



DOLORES COUNTY ORDINANCE NO. 07-19-02

**AN ORDINANCE REQUIRING A PERMIT FOR CERTAIN COUNTY ROAD
USE INCLUDING CERTAIN REPETITIVE COMMERCIAL USE,
OVERWEIGHT, OVERSIZE AND SPECIAL TRANSPORT**

WHEREAS, the Dolores County Board of County Commissioners finds it necessary to monitor commercial road use in the County in order to exercise its authority to preserve the health, safety and welfare of its citizens and to protect the Dolores County road system from damage and undue wear caused by non-typical and high-impact use; and

WHEREAS, pursuant to section 42-4-111, C.R.S., Dolores County is granted the authority through exercise of reasonable police power to regulate streets and highways within its jurisdiction by, among other things, regulating or prohibiting the stopping, standing, or parking of vehicles, regulating traffic by means of police officers or official traffic control devices, designating truck routes and restricting the use of highways, and by adopting such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

WHEREAS, pursuant to section 42-4-106, C.R.S., Dolores County is granted the authority to regulate streets and highways within its jurisdiction by prohibiting the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed ninety days in any one calendar year, whenever any said highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced or prohibit the operation of trucks or commercial vehicles on designated highways or may impose limitations as to the weight thereof, which prohibitions and limitations shall be designated by appropriate signs placed on such highways; and

WHEREAS, pursuant to sections 42-4-510 and 42-4-511, C.R.S., as amended, Dolores County is authorized to regulate the size and weight of vehicles traveling upon the County road system, and to require that vehicles which exceed size and weight restrictions obtain permits prior to using County roads; and

WHEREAS, pursuant to section 42-4-510(3), C.R.S., as amended, Dolores County is authorized to issue or withhold permits for vehicles which exceed the size and weight limitations established by statute, and if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which vehicles may be operated on the County roads indicated or otherwise to limit or prescribe conditions of operation of such vehicles when necessary to protect the safety of highway users, to protect the efficient movement of traffic from unreasonable interference, or to protect the County roads from undue damage to the road foundations, surface, or structures and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any highway or highway structure; and

WHEREAS, section 42-4-512, C.R.S., as amended, provides that no person shall drive, operate, or move upon or over any highway or highway structure any vehicles, object, or contrivance in such a manner so as to cause damage to said highway or highway structure, and such person shall be liable for any such damage caused regardless of the weight or size of the vehicle and whether or not the person has obtained a permit authorizing the activity causing the damage. Every person violating the provisions of section 42-4-512, C.R.S., shall be liable for all damage, which said highway or highway structure may sustain as a result of such usage or activity. Whenever the driver of such vehicle, object, or contrivance is not the owner of same but is operating, driving, or moving such vehicle, object, or contrivance with the express or implied consent of the owner, then the owner or driver shall be jointly and severally liable for any such

WHEREAS, pursuant to section 43-2-111, C.R.S., as amended, the Board of County Commissioners is responsible for the construction and maintenance of the County road system. The County road supervisor is legally vested with the power to prevent damage to County roads from ditch overflows, insufficient or unsafe conduits, flumes, or ditches crossing such roads, the removal or disposition of any material injurious to such roads, unsafe railway or tramway crossings or any other cause which may arise and which comes under the jurisdiction of the Board of County Commissioners; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Dolores County as follows:

A. SCOPE

1. This Ordinance shall apply to each and every road activity ("Subject Activity") other than normal public use of County roads. Activities specifically not considered normal public use include, but are not limited to: (i) the operation of any vehicles, combination of vehicles, or equipment, upon a County road which exceed the size and/or weight restrictions set forth in sections 42-4-501, through 42-4-512, C.R.S., as amended; (ii) structural, oversize, or overweight moves requiring extraordinary action or moves involving weight in excess of 200,000 pounds; and (iii) the operation of any hauling project or hauling job estimated to be in excess of 2,000,000 pounds within a 12- month period beginning with the date of permit approval.
2. The following Subject Activities are specifically exempt from application of this Ordinance: (i) direct agriculture use such as operation of farm machinery on County roads, transportation of agricultural equipment and machinery via trailer, transportation of livestock, including via trailer or through herd drives, and transportation of product to market; (ii) activities already specifically addressed and approved through the approval and issuance of a Land Development Agreement (LDA) pursuant to the DCDLUR; and (iii) regular commercial route hauling, such as garbage/refuse hauling and commercial carrier services.

