

**PROCEEDINGS OF THE BOARD OF COUNTY
COMMISSIONERS**

COUNTY OF LAKE AND STATE OF COLORADO

ORDINANCE NO. 24-01

**AN ORDINANCE ADDRESSING MULTI-PURPOSE USE ON
COUNTY ROADS**

WHEREAS C.R.S. Sections 33-14-110, 33-14-118, 33-14.5-107, 33-14.5-108, and 33-14.5-110 authorize the Lake County Board of County Commissioners to adopt this Ordinance regulating the means of conveyance for Off-Highway Vehicles (OHVs) and snowmobiles in a manner not inconsistent with other federal, state and local laws, rules and regulations; and

WHEREAS 30-11-101(2), C.R.S. authorizes the Board of County Commissioners to adopt this Ordinance regarding health, safety, and welfare issues as otherwise prescribed by law; and

WHEREAS 33-14.5-108(1)(f) C.R.S. authorizes the Board of County Commissioners to designate roads for multi-purpose use and impose a fine and penalty for violations as a Class 2 Petty Offense, as well as assess a fine under the penalty assessment procedures in 16-2-201 C.R.S., and 42-4-106(3)(b), (c) and (d) C.R.S. also authorizes the Board of County Commissioners to designate highways under their jurisdiction for over-snow use only; and

WHEREAS Resolution 10-13 was enacted to designate all county roads as multi-purpose roadways providing recreational access to OHV, snowmobile and similar use (motorized recreational use) along with foot traffic, bicycle, horseback and similar use (non-motorized recreational use); and

WHEREAS Ordinance 12-02 was adopted to establish enforcement through fines and penalties as a class 2 petty offense; and

WHEREAS Ordinance 23-01 was adopted as a stop gap measure to address certain emergent issues while Lake County conducted further investigation and research regarding the impact of OHV use of County roadways; and

WHEREAS The Board of County Commissioners is desirous to ensure recreational access is balanced in a manner between all user groups, including general (public), commercial, motorized, and non-motorized, as to not threaten safe access for all, promote the preservation of the quality of the experience, and to properly mitigate adverse impact; and

WHEREAS Lake County has created a Lake County OHV Roadway Use Map which will be updated from time to time to provide the public access information, increase County awareness, and provide for informed decision making; and

WHEREAS Lake County traffic volumes and recreational use has increased since Ordinance 12-02 resulting in the need for a more managed approach to ensure the health, safety and welfare of the community; and

WHEREAS Ordinance 12-02 did not contemplate or provide guidance on the management of commercial recreational user groups; and

WHEREAS a coordinated planning effort has been facilitated by Community Planning & Development in collaboration with Lake County Mapping, Public

Works, Parks, Recreation and Open Space (PROS), and the Sheriff's Office to develop a commercial permitting process, policy, oversight and enforcement in accordance with this Ordinance; and

WHEREAS Community Planning & Development hosted public engagement through town hall meetings, stakeholder interviews, web-based public comment portals, and surveys; and

WHEREAS the inclusive data collected by Community Planning & Development has been considered in making these determinations; and

WHEREAS the Board of County Commissioners finds it is in the best interest of the community to limit the degree of commercial recreation permits until such time as Lake County can determine the sustainability of increased OHV and snowmobile commercial use; and

WHEREAS the Board of County Commissioners wants to create a balanced commercial and general (public) recreational use of county roads to preserve and maintain roadways and the safety, welfare and health of the community.

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

Definitions

Off Highway Vehicle (OHV): It is recognized that types of motorized recreational vehicles are evolving and as such recreational use may not be limited to current OHV or snowmobile models; therefore, an OHV is defined as any self-propelled vehicle which is designated to travel on wheels or tracks in contact with the ground, which is designated primarily for use off public highways, and which is generally and commonly used to transport persons for recreational purposes. OHV for purposes of this Ordinance does not include snow cats or groomers, which are prohibited from general recreational use.

Snowmobile: Snowmobile is defined as a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats, which is designated primarily for use off public highways, and which is generally and commonly used to transport persons for recreational purposes. For purposes of this ordinance, all standards associated with OHVs shall also apply to snowmobiles.

