

ORDINANCE NO. 2012-01

AN ORDINANCE ADOPTING THE "OFF-HIGHWAY VEHICLE SAFETY ACT;" AND REPEALING FREMONT COUNTY ORDINANCE 2007-01.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, AS FOLLOWS:

I. **Short Title.** This ordinance shall be known as the "Off-Highway Vehicle Safety Act." [Ordinance 2007-01 is hereby repealed.]

II. **Definitions.**

A. "Off-highway vehicle" means any self-propelled or motorized device in, upon or by which any person may be transported and which are operated off-highways, excepting when used as implements of husbandry. Off-highway vehicles include, but are not limited to motorcycles, all-terrain vehicles (ATVs), sand rails, dune buggies, specialty off-highway vehicles, utility type vehicles, recreational off-highway vehicles, snowmobiles, any motor vehicle used for the purpose of recreation, over the road vehicles that are used for off road purposes, golf carts that are used in an off road capacity, vehicles typically driven on the road that are being used in an off road capacity, and any other motorized vehicle designed or used for off-highway transportation.

B. "Safety flag" means a highly visible red or orange colored piece of material no less than six inches (6") by twelve inches (12"), and of square, rectangular, triangle, or pennant shape. Long, thin streamers do not qualify as safety flags. Safety flags must be attached to the vehicle, not attached to the rider or any of the riders personal belongings, i.e. backpack, travel bags, etc.

C. "Implements of husbandry" mean every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated.

D. "Incidentally operated" means the transport of the implement of husbandry from one farm operation to another.

III. **Infractions.**

A. Registration. Operating an off-highway vehicle without a current registration displayed in a completely visible manner. A violation of this

Microfilm No. 536015
At 13th Day Oct 20 11
At 3:31 O'Clock PM
CLERK OF COUNTY COMMISSIONERS
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Clerk Abby Mace

paragraph is an infraction punishable by a fine of seventy-five dollars (\$75.00).

B. Excessive Speed. Operating an off-highway vehicle at a speed in excess of the posted speed limit, or that is reasonable and prudent under the existing conditions shall be considered excessive. A violation of this paragraph is an infraction punishable by a fine of fifty dollars (\$50.00).

C. Inattentive/Careless Operation. Operating an off-highway vehicle in an inattentive, careless, or imprudent manner, given the existing circumstances, so as to slightly endanger the person or property of another. A violation of this paragraph is an infraction punishable by a fine of one hundred twenty-five dollars (\$125.00).

D. Wildlife Harassment. Operating an off-highway vehicle in a manner to harass, chase, or disturb wildlife or domestic animals. A violation of this paragraph is an infraction punishable by a fine of one hundred dollars (\$100.00).

E. Inadequate Headlight/Taillight. Operating an off-highway vehicle without a lighted headlight and taillight during the hours from dusk to dawn. A violation of this paragraph is an infraction punishable by a fine of fifty dollars (\$50.00).

F. Inadequate Brakes. Operating an off-highway vehicle without adequate braking devices (brakes may be hand-operated or foot-operated). A violation of this paragraph is an infraction punishable by a fine of fifty dollars (\$50.00).

G. Public Roadway and Public Right-of Way. No person shall be allowed to operate an off-highway vehicle on a public highway, public roadway or public right-of-way, *unless* the highway, roadway or right-of-way is closed to automobile travel. This paragraph does not apply to roads that have been designated as dual-use roads. A violation of this paragraph is an infraction punishable by a fine of one hundred dollars (\$100.00).

H. Safety Flag (Sand Dunes). Operating an off-highway vehicle in the St. Anthony Sand Dunes Wilderness Study Area (the "Sand Dunes") without displaying a safety flag at the top position of a mast attached to the off-highway vehicle such that the safety flag is within ten inches (10") from the mast tip and at least eight feet (8') above the ground surface. A violation of this paragraph is an infraction punishable by a fine of one hundred twenty-five dollars (\$125.00).

I. Safety Helmets. No person under eighteen (18) years of age shall ride upon or be permitted to operate a motorcycle, motorbike, utility type vehicle or an all terrain vehicle unless at all times when so operating or riding upon the vehicle they are wearing, as part of their protective equipment, a protective safety helmet meeting standards of Idaho Code Section 49-666. Exceptions are when the vehicle is operated or ridden on private property, or when used as an implement of husbandry. A violation of this paragraph is an infraction punishable by a fine of seventy-five dollars (\$75.00).

IV. **Misdemeanors.**

A. Gross negligence. Operating an off-highway vehicle carelessly or heedlessly or without due caution or circumspection *and* at a speed or in a manner that endangers, or is likely to endanger, any person or property. A violation of this paragraph is a misdemeanor punishable by imprisonment not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment.

B. Driving Under the Influence. Operating an off-highway vehicle in a manner specified by Idaho Code Section 18-8004, governing the operation of motor vehicles while under the influence of intoxicating substances. A violation of this provision is a misdemeanor punishable by imprisonment not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1000.00), or by both such fine and imprisonment.

V. **Operators**. Any person operating an off highway vehicle on any Fremont County Road, as allowed by this ordinance, must have in their possession a valid current driver's license or vehicle operator's license issued by the State of Idaho, or by any other state, pursuant to Title 49, Chapter 3, Idaho Code. Minors must be under the supervision of an adult pursuant to the definition of supervision under Title 49, Chapter 3, Idaho Code. A violation of this paragraph is punishable pursuant to Idaho Code, Title 49, Chapter 3.

VI. **Compliance**. All off-highway vehicles operated on allowed public rights of way in the County of Fremont shall comply with all the rules of the road for Idaho Code, as those rules and regulations are now constituted or as they may be hereafter amended.

VII. **Severability**. If any provision of this ordinance is held invalid, the remained of this ordinance shall be effective and shall remain in full force and effect unless amended or modified.

VIII. **Effective date.** This ordinance shall become effective and be in full force and effect following passage by the Board of County Commissioners and proper publication, as provided by law.

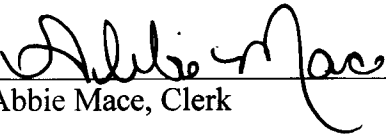
PASSED this 3rd day of October, 2011.

BOARD OF COUNTY COMMISSIONERS,
FREMONT COUNTY, IDAHO



Ronald "Skip" Hurt, Chairman

ATTEST:



Abbie Mace, Clerk

