

ORDINANCE NO. 07-01

**AN ORDINANCE REGULATING THE OPERATION
OF OFF-HIGHWAY VEHICLES ON THE PUBLIC ROADS IN
UNINCORPORATED OURAY COUNTY, COLORADO**

WHEREAS, pursuant to Title 33, Article 14.5, Part 1, C.R.S., counties are authorized to establish, through written ordinance, routes for the operation of unlicensed off-highway vehicles (“OHVs”) on designated county roads, and to enact regulations for the operation of OHVs on such designated county roads, if consistent with the applicable Colorado statutes and regulations; and,

WHEREAS, pursuant to C.R.S. §30-15-401(1)(h), counties are authorized to adopt ordinances “To control and regulate the movement and parking of vehicles and motor vehicles on public property”; and

WHEREAS, on September 15, 2002 the Board of County Commissioners of Ouray County, Colorado (“Board”) adopted Resolution No. 2002-034, entitled “All Ouray County Roads Designated for Multi-Purpose Use”, subject to certain rules, regulations, and restrictions set forth therein; however, the Board wishes to allow for greater enforceability of such rules, regulations and restrictions by the adoption of an ordinance providing for such requirements and for the repeal of Resolution No. 2002-034; and

WHEREAS, the Board reaffirms the use of all Ouray County roads as multi-purpose roads, for use for a variety of activities, including, foot travel, horseback, bicycle, motorcycle, automobiles and other motor vehicles; however, the Board recognizes that the use of Ouray County roads by OHVs by persons who lack a valid driver’s license or are using an OHV in contravention of applicable Colorado State OHV regulations, and/or who lack the minimum liability insurance coverage required to operate a motor vehicle in Colorado, is contrary to the public health, safety, and welfare, and that to impose requirements on operators and liability insurance requirements would be generally consistent with existing OHV regulations adopted by San Miguel and San Juan Counties concerning the roads located in their respective counties; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO:

Section 1. Purpose.

The Board of County Commissioners of Ouray County, Colorado, finds and declares that the use of off-highway vehicles within the unincorporated areas of Ouray County, Colorado as set forth herein is consistent with allowing multiple use on Ouray County Roads and will address the public health, safety and welfare in allowing OHVs to utilize county roads for recreational and other purposes.

Section 2. Scope of Ordinance.

This Ordinance shall apply within the unincorporated territory of Ouray County, Colorado.

Section 3. Definitions.

The following definitions shall apply to this Ordinance:

- a. "Off-highway vehicle" shall have the same definition ascribed to it as set forth at C.R.S. 33-14.5-101 (3).
- b. "Public Right-of-Way" means any road that is part of the Ouray County road system.

Section 4. Designation of Ouray County Roads for the Operation of Off-Highway Vehicles

Ouray County hereby designates and permits OHVs to operate on all Ouray County Public Rights-of-Way provided, however, that the Board may restrict the use of OHVs on Ouray County Public Rights-of-Way by resolution adopted at a regular or special meeting of the Board. Any such resolution shall also provide for appropriate signage to be placed on any roads that restrict OHV use.

Section 5: Regulations and Restrictions Pertaining to the Operation of Off-Highway Vehicles on Designated Ouray County Roads

- a. Pursuant to the regulatory authority granted to Ouray County under C.R.S. §§ 33-14.5-110(1), and 30-15-401(1)(h):
 - (i) any person operating an OHV on any designated Ouray County Public Right-of-Way must have in their possession a valid current driver's license issued by the State of Colorado, or by any other state or be properly operating the OHV and be within the age restrictions set forth in the Off-Highway Vehicle Regulations adopted by the Colorado Parks and Outdoor Recreation Board;
 - (ii) when operated on any Ouray County road designated for OHV use, OHVs shall be considered to be "motor vehicles" as defined in the Colorado Motor Vehicle Financial Responsibility Law, Title 42, Article 7, C.R.S. and shall be required to maintain at least the minimum liability insurance coverage required by such Law; and
 - (iii) it shall be a violation of this Ordinance for any person to operate an OHV on any Ouray County Public Right-of-Way restricted for use by OHVs by a resolution adopted by the Board.
- b. The provisions of Section 5.a shall not apply to any person operating an OHV on any Ouray County Public Right-of-Way for bona fide agricultural purposes. For purposes of this ordinance "agricultural purposes" is defined to mean the use of land for the production of food, fiber, weed control, fire mitigation, maintaining ditches or other activities intended for the maintenance of real property. "Agricultural purposes" shall specifically include those activities and operations described in Ordinance No. 01-01 entitled "An Ordinance Establishing and Implementing a Right to Farm and Ranch Policy Pursuant to C.R.S. §35-3.5-101" and the growing of crops and/or the grazing of animals on natural prime or improved pastureland, as well as the clearing of vegetation exclusively for the growing of crops and/or grazing of animals.

