401681 8/10/2012 3:00 PM JOYCE M. RENO
1 of 5 ORD R$0.00 D$0.00 Chaffee County Clerk

CHAFFEE COUNTY
ORDINANCE NO. 2012-02

TITLE: AN ORDINANCE MODIFYING THE OPERATION OF OFF-HIGHWAY VEHICLES ON CERTAIN COUNTY ROADS AND PROVIDING PENALTIES FOR VIOLATION OF SUCH ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CHAFFEE COUNTY COLORADO:

REFERENCES:

A. C.R.S. §33-14.5-108(1)(f) authorizes the Board of Commissioners (the "Board") to allow, through written resolution or ordinance, off-highway vehicles ("OHVs") to be operated on designated county roads.

B. C.R.S. §33-14.5-110 authorizes the Board to regulate the operation of OHVs on County property and on streets and highways within its boundaries.

C. Following an extensive public process, in 2005 the Board adopted Chaffee County Ordinance 2005-01 which allowed the operation of off-highway vehicles on certain county roads. Following committee recommendations regarding the St. Elmo area, the Board amended Ordinance 2005-01 by adding two additional stretches of road (see Ordinance 2006-01).

D. The Board has since received a request to open additional stretches of road to OHVs. Accordingly, it directed staff to obtain additional information and comment regarding such roadways. Numerous public meetings were held and extensive public comment has been received, both from Chaffee County residents and non-residents.

E. Authorizing the operation of OHVs on certain additional county roads will assist in promoting economic development within Chaffee County and the operation of OHVs on such designated roads can be undertaken in a safe and prudent manner.

F. The Board has analyzed staff recommendations and has determined which roads would best assist in promoting economic development by opening them to OHVs, without unduly affecting other forms of use on such roads, namely:

- all of CR 267, 295 and 296 and the north-south portion of CR 292 along the west side of Alpine between CR 162 and FS Road 292;
- all of CR 187 (the portion of CR 187 from CR 307 to FS 300 was previously opened; the new segment would be from FS 300 to the Park County line);
- all of CR 185, from its intersection with CR 175 to the start of FS 185).

The Board has also determined that a certain short segment of previously opened CR 375 is inappropriate for use by OHVs.

G. The Board has determined that it will better promote the health, safety and welfare of the citizens of and visitors to Chaffee County if it authorizes the operation of OHVs on certain additional county roads, closes a short segment of roadway to use by OHVs and updates the penalty provisions to correspond with current law.

H. In 2011, the County returned to the United States Forest Service the following FRTA easements that were previously opened to OHVs: CR 200 west of the Shirley Site and CR 307 between CR 187 and FS 308). Accordingly, such segments are no longer under County jurisdiction with respect to OHV use.

I. The Board has determined it will be in the best interest of the citizens and visitors of Chaffee County to amend and restate Ordinance 2005-01 and Ordinance 2006-01 via this Ordinance.

ORDINANCE:

Section 1. Designation. Pursuant to Article 14.5 of Title 33 of the Colorado Revised Statutes, the County hereby designates the following county roads as the only county roads open for use by OHVs:

a) Alpine/St. Elmo Area: all of CR 267, 295 and 296 and the north-south portion of CR 292 along the west side of Alpine between CR 162 and FS Road 292; a section of CR 162 spanning approximately 1350 feet, beginning approximately 75 feet east of the turn off to CR 292; a ¾ mile section of CR 162 beginning at the entrance of "Grizzly" parking and terminating at the Forest Service trail head for Tin Cup Pass.
b) Fourmile Area: CR 375, except for the section between CR 371 and the ATV parking lot on BLM (the excepted section, which was previously open to OHVs, shall be closed to OHVs); all of CR 187.
c) Salida/Turret Area: all of CR 185, from its intersection with CR 175 to the start of FS 185; CR 175 north of CR 181.

For purposes of this Ordinance, OHVs are those vehicles defined as by C.R.S. §33-14.5-101(3). Designated roads for OHVs shall be depicted via this Ordinance and Ordinances 2005-01 and 2006-01. Although no further designation shall be required for purposes of enforcement, County roads shall be signed appropriately, as determined by the Board.

Section 2. Restrictions and Prohibited Acts.

Section 2.01 Any person operating an OHV on a designated county road pursuant to this Ordinance shall be in possession of a valid motor vehicle operator's license and be at least 16 years of age.

Section 2.02 OHVs operating on Chaffee County roads shall at all times comply with the requirements of C.R.S. §33-14.5-101 *et seq* and must be registered and operated pursuant to *C.R.S. §33-14.5-101* et seq.; at a minimum, OHVs shall be equipped with:

(a) a muffler in constant operation and properly maintained;

(b) a spark arrestor in good working order which has been approved by the U.S. Forest Service as evidenced by the bona fide permanent marking of "qualified" or "approved" on the spark arrestor;

(c) 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; and

(d) At least one lighted head lamp and one lighted tail lamp, each having the minimum candlepower prescribed by regulation of the division of Parks while being operated between the hours of sunset and sunrise.