B. APPLICATION/PERMIT

1. Any person, prior to conducting any Subject Activity on a road which is included on the County road system within the boundaries of the County of Dolores County, shall comply with the process and restrictions as set forth herein. Subject Activities subject to this Ordinance may be commenced only upon written approval of the Board of County Commissioners and/or that of the County Road Supervisor or his designated representative through the issuance of a permit.
2. An application for permit shall be submitted on forms issued by the County, which may include acknowledgments of liability for road damage caused by Subject Activity. The anticipated permit costs shall be included with the initial submittal. If such permit costs are undetermined at the time of submittal, said costs shall be paid upon determination by the County, prior to issuance of the permit.
3. Should the County Road Supervisor fail or refuse to issue any permit applied for pursuant to this Ordinance, the applicant for same may appeal such failure or refusal to the Dolores County Board of Commissioners. Any such appeal shall be made in writing to the Board of County Commissioners, with a copy to the County Road Supervisor, and filed with the Board within ten days of the failure or refusal to grant a permit. Within ten days of the receipt of an appeal, the Board of County Commissioners shall schedule the matter to be heard at a noticed public meeting of the Board, to be held within thirty days of receiving the appeal. No less than five working days prior to the date at which the Board of County Commissioners is scheduled to consider an appeal, the party filing the appeal shall be given written notice of the time, date, and place at which time the appeal will be considered, and at which, evidence may be received from applicant, County Road Supervisor and interested members of public.

C. PERMIT ISSUANCE/CONDITIONS

1. Each Subject Activity shall be considered a separate incident, and each may require bonding or the posting of other acceptable security according to the nature and scope of activity and to the satisfaction of the Board of County Commissioners and/or the County Road Supervisor. The amount of bonding or other security shall be in amounts reasonably calculated to adequately cover all reasonably foreseeable damages as determined by the County Road Supervisor in accordance with the provisions of this Ordinance. In the event that the requirements herein are not satisfied at all times, by decision of the Board of County Commissioners and/or County Road Supervisor, the bond posted shall be forfeited, payable to the County, and those who failed to perform must pay any and all additional expenses incurred, including all legal fees, construction costs, and additional damages necessary and pertinent to the case.

2. Special conditions may be attached to the approved permit with said conditions becoming an integral part of the permit requiring full compliance at all times. Special conditions may include but are not limited to: hours and days of operation, dust control, designation of routes, speed limits, traffic control requirements, seasonal restrictions, route designations, rerouting, and any other conditions deemed necessary by the County Road Supervisor or his designated representative. No hauling or any other activity will be allowed when road conditions, weather conditions or visibility make traveling hazardous to the operator or the traveling public.

D. DAMAGES

1. No person shall drive, operate or move upon or over any County road, highway or bridge any vehicle, object or contrivance in such manner so as to cause damage to such road, highway or bridge. When the damage sustained to such road, highway or bridge is the result of the operating, driving or moving of such vehicle, object or contrivance which was subject to this Ordinance, it shall be no defense to any action, either civil or criminal, brought against such person that the Subject Activity was authorized by permit.

2. Every person violating the provisions of subsection (1) of this section shall be liable for all damages which such road, highway or bridge may sustain as a result thereof. Whenever the driver of such vehicle, object or contrivance is not the owner thereof, but is operating, driving or moving such vehicle, object or contrivance with the express or implied consent of the owner thereof, then such owner or driver shall be jointly and severally liable for any such damage. The liability for damage sustained by any such road, highway or bridge may be enforced by a civil action as provided in C.R.S. § 42-4-512. No satisfaction of such civil liability, however, shall be deemed to be a release or satisfaction of any criminal liability. All repair work will be performed by County personnel within and upon a damaged area, without agreement otherwise.

3. In the event a permit is issued for the purpose of hauling material, the County makes no guarantee that the approved haul route will be adequate, and the applicant assumes responsibility for all necessary improvements as well as continued maintenance under the supervision of County authority for the duration of hauling.

E. PERMIT COSTS

The following permit costs shall apply to each respective Subject Activity.

1. Oversize/Overweight:

Subject to the permit costs as set forth in C.R.S § 42-4-510, *et seq.* as may be amended.

2. Structural, oversize, or overweight moves requiring extraordinary action or moves

i. Drill Rigs - \$1,500.00 (Presumptive minimum amount based upon minimum actual costs related to Department of Road and Bridge route analysis, pre-move inspections, post-move inspections, weather monitoring, etc. This is a minimum only and the permit cost may differ based upon an estimate of actual costs to the County); and

ii. All other extraordinary moves shall be assessed based upon an estimate of actual costs to the County.