General (Public) User: A self-guided, individual user utilizing county roadways for motorized or non-motorized recreational use, where no consideration is paid to a third-party guide to access the experience.

Commercial User: An individual or company offering OHV guiding services which may include outfitting to the public and utilizing county roadways in exchange for some type of consideration, generally with a monetary value.

Multi-Purpose Access: Access granted to general users, properly permitted commercial users, both motorized and non-motorized, for the purpose of recreation on county roadways notwithstanding exceptions based on any standards outlined in this Ordinance.

Section I: Designation of Roads:

Lake County roads, except those that are part of the State highway system to include without limitation Harrison Avenue in the City of Leadville, are designated as multi-purpose roads for the appropriate use of all means of conveyance including, but not limited to: foot travel, horseback, bicycle, motorcycle, all-terrain vehicle, snowmobile, car or automobile, truck, and other motor vehicles.

Section II: General OHV Use:

All operation of conveyances on county roads shall be conducted in a safe manner and in compliance with all applicable federal, state and local laws, rules, regulations, and orders. Prohibited areas for OHV use include protected wildlife areas, alpine tundra, private property, and areas designated for pedestrians or non-motorized use only. OHV use is also subject to all the following, which will be enforced pursuant to applicable provisions of Lake County's adopted Model Traffic Code:

1. All OHVs shall be operated only by licensed operators, 16 years of age and older, unless accompanied by a licensed operator. Juveniles, 18 years of age and younger, must wear a helmet, and all operators must wear eye protection.
2. All OHV operators must maintain appropriate liability insurance, registration, lighting, and operate only on designated roadways. For purposes of this Ordinance, OHVs shall be considered motor vehicles subject to the minimum liability insurance coverage required by the Colorado Motor Vehicle Financial Responsibility Law, Title 42, Article 7 C.R.S.
3. All use of county roads by motorized OHVs must be limited to direct travel from Point A (starting point) to Point B (recreation destination within Lake County). The allowed purpose of travel shall be for access to recreation destinations only and is not intended to include access for shopping at retail stores, the post office, or OHV-restricted areas.
4. Use of county roads by OHVs will be allowed only during daylight hours unless such vehicles are equipped with a headlight and taillight compliant with applicable state standards.
5. OHV users are expected to be considerate of the natural environment in Lake County, particularly alpine tundra, which is fragile and valued, and shall comply with all posted notices for preservation of such areas. Exceptional care and management of these areas is provided by County stakeholders and land managers such as the Bureau of Land Management (BLM) and U.S. Forest Service (USFS). Violation of any applicable laws or regulations pertaining to such areas may be subject to penalties and/or legal action.
6. Users shall comply with all notices and directives posted by Lake County Public Works, as designated by the County Road Supervisor and/or Public Works Director in determining safe conditions for OHV access and use.
7. Users shall conduct no plowing, grooming, grading, moving of snow berms, or use of any blade or earth moving attachment without the written consent of the County, and users must carry said consent with them when performing such approved activities.
8. No snowmobile or OHV shall be allowed to make unreasonable noise during its operation in violation of applicable Code provisions.

Section III: Commercial OHV Use:

Standards

Use of Lake County roads designated as multi-purpose roads for the legally permitted use of commercial conveyance including, but not limited to foot travel, horseback, bicycle, motorcycle, all-terrain vehicle, OHV, snowmobile, car or automobile, truck and other motor vehicles, shall be subject to all the following:

1. Ensure guides and users adhere to the same rules and regulations for OHV use listed in Section II as well as applicable provisions of Lake County's adopted Model Traffic Code.
2. All OHV or Snowmobile Outfitter & Guide applicants must have operated in Lake County within the past 12 calendar months preceding the application date.
3. All commercial recreational use incidental to county roadways shall hold a current and valid Commercial Recreation Permit.
4. Commercial applicants must maintain a permitted physical base of operation in either:

