

ORDINANCE OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO

ORDINANCE NO. 2017-1

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

WHEREAS, the Board of County Commissioners of Delta County, Colorado, (BoCC) is a legal and political subdivision of the State of Colorado for which the BoCC may act; and

WHEREAS, under § 30-15-401 Colorado Revised Statutes (C.R.S.), the BoCC, has the general enabling power to adopt ordinances for the control or licensing of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Delta County; and

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

WHEREAS, pursuant to § 33-14.5-110 C.R.S., counties are authorized to establish, through written ordinance, routes for the operation of 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, authorizing the operation of OHVs on county roads in a safe and prudent manner supports the promotion of economic development within Delta County; and,

WHEREAS, the Board affirms the use of all Delta County roads as multi-purpose roads, for use for a variety of activities, including, foot travel, horseback, bicycle, motorcycle, automobiles and other motor vehicles; and,

WHEREAS, it is the opinion of the Board that in order to preserve the public health, safety and welfare of the citizens of Delta County, the Board should take the following action.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Delta County that:

This Ordinance shall be known as the:

Delta County Off-Highway Vehicle Regulation Ordinance

Section 1: Purpose

- 1.1 This ordinance protects the public health, safety and welfare of the citizens and residents of Delta County, Colorado, by setting standards for the safe operation of OHVs on county roads in unincorporated Delta County, Colorado.

Section 2: Authority/Effect

- 2.1 This Ordinance is authorized, *inter alia*, under § 33-14.5-110 C.R.S.

Section 3: Applicability

- 3.1 This Ordinance shall apply throughout the unincorporated area of Delta County.
- 3.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of whether sections, subsections, sentencing, clauses and phrases are declared unconstitutional or invalid.

Section 4: Definitions

- 4.1 Board or BoCC - The Board of County Commissioners of Delta County, Colorado.
- 4.2 Designated county road shall be defined as any county road open to travel by the public that is located in unincorporated Delta County that has been officially recognized by the County as a County Road.
- 4.3 "Off-highway vehicle" (OHV) shall have the same definition ascribed to it as set forth at § 33-14.5-101(3) C.R.S., as: Any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following: vehicles designed and used primarily for travel on, over, or in the water; snowmobiles; military vehicles; golf carts; vehicles designed and used to carry individuals with disabilities; vehicles designed and used specifically for agricultural,

logging, or mining purposes; or vehicles registered pursuant to article 3 of title 42, C.R.S.

Section 5: Designation of Delta County Roads for the Operation of Off-Highway Vehicles

- 5.1 Subject to the limitations in this Ordinance, it is hereby designated and permitted that OHVs shall be allowed to operate on all county roads located in unincorporated Delta County.
- 5.2 This Ordinance does not authorize or designate the use of OHVs on lands, roads or trails under the jurisdiction of municipalities or state or federal agencies or on other lands or roads not under the jurisdiction of Delta County.

Section 6: Regulations and Restrictions Pertaining To the Operation of OHVs on Designated Delta County Roads

- 6.1 Any Person operating an OHV in the unincorporated areas of Delta County shall comply with all Rules and Regulations applicable to such vehicles adopted by the State of Colorado, including but not limited to the off-highway use permits.
- 6.2 Delta County recognizes the statutory limitations to the driver's license and liability insurance requirements when operating an OHV under certain conditions (i.e.: agricultural purposes, etc.). Therefore, sections 6.10 and 6.11 of this Ordinance shall not apply to those circumstances described in § 33-14.5-108(1)(a) to (1)(e) and (1)(g) to (1)(i) C.R.S.
- 6.3 Pursuant to § 33-14.5-108.5 C.R.S. the driver of an OHV may directly cross a roadway, including a state highway, at an at-grade crossing to continue using the OHV on the other side. While directly crossing a state highway located within unincorporated Delta County at an at-grade crossing and under the jurisdiction of the Colorado Department of Transportation, this Delta County Off-Highway Vehicle Regulation Ordinance shall apply.

Safety Equipment

- 6.4 No person shall operate an OHV on a designated county road unless it is equipped with a muffler properly maintained and in good working order.
- 6.5 No person shall operate an OHV on a designated county road unless the muffler conforms to noise abatement standards set forth in § 25-12-110 C.R.S. as amended.

