

**RECORD OF PROCEEDINGS RELATING TO THE ADOPTION OF
ORDINANCE NO. O-17-03 OF THE BOARD OF COUNTY COMMISSIONERS
OF GRANT COUNTY, NEW MEXICO**

STATE OF NEW MEXICO)
) ss.
COUNTY OF GRANT)

The Board of County Commissioners (the "Board") of Grant County (the "County"), in the State of New Mexico, met in an open regular meeting in conformity with the law and the County's Open Meetings Resolution, in the Commissioners Chambers in the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board, at 9:00 a.m., on Thursday, September 19, 2017, at which time there were present and answering the roll call the following members:

Commissioners: Brett Kasten
 Gabriel Ramos
 Alicia Edwards
 Gerald W. Billings, Jr.
 Harry Browne

Absent:

Thereupon the following proceedings, among others, were had and taken, to wit:

There was provided to the County Clerk, the Chairman and each Commissioner, a copy of an ordinance in final form, which is as follows:



**GRANT COUNTY, NEW MEXICO
ORDINANCE NO. O-17-03**

**AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY
MOTOR VEHICLES ON PAVED STREETS OR HIGHWAYS OWNED AND
CONTROLLED BY GRANT 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 Grant 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 Grant 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 GRANT COUNTY DOES HEREBY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON STREETS OR HIGHWAYS OWNED AND CONTROLLED BY GRANT COUNTY, AS FOLLOWS:

I. AUTHORIZATION.

- A. The Board of Commissioners of Grant 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 Grant 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
- 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 is defined as a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and for purposes of this Ordinance is limited to 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:
- (1) a steering wheel for steering control;
 - (2) non-straddle seating;
 - (3) maximum speed capability greater than thirty-five miles per hour;
 - (4) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (5) less than eighty inches in overall width, exclusive of accessories;
 - (6) engine displacement of less than one thousand cubic centimeters; and
 - (7) 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 ROVs. 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 Grant County.

III. EQUIPMENT.

- A. ROVs may not be operated on any paved street or highway owned and controlled by Grant 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-side rear view), and mufflers, and a signal horn;
 - (3) the operator and all passengers are properly secured by safety belts;
 - (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 ROV:
- (1) A valid Driver’s License. Neither a learner’s permit nor a motorcycle license shall satisfy this requirement;

- (2) An off-highway motor vehicle OHV Education Card issued by the New Mexico Department of Game and Fish;
 - (3) Insurance or evidence of financial responsibility for ROVs 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 excepted under NMSA Section 66-3-1, registration of ROV being operated. For New Mexico residents, ROVs must be registered at the New Mexico Motor Vehicle Division. For nonresidents, ROVs must be registered in the owner's state of residence. For nonresidents whose state of residence does not provide for registration of ROVs, 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 ROV.

V. OPERATION.

- A. A person shall not operate an ROV on any paved street or highway owned and controlled by Grant 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) in the left lane of traffic or in a side-by-side manner. ROVs must be operated single file and as far to the right of the right lane as safely possible;
 - (12) all occupants are sitting in a designated seat in the ROV;
 - (13) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations; or
 - (14) within two-hundred yards of a residence (other than the residence of the owner of the ROV being operated) between the hours of 8:00 p.m. and 8:00 a.m., except for the storage and removal of the ROV.
- B. An off-highway motor vehicle shall not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition.
- C. 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 ROV.
- 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.

ROVs operating on streets or highways owned and controlled by Grant 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. 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 Grant County Sheriff's Office, the code enforcement officer of Grant County, a wildlife conservation officer, state police officer or any other peace officer with jurisdiction in Grant County.

IX. PENALTIES.

Any individual, firm, partnership, corporation or other entity who violates this ordinance shall be guilty of a misdemeanor and may be fined in an amount not to exceed \$300 and may be imprisoned for up to ninety (90) days, or both.

X. 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 Grant County Clerk's Office.

PASSED, APPROVED, AND ADOPTED, this 19th day of September 2017.

[seal]

ATTEST:



Marisa Castrillo

Marisa Castrillo, Clerk

**BOARD OF COUNTY COMMISSIONERS
GRANT COUNTY, NEW MEXICO**

Brett Kasten

Brett Kasten, Chairman

Gabriel Ramos

Gabriel Ramos, Member

Alicia Edwards

Alicia Edwards, Member

Gerald W. Billings

Gerald W. Billings, Member

Harry Browne

Harry Browne, Member

Commissioner Browne then moved that the ordinance as filed with the County Clerk at this meeting be passed and adopted. Commissioner Billings seconded the motion.

The question being upon the passage and adoption of the ordinance, the motion was voted upon with the following result:


Those Voting Yea: Kasten
Edwards
Browne
Billings

Those Voting Nay:

Those Absent:


The Chairman thereupon declared that at least a majority of all the members of the Board having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

After consideration of matters not relating to adoption of the Ordinance, the meeting on motion duly made, seconded and unanimously carried, was adjourned.