3. The operation of any hauling project or job estimated to be in excess of 2,000,000 pounds within a 12-month period beginning with the date of permit approval:

i. There shall be no permit cost. This shall not, however, preclude the County from requiring a bond or road improvement/maintenance costs when applicable.

F. PENALTIES/ENFORCEMENT

1. Violation of the provisions of this Ordinance shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) for each violation. Each instance of continuing operation in violation of this Ordinance shall be considered a separate offense. All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Dolores County within thirty (30) days of receipt and shall be deposited into the General Fund of Dolores County. Any person convicted of a violation of this Ordinance shall be subject to the statutory surcharges of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and fifteen dollars (\$15.00) for the Colorado Traumatic Brain Injury Trust Fund. These surcharges shall be paid to the clerk of the court by each person convicted of violating this Ordinance. The clerk shall transmit the monies to the respective funds in accordance with C.R.S. § 30-15-402(2). This Ordinance shall be enforced by the Dolores County Sheriff. The BOCC hereby designates the Dolores County Attorney, or his designee, as the County's legal representative in the enforcement of the provisions of this Ordinance in a court of applicable jurisdiction. In the event the Dolores County Attorney or his/her designee cannot represent Dolores County, or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the 22nd Judicial District to perform such legal enforcement duties in lieu of the County Attorney. This Ordinance shall in no way limit application and enforcement of any State, Federal, or local rules, laws, or regulations, but shall be in addition thereto.

2. The remedies contained herein shall be cumulative with any and all remedies available in law or equity. The County may seek other remedies provided for by law or equity in enforcement of this Ordinance, including, but not limited to recovery of actual damages, and an injunction or other equitable relief in any court of competent jurisdiction to stop or prevent any violation. The County shall be awarded its reasonable attorney fees and costs in any successful enforcement action.

G. MISCELLANEOUS

1. Each permit issued shall be carried in the vehicles or combination of vehicles to which it refers and shall be open to inspection by any law enforcement personnel or authorized agent of the County at all times. By applying for said permit, each applicant hereby consents to vehicle stops for such inspection.

2. Should a court of competent jurisdiction find and declare that any specific provision or provisions of this Ordinance are illegal, unconstitutional, or otherwise legally unenforceable, that specific provision or provisions shall be deemed to be severable from the remaining provisions of this Ordinance, which shall remain in full force and effect. The provisions of any prior Dolores County oversize/overweight road permitting regulations are hereby repealed as of the effective date of this Ordinance.

H. PUBLICATION AND EFFECTIVE DATE

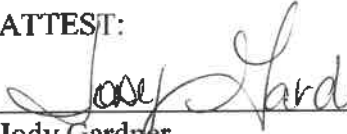
1. The foregoing text is the authentic text of Dolores County Ordinance No. 07-19-02. The first reading of said Ordinance took place on July 8, 2019 at a regular Board of County Commissioners Meeting. It was published in full in the *Dove Creek Press* on July 25, 2019. Notice of a Public Hearing regarding the adoption of the Ordinance was included with publication. Following public hearing the Ordinance was adopted at a regular Board of County Commissioners Meeting on August 19, 2019 and shall take effect upon adoption.

2. This Ordinance is designed to regulate potentially dangerous activity upon roads within the County and to preserve the condition of County roads. The immediate adoption and effective date upon adoption is necessary for the immediate preservation of public health or safety.

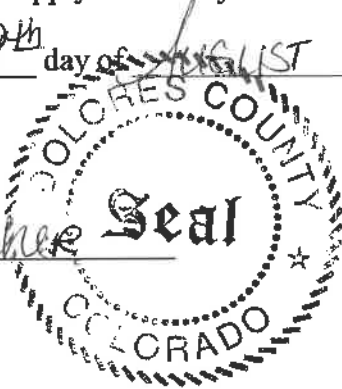
3. This Ordinance shall apply to all Subject Activity to take place after the effective date.

ADOPTED this 19th day of AUGUST, 2019.

ATTEST:



Jody Gardner
Deputy Clerk to the BOCC
[SEAL]



BOARD OF COUNTY COMMISSIONERS OF
DOLORES COUNTY, COLORADO

By: 

Floyd Cook, Chair



Steve Garchar, Commissioner



Julie Kibel, Commissioner