- 6.6 No person shall operate an OHV on a designated county road unless it is equipped with a spark arrester in good working order approved by the U.S. Forest Service as evidenced by the bona fide permanent marking of “qualified” or “approved” on the spark arrester.
- 6.7 No person shall operate an OHV on a designated county road between the hours of sunset and sunrise unless it is equipped with at least one headlamp having minimum candlepower of sufficient intensity to reveal persons or objects at a distance of at least 100 feet ahead under normal atmospheric conditions. Such headlamp shall be aimed so that glaring rays are not projected into the eyes of operators in oncoming vehicles when operated on a straight level surface.
- 6.8 No person shall operate an OHV on a designated county road between the hours of sunset and sunrise unless it is equipped with at least one red tail lamp having minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of at least 500 feet to the rear under normal atmospheric conditions.
- 6.9 No person shall operate an OHV on a designated county road unless it is equipped with a braking system that may be operated by hand or foot, capable of producing deceleration of 14 feet per second on level ground at a speed of 20 miles per hour. The braking system must be adequate to control the movement of, and stop and hold the OHV stationary on any grade upon which operated.

License and age requirement

- 6.10 No person shall operate an OHV on any designated county road without having in their possession a valid current driver’s license issued by the State of Colorado, and being at least 16 years of age. Those operators that are exempt from license requirements pursuant to § 42-2-102(1)(c) through (f) C.R.S. are exempt from the license requirement of this Ordinance.

Liability insurance requirement

- 6.11 When operated on any designated county road, OHVs shall be considered a “motor vehicle” as defined in the Colorado Motor Vehicle Financial Responsibility Law, codified at § 42-7-101 C.R.S. *et seq.* and shall maintain at least the minimum liability insurance coverage required by such law.

Speed limits

- 6.12 No person shall operate an OHV on a designated county road in excess of 35 miles per hour (mph) or at any speed in excess of a speed limit designated by an official traffic control device, whichever is less.

Careless operation

- 6.13 No person shall operate an OHV in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the designated county road and all other attendant circumstances.

Miscellaneous offenses

- 6.14 No person shall operate an OHV on a designated county road in any position or location of the road except the far right portion of the road.
- 6.15 No person shall operate an OHV on a designated county road while riding together with another OHV in any pattern except in single file, except when overtaking or passing another vehicle or OHV proceeding in the same direction under the rules, regulations, statutes or ordinances governing such movement.
- 6.16 No person shall operate an OHV on a designated county road while carrying any person or riding in any position that will interfere with the operation or control of an OHV or the view of the operator.

Section 7: Authorized Enforcement Personnel

- 7.1 Any sheriff, undersheriff or deputy sheriff of the Delta County Sheriff's Office is authorized to enforce the provisions of this Ordinance.

Section 8: Violations and Penalties

- 8.1 Pursuant to § 30-15-402(1) C.R.S. violation of any provision of this Ordinance shall be a traffic infraction and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation.
- 8.2 In addition to any penalties prescribed in section 8.1 above, pursuant to § 30-15-402(2) C.R.S. persons convicted of any violation of this Ordinance are subject to a surcharge of ten dollars (\$10.00) for credit to the victims and witnesses assistance and law enforcement fund established in the 7th Judicial District.
- 8.3 In addition to any penalties prescribed in section 8.1 and 8.2 above, pursuant to § 30-15-402(3) C.R.S. persons convicted of a violation in excess of a speed limit established by this Ordinance are subject to a surcharge of fifteen dollars (\$15.00) for credit to the Colorado traumatic brain injury trust fund.
- 8.4 Prosecution may be brought against a violator in accordance with § 30-15-402 C.R.S. and under the penalty assessment procedure provided in § 16-2-201 C.R.S., requiring the defendant to appear at the place, time and date specified or, in lieu thereof, to pay

the fine in person or by mail at the place and within time stipulated in the notice. Payment of the specified fine shall constitute acknowledgment of guilt of the offense charged. If, based upon the circumstances of the arrest, the officer determines that the alleged offender is unlikely to comply with the terms of the penalty assessment notice; the offender may be taken before a judge of the Delta County Court.