Section 6. Authorized Enforcement Personnel.

- a. Any Level I peace officer, as such term is defined in C.R.S. §18-1-901(1), is authorized to enforce the provisions of this Ordinance.

- b. Any person designated by the Board of County Commissioners of Ouray County is authorized to enforce the provisions of this Ordinance.

Section 7. Violations and Penalties.

Violation of any provision of this Ordinance shall be a Class 2 petty offense and upon conviction, shall be punishable as follows:

- a. For the first violation, a fine of not less than \$50.00 and not more than \$150.00, except that if a penalty assessment is issued as provided by Section 7.d, the fine shall be the minimum.
- b. For a second offense by the same person, the person shall be assessed a fine of not less than \$150.00 and not more than \$500.00 except that if a penalty assessment is issued as provided by Section 7.d, the fine shall be the minimum.
- c. For a third or any subsequent offense thereafter by the same person, the person shall be punished by a fine of not less than \$500.00 but not more than \$1,000.00 for each separate offense.
- d. Violations of this Ordinance may also be enforced through the penalty assessment procedure pursuant to C.R.S. §16-2-201, as the same may from time to time be amended, requiring the defendant to appear at the place, time and date specified or, in lieu thereof, to pay the specified fine in person or by mail at the place and within the time specified in the notice. Payment of the specified fine shall constitute acknowledgment of guilt of the offense charged.
- e. In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge of \$10.00 paid to the Clerk of the Court for credit to the victims and witnesses assistance and law enforcement fund for the Seventh Judicial District.

Section 8. Prosecution.

All prosecutions for all offenses under this Ordinance shall be by the Seventh Judicial District, District Attorney according to the Colorado County Court Rules of Criminal Procedure in the Ouray county Court. The simplified county court procedures set forth in part 1 of article 2 of title 16, C.R.S. shall be applicable to the prosecution of violations of this Ordinance.

Section 9. Severability.

If a Court of competent jurisdiction shall hold any part of this Ordinance void or unconstitutional, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions of the Ordinance.

Section 10. Disposition of Fines, Fees and Forfeitures.

All fines and forfeitures for violations of the provisions of this Ordinance shall be paid into the treasury of Ouray County upon payment of said fines and forfeitures.

Section 11. Repeal of Resolution No. 2002-034.

The adoption of this Ordinance shall have the effect of repealing Resolution No. 2002-034 entitled "All Ouray County Roads Designated for Multi-purpose Use" and Resolution No. 2002-034 shall be of no further force and effect.

Section 12. Effective Date.

This Ordinance shall be in full force and effect thirty days after publication of the Notice of Adoption in the Ouray County *Plaindealer*, or on or before July 9, 2007.

INTRODUCED AND FIRST READING on June 4, 2007, and ordered published in the Ouray County *Plaindealer*. Published on June 8, 2007.

**Board of County Commissioners
Ouray County, Colorado**

Don Batchelder, Chair

Heidi M. Albritton

K. Keith Meinert

ADOPTED ON SECOND AND FINAL READING on _____ .

**Board of County Commissioners
Ouray County, Colorado**

Don Batchelder, Chair

Heidi M. Albritton

K. Keith Meinert

ATTESTATION:

I, Michelle Nauer, Clerk and Recorder of Ouray County and Clerk to the Board of County Commissioners, do hereby attest and certify that this Ordinance was introduced, read and ordered published at a regular meeting of the Board of County Commissioners on June 4, 2007. The Ordinance was published in full in the Ouray County *Plaindealer* on June 8, 2007. At a regular meeting of the Board of County Commissioners on _____, after the second and final reading, the Ordinance was adopted and approved.

Michelle Nauer, Clerk and County Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board