Section 2.03 It shall be unlawful to operate an OHV on Chaffee County roads in any of the following manners:

(a) To use designated OHV routes for any purpose other than going to, or coming from, public lands adjacent to the designated County roads;

(b) On any portion of any street except the far right portion of the street;

(c) To ride together in any pattern except in single file;

(d) On any public or private property or roads without express consent of the owner. OHVs may only be operated on designated OHV routes pursuant to Section 1, above.

Section 2.04 OHVs operating on Chaffee County roads shall be considered to be motor vehicles for purposes of maintaining at least the minimum liability insurance coverage required by the Colorado Motor Vehicle Financial Responsibility Law, Title 42, Article 7, C.R.S.

Section 2.05 All ordinances and regulations pertaining to vehicles or motor vehicles, including without limitation the Model Traffic Code adopted by Ordinance 2004-1, shall be applicable to the operation of OHVs on County roads, except to those which, by their nature, can have no application. In the event of a conflict between such ordinances and regulations and this Ordinance, this Ordinance shall govern.

Section 3. Limitations. This Ordinance does not authorize or designate the use of OHV's on lands, roads or trails under the jurisdiction of municipalities or state or federal agencies or on other lands or roads owned or under the jurisdiction of Chaffee County other than those named in Section 1. Nothing in this Ordinance shall prohibit the use of OHVs for agricultural purposes on any public road.

Section 4. Penalties. The following penalties shall apply to this ordinance:

Section 4.01. The provisions of C.R.S. §42-4-1701 are adopted by this reference (references to Article 4 of Title 42 shall refer to the corresponding part of the Model Traffic Code), except that any fine or penalty and the surcharge shall be paid to the County; the penalties and applicable Court surcharges and administrative fees shall be consistent with those applied under the Model Traffic Code and Chaffee County Ordinance 2004-01. Further, C.R.S. §42-4-1701(4)(c) is modified so that the penalties and surcharges imposed for speeding in a maintenance, repair, or construction zone are tripled rather than doubled. Accordingly, C.R.S. §42-4-1701(4)(c) is modified to read as follows:

> "The penalties and surcharges imposed for speeding violations under subsection (4) (a) (I) (L) of this section are tripled if a speeding violation occurs within a maintenance, repair, or construction zone that is designated as such pursuant to the requirements of Part 6, Section 614 of the Model Traffic Code."

Section 4.02. With respect to violations of this Ordinance not covered by the Model Traffic Code, criminal prosecution may be brought against a violator in accordance with Sections 30-15-

402 C.R.S. and under the penalty assessment procedure provided in Section 16-2-201 C.R.S. Such violations shall be a class 2 petty offense, and, upon conviction or confession of guilt thereof, shall by punished by a fine of not more than one thousand dollars for each separate violation, plus a surcharge of ten dollars ($10.00), under Section 30-15-402(2) C.R.S. and any applicable Court surcharges and administrative fees.

Sections 4.03. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law, rule, order or regulation.

Section 5. Application. The restrictions on operation of OHVs contained in this Ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of this County, the use of which this County has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413, and part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer, and accidents and accident reports shall apply not only to public places and ways but also throughout this County.

Section 5. Reevaluation. The Board will periodically re-evaluate this Ordinance to determine the propriety of previous openings of County roads to OHVs and to consider any additional openings.

Section 6. Validity. If any part or parts of this Ordinance are for any reason held to be invalid such decision shall not affect the validity of remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid

Section 7. Repealer. All resolutions or ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that this repealer shall not repeal the repealer clauses of such resolutions nor revive any resolution thereby. Specifically, Ordinances 2005-01 and 2006-01 are repealed in their entity.

Section 8. Safety. The adoption of this Ordinance is in the best interest, safety and welfare of the citizens of and visitors to Chaffee County.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS this 7th day of August, 2012.

BOARD OF COUNTY COMMISSIONERS

The vote on the above Ordinance was as follows:

Commissioner Frank F. Holman ___For___

Commissioner Dennis Giese ___For___

Commissioner Dave Potts ___For___

BOARD OF COUNTY COMMISSIONERS

[Acting] Chairman

CHAFFEE COUNTY CLERK SEAL COLORADO

STATE OF COLORADO
CHAFFEE COUNTY

ATTEST:

The above is a true and correct record of Ordinance 2012-02 duly adopted by the Board of County Commissioners of Chaffee County by a 3-0 vote at a regular or special meeting, properly noticed and held on August 7, 2012, at least ten days following introduction and reading of the proposed ordinance on July 17, 2012, and publication of the proposed ordinance on July 25, 2012 in the Mountain Mail.

Chaffee County Clerk

Adopted Ordinance Published in the Mountain Mail on August 15, 2012.