- 8.5 Any person who acknowledges his or her guilt and is not otherwise required to appear in Delta County Court may, within twenty (20) days of issuance of the penalty assessment, pay a fine to the Delta County Treasurer, either in person or by mail, based on the following fine schedule:
- 8.6 1-4 mph over the designated speed limit or 35 mph whichever is less shall warrant a fine of \$30.
- 8.7 5-9 mph over the designated speed limit or 35 mph whichever is less shall warrant a fine of \$70.
- 8.8 10-19 mph over the designated speed limit or 35 mph whichever is less shall warrant a fine of \$135.
- 8.9 20-24 mph over the designated speed limit or 35 mph whichever is less shall warrant a fine of \$200.
- 8.10 25 mph or more over the designated speed limit or 35 mph whichever is less, the offender shall be issued a summons to appear in Delta County Court and shall be subject to a fine of not less than \$300 and not more than \$1,000.
- 8.11 Operating an OHV without a complying policy of insurance in full force and effect as required by law as a first offense shall warrant a fine of \$200.00.
- 8.12 Operating an OHV without a complying policy of insurance in full force and effect as required by law as a second or subsequent offense the offender shall be issued a summons to appear in Delta County Court and shall be subject to a fine of not less than \$300 and not more than \$1,000.
- 8.13 Operating an OHV without a valid driver's license or under the age of 16 as a first offense shall warrant a fine of \$35.
- 8.14 Operating an OHV without a valid driver's license or under the age of 16 as a second offense shall warrant a fine of \$75.
- 8.15 Operating an OHV without a valid driver's license or under the age of 16 as a third or subsequent offense the offender shall be issued a summons to appear in Delta County Court and shall be subject to a fine of not less than \$150 and not more than \$1,000.

- 8.16 Operating an OHV in a careless and imprudent manner shall be subject to a fine of \$150.
- 8.17 Operating an OHV in a careless and imprudent manner as a second offense shall be subject to a fine of \$225.
- 8.18 Operating an OHV in a careless and imprudent manner as a third or subsequent offense the offender shall be issued a summons to appear in Delta County Court and shall be subject to a fine of not less than \$300 and not more than \$1,000.
- 8.19 Moving violations and hazards not specified herein shall warrant a fine of \$75.

Section 9: Prosecution

- 9.1 All prosecutions for offenses under this Ordinance shall be by the Office of the District Attorney, 7th Judicial District or the Office of the Delta County Attorney.

Section 10: Disposition of Fines, Fees and Forfeitures

- 10.1 All fines and forfeitures for violations of the provisions of this Ordinance shall be paid into the Treasury of Delta County. Any uncontested payment that is provided to the Delta County Treasurer shall be accompanied by a copy of the penalty assessment signed by the person acknowledging his or her guilt. Payment of the fine and surcharges shall relieve the person receiving the penalty assessment of any further obligation to appear in the Delta County Court to answer the offense charged in the penalty assessment, unless otherwise provided by this Ordinance.

Section 11: Safety Clause

- 11.1 The Board finds, determines and declares this Ordinance is necessary for the health, safety and welfare of the citizens of Delta County, Colorado.

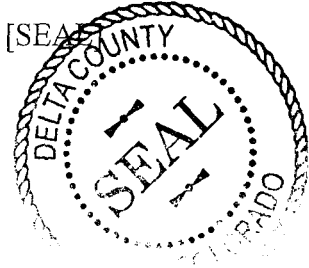
Section 12: Publication and Effective Date

- 12.1 The foregoing text is the authentic text of Delta County Ordinance No. 2017-1. The first reading of the Ordinance took place on March 6, 2017, at a regular Board of County Commissioners Meeting. It was published in full in the Delta County Independent on March 15, 2017. The second reading of the Ordinance took place at a regular Board of County Commissioners Meeting on April 3, 2017. The Ordinance was adopted at a regular Board of County Commissioners Meeting on April 3, 2017 and will take effect on April 17, 2017.

ADOPTED this 03th day of April, 2017, at Delta, Colorado

ATTEST:

Teri A. Stephenson
Teri A. Stephenson
Delta County Clerk and Recorder



BOARD OF COUNTY COMMISSIONERS
OF
DELTA COUNTY, COLORADO

By:

C. Douglas Atchley
C. Douglas Atchley, Chair

J. Mark Roeber
J. Mark Roeber, Vice Chair

Don Suppes
Don Suppes, Commissioner