved and is simply a matter of voting by the BCC at their regular bi-monthly Board meetings. These meetings are held on the first and third Tuesdays at 9:00 a.m., unfortunately at a time when most people are working and unable to attend.

This resolution will be voted on at the BCC meeting

Tuesday August 16 at 9:00 a.m.

at the Commissioners Auditorium at the Marion County Government Complex at 601 SE 25th Ave. in Ocala.

Remember, this is about more than just private use tracks. It is about property rights and the ability of the NIMBY people to determine what we can or cannot do on our own private property. It is tracks today but what will it be tomorrow? You need only consider the recent Supreme Court decision in Kelso vs. City of New London (CT) which says that government can take your property for almost any reason that can be disguised as "public benefit." And if you live in a different county or state remember, these things spread like a plague and Marion County can become another precedent.

Be at the BCC meeting. Let your commissioners know how you feel. Don't let this happen without a fight!!

Commissioners:

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For more information contact your local motorcycle, go-kart, or off-road vehicle shop or e-mail propertyriderights@att.net.

Commissioner District Map

