

**ORDINANCE NO. 2015-01**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONTROSE COUNTY, COLORADO  
AMENDING THE COUNTY'S TRAFFIC CODE BY AUTHORIZING THE USE OF UNLICENSED OFF HIGHWAY  
VEHICLES AND ALL TERRAIN VEHICLES ON 25 MESA ROAD.**

WHEREAS, a committee was formed in the West End of Montrose County dedicated to stimulate economic development and increase tourism by providing increased recreational opportunities through unique, satisfying and sustainable off-highway vehicle (OHV) and All-Terrain Vehicles (ATV) experiences in Montrose County and Southwest Colorado; and

WHEREAS, the authorization of OHV/ATV will positively impact the economy, aligning with the Montrose County Strategic Plan where economic development is the number one priority; and

WHEREAS, the County is interested in this single road pilot program before considering a County-wide ordinance; and

WHEREAS, the Board of County Commissioners of Montrose County, Colorado (BOCC) has determined that the use of OHV/ATV on 25 Mesa Road in Montrose County, as shown in the map attached hereto, subject to the conditions established herein for the protection of the public health, safety and welfare of the motoring public, is consistent with allowing multiple use of County Roads for recreational and other purposes; and

WHEREAS, Montrose County has been granted regulatory authority over the operation of OHV/ATV on public lands, waters, property, streets and highways within its boundaries by Sections 33-11-110-(1) and 30-15-401(1)(h), C.R.S.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Montrose County, Colorado as follows:

Section 1. The County's Model Traffic Code Ordinance is hereby amended as follows:

OHV/ATV use on County Roads:

a) Off-highway vehicle (OHV) or All-Terrain Vehicle type I (ATV) means any self-propelled vehicle which is designed to travel on wheels in contact with the ground, which is designed for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. OHV/ATV **does not** include the following:

- I. Vehicles designed and used primarily for travel on, over, or in the water
- II. Snowmobiles
- III. Military vehicles
- IV. Golf Carts
- V. Vehicles designed in use to carry disabled persons

VI. Vehicles designed and used specifically for agricultural, logging or mining purposes, or

VII. Vehicles registered pursuant to Article 3 of Title 42, C.R.S.

b) County Road – Any road that is part of the Montrose County road system in unincorporated Montrose County.

2. This ordinance shall apply only to the following designated county road of Montrose County, Colorado:

a) A portion of an unincorporated county road within Montrose County, 25 Mesa Road; Nucla-Delta Road, from Nucla town limits to Forest Service boundary.

3. Subject to the regulations and restriction hereinafter set forth, Montrose County hereby authorizes and allows OHV/ATV to operate on County Roads specifically designated for such traffic by appropriate signage placed on such County Roads by the Montrose County Road & Bridge Department.

4. The following rules and regulations shall apply to the operation of OHV/ATV in Montrose County:

- a) Any person operating an OHV/ATV in the unincorporated areas of Montrose County shall comply with all rules and regulations applicable to such vehicles adopted by the State of Colorado and or the Federal Government, including but not limited to Article 14.5 of Title 33, C.R.S. as to OIN.
- b) Any person operating an OHV/ATV and snowmobiles in Montrose County must have in their possession a valid, current driver's license issued by the State of Colorado.
- c) Persons under the age of 16 shall not operate OHV/ATV on any County Roads.
- d) The OHV/ATV shall be titled and registered as defined in the Colorado Department of Revenue Titling Off Highway Vehicle Law, Title 42 Article 6.
- e) When operated on any County Road designated for OHV use, OHV/ATV shall be considered to be "motor vehicles" as defined by the Colorado Motor Vehicle Financial Responsibility Law, Title 42 Article 7, C.R.S. and the operator shall be required to maintain at least the minimum liability insurance coverage required by such law.
- f) On posted County Roads OHV/ATV shall not exceed 35 miles per hour or the posted speed limit, whichever is less. On un-posted County Roads OHV/ATV shall not exceed 25 miles per hour.
- g) Operation of OHV/ATV in Montrose County subject to the Montrose County Model Traffic Code as amended.
- h) All OHV/ATV operating in Montrose County must register with Colorado Division of Parks and Outdoor Recreation (Registration Unit, 13787 South Highway 85, Littleton, CO 80125).
- i) State Registration Permits are valid April 1 through March 31.
- j) If you are not a Colorado resident, your OHV/ATV must be registered with Colorado as above whether it is registered in your home state or not. Non-residents must possess proof on non-residency when riding their OHV/ATV.

5. The operator of an OHV/ATV on the designated County road shall have all the rights and duties applicable to the driver of any other vehicle under the provisions of Colorado statutes and laws except when those provisions cannot be reasonably applied to OHV/ATV and except as otherwise specifically provided for in Colorado statutes.

