SAN JUAN COUNTY RESOLUTION NO. \_\_\_\_

A RESOLUTION ALLOWING PERMIT ISSUANCE FOR VEHICLE OVERWEIGHT, OVERSIZE AND SPECIAL TRANSPORTATION TRAVEL ON COUNTY ROADS, AND REGULATING CERTAIN REPETITIVE HAULING

WHEREAS, the San Juan County Board of County Commissioners finds it necessary to monitor and regulate certain commercial activities in order to exercise its authority to preserve the health, safety and welfare of its citizens and to protect the San Juan 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., San Juan 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., San Juan 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, or close totally or limit travel to over-snow only on roads snow covered or expected to be snow-covered; and

WHEREAS, by Ordinance 2022-1, San Juan County has adopted the 2020 Colorado Model Traffic Code (“MTC”); and

WHEREAS, Part 5 of the MTC contains State regulation for maximum size and weight of vehicles allowable on all roads; and

WHEREAS, pursuant to MTC §§510 and 511, San Juan County is authorized to adopt local regulation for issuing or withholding 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, MTC §510 provides an optional comprehensive regulation process for the issuance or withholding of said oversize and overweight permits by Counties; and

WHEREAS, MTC §512 and section 42-4-512, C.R.S., 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, 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 damage; and

WHEREAS, pursuant to section 43-2-111, C.R.S., 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 San Juan County as follows:

1. SCOPE
2. This Resolution applies to all roads included on the County Road system within the boundaries of San Juan County. By this Resolution:

(i) San Juan County hereby adopts as County regulation all provisions contained within MTC §510, together with the additional provisions as set forth herein (Oversize/Overweight Regulation); and

(ii) San Juan County requires and allows for the issuance of permits by San Juan County for the operation of any repetitive hauling project or hauling job(s) cumulatively estimated to be in excess of 2,000,000 pounds within a 12-month period, beginning with the date of permit approval (Repetitive Hauling Regulation).

1. The following activities are specifically exempt from application of the Repetitive Hauling Regulation: (i) activities already specifically addressed and approved through the approval and issuance of a permit issued by the County through other permitting processes, or through other agreements, including an IGA with other governmental entities; and (ii) regular commercial route hauling, such as garbage/refuse hauling and commercial carrier services.
2. In the event that subcontractor haulers are utilized for any activities subject to this Regulation, both the contractor and subcontractor haulers shall be subject to all penalties, damages and enforcement procedures provided for herein or otherwise by law.
3. APPLICATION/PERMIT
4. Any person, prior to conducting any activities subject to this Regulation, shall comply with the process and restrictions as set forth in MTC §510 and herein. Subject activities 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. For repetitive hauling exceeding a 12-month period, permits shall be required for each subsequent 12-month period.
5. An application for permit shall be submitted on forms issued by the County, which shall include acknowledgments of liability for road damage caused by subject cctivity. The applicant, in addition to information required by MTC §510, may be required to submit information deemed warranted by the County, including without limitation:
   1. Log-books for each vehicle to be provided quarterly following issuance of permit
   2. VIN for each vehicle to be used
   3. Requested routes
   4. Anticipated number of total hauls
   5. Anticipated total weight per haul
   6. Anticipated commencement and completion dates
   7. Hours of hauling
   8. Insurance information
   9. Vehicle maintenance and inspection schedule and process
   10. Operator licensing requirements
6. 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.
7. PERMIT ISSUANCE/CONDITIONS

1. The decision to issue, issue with conditions, or deny any permit or permit renewal shall be made based upon good cause, including after considering information received and giving due consideration to safety, and preservation of the County Road system. Any administrative decision may be appealed to the Board of County Commissioners. A hearing on the matter shall be held within 45 days of the request for appeal.

2. Each subject activity shall be considered a separate action, 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 Resolution.

3. Special conditions may be attached to the approved permit with said conditions becoming an integral part of the permit. 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, operator licensing, vehicle inspections, 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. It shall be the permit holder’s responsibility to discuss any questionable road conditions, weather, or other unusual conditions with the County Road Supervisor as such conditions arise.

1. DAMAGES
2. 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 Resolution, it shall be no defense to any action, either civil or criminal, brought against such person that the subject activity was authorized by permit.
3. 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. 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, 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 costs of repair for the duration of hauling.

E. PERMIT COSTS

The following permit costs shall apply:

1. Oversize/Overweight Regulation: Subject to the maximum permit costs as set forth in MTC §510, as may be amended. Permits for structural, oversize, or overweight moves requiring extraordinary action or moves involving weight in excess of 200,000 pounds shall be a maximum of $400.00, with the actual fee not to exceed the actual cost to the County. Each mobilization and each demobilization shall be considered separate moves.

2. Repetitive Hauling Regulation: To be set and periodically revised by the Board of County Commissioners in order to reflect actual administrative costs. The permit fee shall be in addition to a requirement for a bond or road improvement/repair costs when applicable.

F. PENALTIES/ENFORCEMENT

1. Oversize/Overweight Regulation. Violation of the provisions of this Resolution shall be classified and subject to the penalties and procedures as applicable in the MTC.

2. Repetitive Hauling Regulation. Violation of the provisions of this Resolution shall be considered a class B traffic infraction with a fine of $100.00. The penalty assessment procedures contained within the MTC shall apply, including those contained within §1701.

3. The remedies contained herein shall be cumulative. The County may seek other remedies provided for by law or equity in enforcement of this Resolution, 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.

G. MISCELLANEOUS

1. Each permit issued shall be carried in the vehicle 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 Resolution are illegal, unconstitutional, or otherwise legally unenforceable, that specific provision or provisions shall be deemed to be severable from the remaining provisions of this Resolution, which shall remain in full force and effect.

3. The County, with regard to a permit, may after a hearing, revoke, suspend, refuse to renew, or refuse to issue any permit authorized by this Resolution, upon a finding that the applicant has violated the provisions of this Resolution, the permit, relevant provisions of the MTC or any procedures or rules promulgated pursuant to this Resolution. The County may suspend routes periodically based upon changes in road conditions, ongoing damages, special events, or otherwise for the preservation of roads or safety of the public.

H. RESOLUTION ADOPTION

1. A properly noticed public hearing as required by MTC §511 prior to adoption took place on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023 at a regular Board of County Commissioners meeting. The public notice provisions were complied with by publication in the *Silverton Standard* on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023.

2. This Resolution 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.

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ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023.

ATTEST:

Ladonna L. Jaramillo

Deputy Clerk to the BOCC

[SEAL]

BOARD OF COUNTY COMMISSIONERS OF

SAN JUAN COUNTY, COLORADO

By:

Austin Lashley, Chair

Scott Fetchenhier, Vice Chair

Pete Maisel, Commissioner