- A. Unincorporated Lake County through a recorded conditional use permit held in good standing; or
- B. The City of Leadville registered with proof of a current business license held in good standing.
5. Commercial motorized use shall not be permitted on main collector roads which serve the community as main roadways and evacuation routes, including but not limited to Harrison Avenue and County Roads 4 and 17.
6. Approved Commercial Recreation Permits shall include, at a minimum:
 - A. Company name and emergency contact
 - B. All permitted routes
 - C. Type of vehicle
 - D. Group size (per tour)
 - E. Days of operation, frequency per day, and season (Summer or Winter)
7. Commercial Recreation Permits for using Lake County roadways must sign a cost and fees agreement.
8. Commercial permit holders shall not perform county road maintenance without written approval from Lake County Public Works, and operators must carry said approval with them when performing such approved activities.
9. Commercial operators shall furnish a general liability policy with a minimum of \$1,000,000 coverage per occurrence, with Lake County listed as an additional insured.
10. Commercial operators must carry a copy of any applicable permits listed above during tours and other business operations.
11. Permits are subject to unscheduled field inspection.
12. Permits must strictly adhere to all regulations and conditions of approval. Non-compliance may result in review and enforcement measures, with the potential of revocation for non-compliance.
13. Permits are not assignable without the advance written consent of the Board of County Commissioners.

Permit Approval Criteria:

All actions by the Board of County Commissioners in approving, approving with conditions, or disapproving Commercial Recreation Permits shall be based upon the provisions of this Ordinance and specifically on the following criteria:

1. That the proposed permit shall not likely be detrimental to the public health, safety or welfare of county residents and other recreational users.
2. That the proposed permit shall not result in an overly intensive use of the county roadway relative to the condition of the roadway and/or existing volume of use.
3. That the proposed use will not result in traffic congestion or hazards to vehicular or pedestrian traffic.
4. The proposed permit has provided an acceptable emergency management plan.
5. The proposed permit demonstrates that natural and man-made hazards can and will be adequately mitigated.

Enforcement – Show Cause Hearing – Revocation:

Commercial permit violations may result in a show cause public hearing based on evidence that the permit is non-compliant pursuant to these regulations or any conditions of approval.

The Permit Administrator shall first make a reasonable effort to resolve any permit non-compliance. If such effort is not successful, the Permit Administrator may schedule a show cause hearing with the Board of County Commissioners.

The show cause hearing is a public hearing process under the jurisdiction of the Board of County Commissioners. The Permit Administrator shall provide the substance of the hearing by introducing the evidence which constitutes a violation of the conditions of the permit or this Ordinance along with proof an effort was made to resolve the issue administratively. The permit holder, or their designee, may provide evidence and testimony regarding the complaint. The Board of County

Commissioners shall allow for comment relevant to the substance of the hearing from the public. If after the public hearing the Board of County Commissioners determines there has been a violation of the conditions of approval or this Ordinance, then the permit may be suspended for such period as determined by the Board of County Commissioners. The Board of County Commissioners may also revoke the license if it finds the violation has not been cured despite advance written notice by the Permit Administrator of the need to do so or if the violation threatens the safety, health and welfare of the community. Upon revocation, the commercial permit holder may not reapply for a permit in the same location for a period of two (2) years from the date of revocation of the permit.

Section IV: Applicability: This Ordinance shall apply to all county roads of Lake County, Colorado.

Section V: Effect of Ordinance: Any person cited for violation of this Ordinance in the unincorporated areas of Lake County may be prosecuted before the Lake County Court pursuant to the provisions set forth in Sections V and VI of this Ordinance. The adoption of this Ordinance shall act to rescind Lake County Ordinance 12-02, Ordinance 23-01 and Lake County Resolution 10-13.

Section VI: Penalties:

General OHV Use:

Violations pertaining to general OHV use shall be subject to applicable provisions of Lake County's adopted Model Traffic Code.

Commercial OHV Use:

For a first offense there will be a minimum fine of \$200.00 imposed on any person or persons who violates any provision of Section III of this Ordinance. For a second offense there will be a minimum fine of \$750.00 imposed on any person or persons who violates any provisions of Section III of this Ordinance. A third offense will result in permanent revocation of all permitting listed in Section III imposed on any person or persons who violates any provisions of Section III of this Ordinance. Such fines shall be assessed on the commercial operator and based on the total number of recreational users involved to include both guides and customers.

