

**EDDY COUNTY, NEW MEXICO  
ORDINANCE NO. O-18-95**

**AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY  
VEHICLES ON PAVED STREETS OR HIGHWAYS OWNED AND  
CONTROLLED BY EDDY COUNTY**

**WHEREAS**, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978, allowing a county, by ordinance or resolution, to authorize the operation of off-highway motor vehicles on paved streets or highways owned and controlled by the county; and

**WHEREAS**, currently no state law or county ordinance prohibits the use of off-highway motor vehicles on unpaved roads, streets, or highways owned and controlled by the county; and

**WHEREAS**, the Board of Eddy County Commissioners desires to adopt an ordinance that would authorize the operation of off-highway motor vehicles, as defined herein, on paved streets or highways owned and controlled by Eddy County; and

**WHEREAS**, the Board duly published notice of its intention to consider the present ordinance at least fourteen (14) days prior to the present meeting, in accordance with NMSA (1978) § 4-37-7; and

**WHEREAS**, the Board held an open public hearing on the consideration of the present ordinance at which there was an opportunity for public comment.

**NOW THEREFORE BE IT ORDAINED THAT THE BOARD OF COUNTY COMMISSIONERS OF EDDY COUNTY DOES HEREBY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON STREETS OR HIGHWAYS OWNED AND CONTROLLED BY EDDY COUNTY, AS FOLLOWS:**

**I. AUTHORIZATION.**

- A. The Board of Commissioners of Eddy County, New Mexico hereby authorize the operation of recreational off-highway vehicles, as defined herein, on any paved street or highway owned and controlled by Eddy County under the conditions set forth in the Off-Highway Motor Vehicle Act, Sections 66-3-1011 through 66-3-1016 NMSA 1978 (and any amendments thereto) and this Ordinance; and



STATE OF NEW MEXICO COUNTY OF EDDY  
 RECORDED ON AUGUST 7, 2018 AT 4:20 P.M.  
 IN BOOK 2 PAGE 830 OF THE  
 ORDINANCE RECORDS  
 ROBIN VAN NATTA, COUNTY CLERK

*Robin Van Natta*

- B. The operation of recreational off-highway motor vehicles is prohibited at all times on limited access highways and freeways, pursuant to NMSA (1978) Section 66-3-1011A(1).

## II. DEFINITION.

- A. An Off-Highway Motor Vehicle (OHV) is defined as a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:
1. All-terrain Vehicle, which means a motor vehicle 50 inches or less in width, having unladen dry weight of one thousand pounds or less, traveling on 3 or more low pressure tires and having a seat designed to be straddled by the operator and a handle-bar type steering control;
  2. Recreational Off-highway Vehicle ("ROV"), which means 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 one thousand cubic centimeters or less as equipped from the manufacturer; and
    - (g) identification by means of a seventeen-character vehicle identification number.
- B. The authorization granted by this Ordinance for the operation of off-highway motor vehicles is limited to OHVs as defined in this Ordinance. No other vehicle defined as an off-highway motor vehicle under NMSA 66-3-1001.1E is authorized for operation on any paved street or highway owned and controlled by Eddy County.

## III. EQUIPMENT.

- A. OHVs may not be operated on any paved street or highway owned and controlled by Eddy County **unless**:
1. the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
  2. the vehicle has brakes, mirrors (including driver's side rear view), mufflers and a signal horn;

3. the operator and all passengers are properly secured by safety belts (ROVs only);
4. the operator of the vehicle is wearing eye protection in compliance with the Off-Highway Motor Vehicle Act;
5. all passengers and operators under the age of eighteen are wearing eye protection and securely fastened safety helmets in compliance with NMSA Section 66-3-1010.3B(1); and
6. the vehicle is equipped with a spark arrester approved by the United States Forest Service.

#### **IV. LICENSE, PERMITS, INSURANCE, REGISTRATION.**

- A. A person must have obtained the following in order to operate an OHV:
  1. A valid Driver's License. Neither a learner's permit nor a motorcycle license shall satisfy this requirement;
  2. An OHV Education Card issued by the New Mexico Department of Game and Fish if eighteen years of age or younger;
  3. Insurance or evidence of financial responsibility for OHVs being operated in compliance with the provisions of the Mandatory Financial Responsibility Act, NMSA Section 66-5-205. A home owner's policy will not satisfy this requirement; and
  4. Unless accepted under NMSA Section 66-3-1, registration of OHV being operated. For New Mexico residents, OHVs must be registered at the New Mexico Motor Vehicle Division. For nonresidents, OHVs must be registered in the owner's state of residence. For nonresidents whose state of residence does not provide for registration of OHVs, nonresidents must obtain a nonresident permit through the New Mexico Department of Game and Fish.
  
- B. If applicable, proof of items (1) through (4) must be in a person's possession while operating an OHV.

#### **V. OPERATION.**

- A. A person shall not operate an OHV on any paved street or highway owned and controlled by Eddy County:
  1. in excess of the posted speed limit or as otherwise prohibited by state law;
  2. in a careless, reckless or negligent manner so as to endanger the person or property of another;
  3. while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;

4. while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
5. in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
6. to intentionally approach wildlife;
7. in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
8. in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;
9. when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:
  - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and
  - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions;
10. that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287;
11. unless the OHV is equipped with a spark arrestor approved by the United States Forrest Service
12. in the left lane of traffic or in a side-by-side manner. OHVs must be operated single file and as far to the right of the right lane as safely possible;
13. all occupants are sitting in a designated seat in the OHV;
14. where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations; or
15. within two-hundred yards of a residence (other than the residence of the owner of the OHV being operated) between the hours of 8:00 p.m. and 8:00 a.m., except for the storage and removal of the OHV.

- B. Operators must follow this Ordinance and all state laws pertaining to the operation of motor vehicles as set forth in the Motor Vehicle Code, Chapter 66, NMSA 1978

## **VI. AGE RESTRICTIONS.**

- A. A person must be at least sixteen years of age to operate an OHV.
- B. A person under the age of eighteen shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent,

legal guardian or a person over the age of twenty one who has a valid driver's license.

#### **VII. SPEED LIMIT.**

OHVs operating on streets or highways owned and controlled by Eddy County shall operate at either the posted speed limit or at a speed limit that may be established by the New Mexico State Transportation Commission for such vehicles, whichever is slower.

#### **VIII. EXEMPTIONS.**

Off-highway Vehicles (OHV's) being used for agricultural operation are exempt from this Ordinance.

#### **IX. ENFORCEMENT.**

Prosecution of violations under this section may be commenced by the issuance of a citation charging the violation. Citations may be issued by a deputy from the Eddy County Sheriff's Office, a wildlife conservation officer, state police officer or any other peace officer with jurisdiction in Eddy County.

#### **X. PENALTIES.**

Any individual, firm, partnership, corporation or other entity who violates this ordinance shall be guilty of a penalty assessment misdemeanor and subject to penalties as listed under 66-3-1020 (NMSA 1978)

#### **XI. EFFECTIVE DATE.**

This Ordinance shall take effect thirty days after it has been recorded in the book kept by the county for that purpose in the Eddy County Clerk's Office.

PASSED, APPROVED, AND ADOPTED, this 7th day of August, 2018.

EDDY COUNTY BOARD OF COMMISSIONERS

  
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Susan Crockett, Commission Chairman



ATTEST:

  
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Robin Van Natta, County Clerk