

**BOARD OF COUNTY COMMISSIONERS OF
HINSDALE COUNTY, COLORADO**

ORDINANCE NO. 1, Series 2021

**AMENDED ORDINANCE REGULATING THE USE OF OFF-HIGHWAY VEHICLES ON
PUBLIC ROADS IN UNINCORPORATED HINSDALE COUNTY, COLORADO**

WHEREAS, pursuant to § 33-14.5-110, C.R.S., the Board of County Commissioners of Hinsdale County, Colorado (“Board”) has the authority to regulate the operation of off-highway vehicles (“OHVs”) on public lands, waters, and property under its jurisdiction and on streets and highways within its boundaries; and

WHEREAS, on May 31, 2017, the Board adopted Ordinance No. 1, Series 2017, “Amended Ordinance Regulating the Use of Off-Highway Vehicles On County Roads In Hinsdale County, Colorado” (“2017 OHV Ordinance”) that served to repeal and replace Ordinance No. 2, Series 2016, “Amended Ordinance Providing For and Regulating the Operation of Off Highway Vehicles on County Roads in Hinsdale County, Colorado”; and

WHEREAS, on February 17, 2018, the Board adopted Ordinance No. 1, Series 2018, “Amended Ordinance Regulating the Use of Off-Highway Vehicles on County Roads in Hinsdale County, Colorado” (“2018 OHV Ordinance”) that served to repeal and replace the 2017 OHV Ordinance; and

WHEREAS, this Amended Ordinance Regulating the Use of Off-Highway Vehicles on Public Roads in Unincorporated Hinsdale County, Colorado shall repeal and replace the 2018 OHV Ordinance; and

WHEREAS, the adoption of this Ordinance is in the best interests of the health, safety and welfare of Hinsdale County, Colorado.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HINSDALE COUNTY, COLORADO, THAT ORDINANCE NO. 1 SERIES 2018 IS HEREBY REPEALED AND REPLACED BY THIS ORDINANCE NO. 1, SERIES 2021 AS FOLLOWS:

1. The term “off-highway vehicle” (“OHV”) shall be defined as follows (see, § 33-14.5-101 (3), C.R.S.): 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; surplus military vehicles, as defined in C.R.S. § 42-6-102(20.5), that are owned or leased by a municipality, county, or fire protection district, as defined in C.R.S. § 32-1-103(7), for the purpose of assisting with firefighting efforts, including mitigating the risk of wildfires.; golf carts; vehicles designed and used to carry disabled persons; vehicles designed and used specifically for agricultural, logging, or mining purposes; and vehicles registered pursuant to article 3 of title 42, C.R.S.

2. All public roads in unincorporated Hinsdale County subject to the jurisdiction of the Board of County Commissioners of Hinsdale County shall be open to travel by OHVs and subject to this Ordinance.

3. No off-highway vehicle shall be operated at any time, unless the operator of the off-highway vehicle has in his or her possession a valid motor vehicle driver's license or operator's license.

4. No off-highway vehicle shall be operated at any time, unless the operator of the off-highway vehicle is insured to the minimum level required by the State of Colorado for automobiles.

5. Seat belt use is required if seatbelts are incorporated into the OHV by the OHV manufacturer. In the event an OHV is manufactured to incorporate child car seats, child car seats and restraints shall be used in accordance with Colorado state laws for motor vehicles.

6. Eye protection is required of all OHV operators and passengers.

7. OHVs shall contain no more occupants than for which the OHV was designed and manufactured, but excepting therefrom any OHV that has a roll over protection device that was designed and incorporated into the OHV to safely allow for more occupants than which the OHV was designed.

8. A person shall not drive or ride as a passenger in an OHV, unless:

a. Each person under eighteen (18) years of age is wearing a protective helmet of a type and design manufactured for use by operators of motorcycles;

b. The protective helmet conforms to the following design and specifications:

(i) It is designed to reduce injuries to the user resulting from head impacts and to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact;

(ii) It consists of lining, padding, and a chin strap; and

(iii) It meets or exceeds the standards established in the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. § 571.218, for motorcycle helmets.

c. The protective helmet is secured properly on the person's head with a chin strap while the OHV is in motion.