6. All OHV/ATV's operating on designated County roads shall meet all of the following safety equipment requirements:

1. Headlamp;
2. Tail lamp and reflector;
3. Stop lamps on the rear;
4. A horn or other audible warning device;
5. A muffler and emissions system;
6. Rear view mirror;
7. A windshield or eye protection for the operator;
8. For "side by side" vehicles, a seat belt is required for each occupant;
9. Anyone under the age of 16 who is riding as a passenger or two person ATV must wear a helmet; and
10. A footrest and hand hold for each person.

7. Limitation of liability.

Nothing in this ordinance shall be construed as an assumption of any duty of care by Montrose County with respect to, or the assumption of any liability by the county for any injuries to persons or property which may result from the operation of on OHV/ATV on the designated road.

8. Every peace officer of the State of Colorado and Montrose County, every Federal enforcement officer and every person commissioned by the Division of Wildlife shall have the authority to enforce the provisions of this Ordinance.

9. The following penalties shall apply to violations:

- a) Violations of State or Federal law may be cited as provided in such laws. Violations of the Montrose County Model Traffic Code may be cited according to the enforcement provisions contained in said Code. A violation of this Resolution not covered by State of Federal Law or the Montrose county Model Traffic Code shall be a Class 2 petty offense and upon conviction shall be punishable as follows:
  - I. For the first violation, a fine of not less than \$50.00 and more than \$150.00.

- II. For a second offense by the same person within a period of one year, a fine of not less than \$150.00 and not more than \$500.00.
- III. For a third or any subsequent offense by the same person within a period of one year, a fine of not less than \$500.00 and not more than \$1000.00 and possible loss of right to operative OHV/ATV and snowmobiles on Montrose County Roads.

b) Violations of this Ordinance may be enforced through the penalty assessment procedure pursuant to Section 16-2-201 C.R.S. as amended, requiring the violator to appear at the place, time and date specified therein or in lieu thereof to pay the specified minimum fine in person or by mail at the place and within the time specified in the penalty assessment notice.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners of Montrose County, Colorado, declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion herein, despite the fact that anyone or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

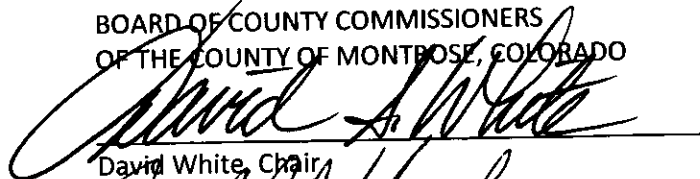
Section 3. Any and all ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance shall hereby be repealed to the extent of such conflict only.

Section 4. This Ordinance shall be effective thirty (30) days after its publication in the County designated official newspaper.

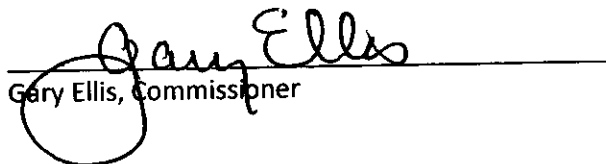
**APPROVED AND ADOPTED ON First Reading**

This 15<sup>th</sup> Day of DEC., 2014.

BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTROSE, COLORADO

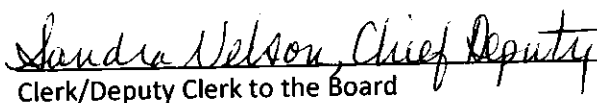
  
David White, Chair

  
Ron Henderson, Vice Chair

  
Gary Ellis, Commissioner



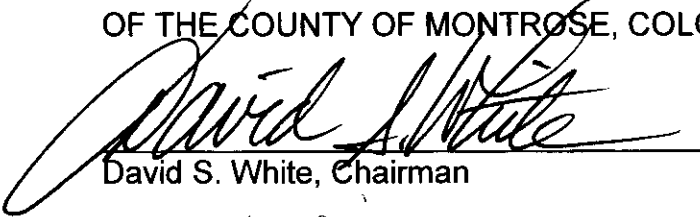
ATTEST:

  
Clerk/Deputy Clerk to the Board

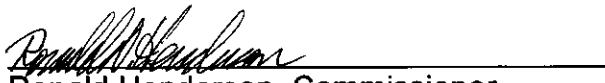
APPROVED AND ADOPTED Second and final reading on

This 20<sup>th</sup> day of January, 2015.


BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF MONTROSE, COLORADO

  
David S. White, Chairman

  
Glen Davis, Vice Chairman

  
Ronald Henderson, Commissioner

ATTEST:

  
Deputy Clerk to the Board