Citations: Law enforcement officers may issue citations to any person(s) or representatives of commercial operators suspected of having violated this Ordinance. In instances where a violation has been witnessed and reported, a law enforcement officer is authorized to issue a citation to the violator.

Citations shall include the following information:

1. The offense for which the person or representative of a commercial operator is being cited, per this Ordinance;
2. the specific location of the violation;
3. the date(s) and time(s) of the suspected offense(s) (if witnessed), or
4. the date discovered by the law enforcement officer;
5. the date, time, and location where the cited person or representative of the commercial operator is to appear before the Lake County Court; and
6. the name and legible signature of the officer issuing the citation.

Section VII: Liability:

The adoption of the Ordinance codified in this document shall not create any duty to any person, firm, corporation, or any other entity with regard to enforcement or non-enforcement of this Ordinance. No person, firm, corporation, or other entity shall have any remedy against the Lake County Board of County Commissioners or Lake County Sheriff, their officers or agents for any damage(s) arising out of, or in any way connected with the adoption, enforcement or non-enforcement of this Ordinance. Nothing in this Ordinance shall be construed to create any liability or to

wave any of the immunities, defenses, limitations on liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S. or to wave any immunities, of defenses or limitations on a liability otherwise available to each entity, agency, governmental body, its officers, employees and agents.

Section VIII: Safety:

The Lake County Board of County Commissioners has determined that adoption of this Ordinance is in the best interest, safety and welfare of the citizens of and visitors to Lake County.

Section IX: Severability:

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Lake County Board of County Commissioners hereby declares that it would have passed this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

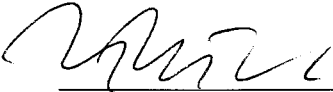
Section X: Recording:

That the Lake County Clerk is hereby advised that this Ordinance was ordered to be INTRODUCED, READ and PUBLISHED in full the 16th day of January 2024.

This Ordinance was published in full in the Herald Democrat, a general circulation newspaper published in Lake County, on January 18th, 2024.

This Ordinance was ADOPTED, APPROVED, and ORDERED PUBLISHED by TITLE THIS 6th day of February 2024.

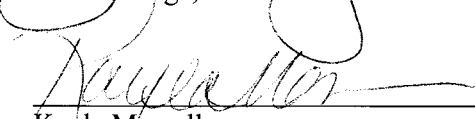
LAKE COUNTY BOARD OF COUNTY COMMISSIONERS



Jeff Fiedler, Chair



Sarah Mudge, Vice-Chair



Kayla Marcella

CLERK'S CERTIFICATE

I, Tracey Lauritzen, Clerk and Recorder of Lake County, Colorado, do hereby attest and certify that the Ordinance set forth was introduced, read and ordered published at a regular meeting of the Lake County Board of County Commissioners on the 16th day of January 2024. The amended Ordinance was adopted, approved and ordered published by title only at a regular meeting of the Lake County Board of County Commissioners held on the 6th day of February 2024. The publication set forth above, which appeared in The Herald Democrat, a general circulation newspaper published in Lake County, is true and correct and the proof of publication is on file in my office.

By: 

Tracey Lauritzen
Clerk and Recorder,
Lake County, Colorado
Ex-officio Clerk of said Board.

CERTIFICATION

I, Tracey Lauritzen Clerk and Recorder, of Lake County, Colorado; do hereby attest and certify that: (1) the forgoing **ORDINANCE ADDRESSING MULTI-PURPOSE USE ON COUNTY ROADS**, is a true, correct and complete copy from the records in my office; (ii) said Ordinance was duly adopted by the Board of County Commissioners of the County of Lake; (iii) said Ordinance is in full force and effect; (iv) and may be inspected during regular business hours.

By: 

Tracey Lauritzen
Clerk and Recorder,
Lake County, Colorado
Ex-officio Clerk of said Board.