9. OHV operators and passengers are subject to all traffic laws applicable to motor vehicles, including but not limited to, any state, federal, or county law applicable to motor vehicle operation. In the event of any conflict between said laws and this OHV Ordinance, the provisions of this OHV Ordinance shall control.

10. This Ordinance shall be enforced by any law enforcement officer or peace officer, including the person designated by the Board as the County Off-Highway Vehicle Enforcement Officer, if any.

11. It shall be unlawful for any person to knowingly allow, authorize, suffer or permit an OHV owned or belonging to him or her or under his or her possession or authority, to be operated by any person who is under the age of 16.

12. Subject to Section 13 below, any person who violates any provision of this Ordinance shall be guilty of a class 2 petty offense, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation.

13. The penalty assessment procedure provided in § 16-2-201, C.R.S., shall be followed for any violation of this Ordinance. The arresting officer may either give the offender a penalty assessment notice and release him or her upon its terms or take him or her before a judge of the Hinsdale County Court. The choice of procedures shall be based upon circumstances which reasonably persuade the officer that the alleged offender is likely or unlikely to comply with the terms of the penalty assessment notice, as well as the circumstances that warranted the stop and penalty assessment. The penalty assessment notice shall be a summons and complaint containing (i) identification of the alleged offender by name, address and social security number, (ii) specification of the offense with which the offender is charged, and (iii) the applicable fine that may be paid to the Hinsdale County Treasurer in person or by mail within twenty (20) days of the date of issuance of the penalty assessment or else appear to answer the charge before the Hinsdale County Court on the date of its next regular session. Any person who chooses to acknowledge his or her guilt and is not otherwise required to appear in Hinsdale County Court may, within twenty (20) days of the date of issuance of the penalty assessment, pay the stated fine, including any court surcharges that may apply, to the Hinsdale County Treasurer, either in person or by mail, based on the following fine schedule:

- a. 1 – 10 miles per hour (“mph”) over the speed limit shall warrant a fine of \$125;
- b. 11 – 20 mph over the speed limit shall warrant a fine of \$150;
- c. 21 or more mph over the speed limit shall warrant a summons to appear in court plus a careless or reckless driving charge at the discretion of the officer;
- d. Operating an OHV without proof of insurance shall warrant a fine of \$150;
- e. Operating an OHV by a person 16 years of age or older without a valid driver’s license shall warrant a fine of \$50;
- f. Operating an OHV that contains more occupants than the OHV is designed to carry, as stated in Section 7 above, shall warrant a fine of \$100;
- g. Operating an OHV with occupants under the age of 18 not wearing a helmet, as required by Section 8 above, shall warrant a fine of \$100;
- h. Allowing the operation an OHV by a person under 16 years of age shall warrant a fine of \$100; and
- i. All other violations not specified herein shall warrant a fine of \$75.

In the event a penalty assessment is issued for driving 21 mph or more over the speed limit, the offender shall be issued a summons to appear in Hinsdale County Court and shall be subject to a fine of not less than \$300 and not more than \$1,000, as determined by the County Court judge.

Any uncontested payment that is provided to the Hinsdale County Treasurer shall be accompanied by a copy of the penalty assessment signed by said offender acknowledging his or her guilt. Payment of the fine shall relieve the person receiving the penalty assessment of any further obligation to appear in the

Hinsdale County Court to answer the offense charged in the penalty assessment, unless otherwise provided by this Ordinance.

14. In addition to any other fine in which a convicted offender may be required to pay pursuant to this Ordinance, the following applies: pursuant to § 18-1.3-603, C.R.S., in the event a violation of this Ordinance causes damage to a county road or other county property, the violator shall pay Hinsdale County restitution to fix the damage caused by the violation, as determined by the County Court judge.

INTRODUCED, READ, AND ORDERED PUBLISHED IN FULL in the *Lake City Silver World* on the 7 day of April, 2021.



BOARD OF COUNTY COMMISSIONERS
OF HINSDALE COUNTY, COLORADO

By: Kristie Borchers
Kristie Borchers, Board Chair

ATTEST: Joan Roberts

Joan Roberts, Clerk

ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL in the *Lake City Silver World*, on the 21 day of April, 2021.



BOARD OF COUNTY COMMISSIONERS
OF HINSDALE COUNTY, COLORADO

By: Kristie Borchers
Kristie Borchers, Board Chair

ATTEST:

Joan Roberts
Joan Roberts, Clerk