

CITY OF TRUTH OR CONSEQUENCES

ORDINANCE 697

ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON MAINTAINED STREETS OR ROADS OWNED AND CONTROLLED BY THE CITY OF TRUTH OR CONSEQUENCES AS SET FORTH IN THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

That this ordinance is hereby added to the Code of Ordinances of the City of Truth or Consequences, and such section shall read as follows:

SECTION ___ OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON MAINTAINED STREETS OR ROADS

Section 1: OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON MAINTAINED STREETS OR ROADS

WHEREAS, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978 to allow the operation of recreational off-highway and all-terrain vehicles on maintained streets or roads owned and controlled by the authorizing entity, subject to certain conditions;

WHEREAS, the Governing Body of the City of Truth or Consequences has adopted by reference the 2016 Compilation of the New Mexico Uniform Traffic Ordinance, which allows the operation of recreational off-highway and all-terrain vehicles on maintained streets or roads owned and controlled by the authorizing authority, subject to certain conditions;

WHEREAS, the Governing Body of the City of Truth or Consequences now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on maintained streets or roads owned and controlled by the City of Truth or Consequences, subject to certain conditions:

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO:

SECTION 1. PURPOSE.

The purpose of this ordinance is to allow the operation of recreational off-highway and all-terrain vehicles on maintained streets, roads, or highway owned and controlled by the City of Truth or Consequences, as authorized in this Ordinance.

SECTION 2. DEFINITIONS.

As used in this Ordinance:

- A. "All-Terrain Vehicle" (ATV) is a type of off-highway motor. An all-terrain vehicle means a vehicle fifty inches or less in width, having an unladen dry weight of one thousand 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, or as otherwise defined in Section 66-3-1001.1(E)(1) of the Off-Highway Motor Vehicle Act.
- B. "Recreational Off-Highway Vehicle" (OHV) is a type of off-highway motor vehicle. A recreational off-highway vehicle means:
 - (1) A recreational off-highway vehicle is a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than one thousand cubic centimeters; and
 - (g) Identification by means of seventeen-character vehicle identification number; or
 - (2) By rule of Department of Game and Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

SECTION 3. OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON MAINTAINED STREETS OR ROADS OWNED AND CONTROLLED BY THE CITY OF TRUTH OR CONSEQUENCES.

- A. A person shall not operate an off-highway motor vehicle on:
 - (1) Limited access highway or freeway at any time; or

- (2) Paved street except as provided in Subsections B, C, D, E, F and G below.
- B.** A recreational off-highway vehicle or all-terrain vehicle may be operated on a maintained street or road owned and controlled by the City of Truth or Consequences, if:
- (1) The vehicle has one or more headlights and one or more tail-lights that comply with the Off-Highways Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978;
 - (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, Chapter 55, Article 5, NMSA 1978; and
 - (5) The operator of the vehicle is wearing eye protection.
 - (6) If the operator is under eighteen (18) years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.
 - (7) A person under the age of eighteen (18) shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization.
- C.** Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossing is made after coming to a complete stop prior to entering the street. Off-highway motor vehicle 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.
- D.** A person shall not operate an off-highway motor vehicle on state game commission-owned, state game commission-controlled or state game commission-administered land, except as specifically allowed pursuant to the Habitat Protection Act, Chapter 17, Article 1, NMSA 1978.
- E.** 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 the State Parks Division statute, Chapter 16, Article 2, NMSA

1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

F. Unless authorized, a person shall not:

- (1) Remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
- (2) Install any off-highway motor vehicle-related sign.

G. The speed limits shall be as defined below:

- (1) The speed limit for all-terrain vehicles operated within the City shall be the posted speed limit. If the posted speed limit is higher than 35 miles per hour, the operator shall operate the all-terrain vehicle on the extreme right hand side of the roadway.
- (2) The speed limit for recreational off-highway vehicles, ATV's, operated within the City shall be the posted speed limit. Pursuant to NMSA 1978, Section 66-3-1003.1 (2017), an off-highway motor vehicle owner who wishes to indicate an intent to operate off-highway motor vehicle on paved streets or highways in accordance with this Ordinance and the Off-Highway Motor Vehicle Act may apply for the issuance of a standardized special off-highway motor vehicle paved road use vehicle plate.

SECTION 4. EXEMPTIONS.

Pursuant to NMSA 1978, Section 66-3-105 (2006), the provisions of this Ordinance shall not apply to persons who operate off-highway motor vehicles on privately held lands or to off-highway motor vehicles that are:

- A.** Owned and operated by an agency or department of the United States, this state or a political subdivision of this state;
- B.** Operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees;
- C.** Owned by nonresidents and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis;
- D.** Brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;
- E.** In the possession of dealers as stock-in-trade and not used for demonstration purposes;

- F. Farm tractors, as defined in Section 66-1-4.6 NMSA 1978, special mobile equipment, as defined in Section 66-1-4.16 NMSA 1978, or off-highway motor vehicles being used for agricultural operations; or
- G. Used exclusively on private closed courses, whether owned by the rider or another person; provided that, if applicable, the excise tax and registration fees have been paid and are current.

SECTION 5. SEVERABILITY.

In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of the ordinance be given full force and effect. It is the expressed intent of the City Commission to adopt each section, phrase, paragraph, and word of this Ordinance separately.

SECTION 6. REPEAL.

All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent they conflict with this Ordinance.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the Board of County Commissioners. The effective date of this Ordinance shall be thirty (30) days after the Ordinance has been recorded.

Section two. All other provisions of the aforementioned codes not specifically amended by this ordinance, shall remain unchanged and in full force and effect as written.

Section three. Effective date. The provisions of this Ordinance shall become effective five (5) days upon the publishing of its adoption.

PASSED, APPROVED, and ADOPTED by the **GOVERNING BODY** of the **CITY OF TRUTH OR CONSEQUENCES** this 22nd day of August, 2018.


Steve Green, Mayor

ATTEST:


Renee L. Cantin, City Clerk