

ORDINANCE 2915; COUNCIL BILL 20-023

AN ORDINANCE TO REPEAL AND REPLACE THE EXISTING LAS CRUCES MUNICIPAL CODE (LCMC) 1997, AS AMENDED, CHAPTER 27, ART. VII, SECTIONS 27-12-7-9 AND 27-12-7-9.2, WITH NEW VERSIONS TO PERMIT THE USE OF RECREATIONAL OFF-HIGHWAY VEHICLES ON CITY OWNED STREETS PURSUANT TO A STATE LAW EXCEPTION.

The City Council is informed that:

WHEREAS, City law currently prohibits the operation of off-highway vehicles on paved streets or highways controlled by the City of Las Cruces with the minor exception of the permitted safe crossing of paved streets, LCMC Section 27-12-7-9.2; and

WHEREAS, state law, NMSA 1978, § 66-3-1011(C), authorizes a local authority, to create an ordinance to permit the operation of off-highway vehicles on paved streets or highways owned and controlled by the authorizing entity if: the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, NMSA 1978, § 66-3-1001 et seq.; the vehicle has brakes, mirrors, and mufflers; the operator has valid driver's licenses or permits, as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-highway Motor Vehicle Act; the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act, NMSA 1978, § 66-5-201 et seq.; the operator of the vehicle is using eye protection that complies with Off-Highway Motor Vehicle Act; and if the operator is under 18 years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act; and

WHEREAS, state law, NMSA 1978, § 66-3-1011(D), establishes that any driver of an off-highway motor vehicle on paved streets or highways is subject to the relevant traffic laws of the Motor Vehicle Code; and

WHEREAS, state law, NMSA 1978, § 66-3-1011(E), also authorizes a local entity to establish a separate speed limit for off-highway motor vehicles; and

WHEREAS, the proposed ordinance defines a utility terrain vehicle ("UTV") as a recreational off-highway vehicle, which is a type of off-highway motor vehicle, pursuant to LCMC 27-12-7-9 D(5) and NMSA 1978, § 66-3-1001.1(E)(4); and

WHEREAS, the proposed ordinance repeals and replaces the existing sections, Chapter 27, Article VII, Sections 27-12-7-9 and 27-12-7-9.2 of the Las Cruces Municipal Code, with new versions which permit the use of recreational off-highway vehicles or UTVs, on paved streets and highways owned and controlled by the City if they follow the requirements of NMSA 1978, § 66-3-1011(C); and

WHEREAS, the proposed ordinance establishes that drivers of recreational off-highway vehicles or UTVs on City owned streets and highways must comply and are subject to all relevant laws of the Motor Vehicle Code, NMSA 1978, § 66-1-1 et seq. and City traffic and parking ordinances; and

WHEREAS, the proposed ordinance also establishes a separate speed limit for recreational off-highway vehicles or UTVs operated within the City at the lesser of 45 miles per hour or the posted speed limit.

NOW, THEREFORE, Be It Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the existing Chapter 27, Article VII, Sections 27-12-7-9 and 27-12-7-9.2, of the Las Cruces Municipal Code is hereby repealed and replaced with new versions to read as follows:

"ARTICLE VII. - SPECIAL RULES FOR MOTORCYCLES AND OFF-HIGHWAY VEHICLES

Sec. 27-12-7-9. - Off-highway motor vehicles - Definitions.

As used in this section:

- A. "*Department*" means the department of game and fish;
- B. "*Division*" means the motor vehicle division of the taxation and revenue department;
- C. "*Fund*" means the trail safety fund; and
- D. "*Off-highway motor vehicle*" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road includes:
 - (1) "*All-terrain vehicle*," which means a motor vehicle 50 inches or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on three or more low pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
 - (2) "*Off-highway motorcycle*," which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control; or
 - (3) "*Snowmobile*," which means a motor vehicle designed to travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;
 - (4) "*Recreational off-highway vehicle*," which means a motor vehicle designed for travel on four or more nonhighway tires, for recreational use by one or more persons and having:
 - (a) A steering wheel for steering control;
 - (b) Nonstraddle seating;
 - (c) Maximum speed capability greater than 35 miles per hour;
 - (d) Gross vehicle weight rating no greater than 1,750 pounds;
 - (e) Less than 80 inches in overall width, exclusive of accessories;
 - (f) Engine displacement of less than 1,000 cubic centimeters; and
 - (g) Identification by means of a 17- character vehicle identification number; or
 - (5) By rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off-highway for recreational purposes.
 - (6) "*Utility Terrain Vehicle, (UTV)*" which means a recreational off-highway vehicle as defined by this section.
- E. "*Staging area*" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and
- F. "*Unpaved public roadway*" means a dirt-graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.

Sec. 27-12-7-9.1. - Off-highway motor vehicles - Registration; plate requirement and definition.

Unless exempted from the provisions of this chapter, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle has been registered in accordance with NMSA 1978, ch. 66, art. 3. The owner shall affix the validating sticker as provided in NMSA 1978, ch. 66, art. 3.

Sec. 27-12-7-9.2. - Operation of off-highway motor vehicles on streets or highways - Prohibited areas.

- A. No person shall operate an off-highway motor vehicle on any limited access street at any time or any paved street or highway except as provided in subsections B and F of this section.
- B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the street. Off-highway motor vehicles shall yield the right-of-way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.
- C. A person shall not operate an off-highway motor vehicle on land owned, -controlled or -administered land except as specifically allowed pursuant to NMSA 1978, ch. 17, art. 6.

D. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to NMSA 1978, ch. 16, art. 2, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

E. Unless authorized, a person shall not:

(1) Remove, deface or destroy any official sign installed by state, federal, local or private land management agency; or

(2) Install any off-highway motor vehicle-related sign.

F. A recreational off-highway vehicle or UTV may be operated on a paved street or highway owned and controlled by the City of Las Cruces if:

(1) The vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, NMSA 1978, § 66-3-1001 et seq.;

(2) The vehicle has brakes, mirrors and mufflers;

(3) The operator has valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;

(4) The operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, NMSA 1978, § 66-5-201 et seq.;

(5) The operator of the vehicle is using eye protection that complies with Off-Highway Motor Vehicle Act;

(6) If the operator is under 18 years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act; and

(7) The vehicle must have Department of Transportation approved tires, a safety glass windshield, and a muffler.

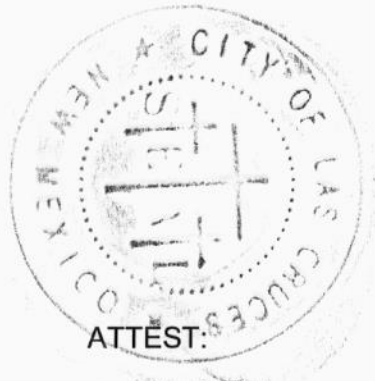
G. Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving and parked vehicles under the Motor Vehicle Code or City traffic or parking ordinances.

H. The speed limit for recreational off-highway vehicles or UTVs operated within the City shall be 45 miles per hour or the posted speed limit, whichever is less."

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 02 day of March 2020

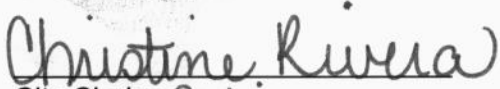


APPROVED



Mayor

ATTEST:


City Clerk - Acting

Moved by: Gabe Vasquez

Seconded by: Gill Sorg

AYES Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa Abeyta-Stuve, Johana Bencomo

NAYS