Brett Kasten, Chairman

[SEAL]

Attest:


Marisa Castrillo, County Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF GRANT)

I, Marisa Castrillo, County Clerk of Grant County, New Mexico certify:

1. The foregoing pages constitute a full and correct copy of the record of the proceedings taken by the Board of Grant County Commissioners (the "Board") at a regular meeting thereof held on September 19, 2017, so far as said minutes relate to an ordinance, a copy of which is therein set forth (the "Ordinance"). The Ordinance has been duly authenticated by the signatures of the Board and myself as County Clerk, sealed with the corporate seal of said County, and recorded in my office on September 19, 2017.

2. Notice of such meeting of September 19, 2017, was given by publishing a notice of the Board's intent to hold a regular meeting by publication in the *Silver City Daily Press*. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Board as required by the open meetings standards then in effect, *i.e.*, the County's Open Meetings Resolution. An affidavit of publication with respect to such notice is attached as Exhibit A.

3. A majority of the members of the Board were present at said meeting, and the members of the Board voted on the passage of the Ordinance as set forth in such record of proceedings.

[seal]



Marisa Castrillo,
Grant County Clerk



EXHIBIT A

(Attach Affidavit of Publication of Notice of
September 19, 2017, Meeting as published
in the *Silver City Daily Press*)

Legal

Work Session/ Regular Meeting – September 19, 2017

The Grant County Board of Commissioners will convene in a Work Session/Regular Meeting on Tuesday, September 19, 2017, at 9:00 a.m. The meeting will take place in the Commission Meeting Room at the Grant County Administration Center located at 1400 Highway 180 East, Silver City, NM 88061. The agenda for this meeting may be altered up to seventy-two (72) hours prior to the meeting; copies can be obtained from the County Manager's Office or viewed online at www.grantcountynm.com. If you are an individual with a disability in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aide or service to attend or participate in the meeting or hearing, please contact the Grant County Manager at 1400 Highway 180 East, Silver City, New Mexico at least one (1) week prior to the meeting or as soon as possible. The tentative agenda is as follows:

Call to Order

Pledge of Allegiance & Salute to State Flag

Approval of Regular Meeting Agenda

Gila Regional Medical Center Reports – Taffy Arias

Public Input

During this portion of our meeting, we welcome your suggestions and want to hear your concerns. This is not a question and answer period; speakers will be limited to five (5) minutes. Any individual who would like to discuss an item in more depth may request to be placed on a future agenda. Request forms are available in the County Manager's Office.

Public Hearing

Discussion regarding Ordinance **O-17-03**; entitled An Ordinance Authorizing the Operation of Off-Highway Motor Vehicles on Streets or Highways Owned and Controlled by Grant County

Approve / Disapprove Ordinance **O-17-03**; (entitled above)

Minutes

Approve / Disapprove August 15, 2017, Work Session

Meeting Minutes

Approve / Disapprove August 17, 2017, Regular Meeting Minutes

Approve / Disapprove September 11, 2017, Special Meeting Minutes

Financial Reports

Approve / Disapprove September 11, 2017, Expenditure Report

New Business

Letter of Recognition and Certificate of Appreciation Presented to Oscar Lopez for Striping the Administration Building Parking lot.

Approve / Disapprove Proclamation declaring October 2017, as "Domestic Violence Awareness Month" – Rachel Sierra

Approve / Disapprove Proclamation declaring September 20, 2017 through September 24, 2017 as "Grant County Fair Days" – Mr. Lawyer

Approve / Disapprove Proclamation declaring September 30, 2017 as "Walk for the Heroes" – Raul Turrieta

Presentation of Historical Mimbres Valley Site, Grant County – Chris DeBolt

Approve / Disapprove Inventory to be removed from the County Road Department Inventory to be Slated for Auction - Earl Moore

Approve / Disapprove Corre Caminos Final Budget for Fiscal Year 2018

Agreements

Approve / Disapprove Agreement No. **A-17-19**; Investment – Grade Energy Audit and Project Proposal

Approve / Disapprove Agreement No. **A-17-33**; Sub-Lease Agreement with the State of New Mexico General Services Department, Facilities Management Division for the Fort Bayard Volunteer Fire Department Building

Approve / Disapprove Agreement No. **A-17-34**; Ratification of Bargaining Unit Contract 2017-2019

Approve / Disapprove Agreement No. **A-17-35**; An Agreement with the State of New Mexico Department of Homeland Security & Emergency Management for the 2017 Emergency Performance Management Grant Program

Resolutions

Approve / Disapprove Resolution No. **R-17-40**; A Resolution Designating the Polling Places for the 2018 Primary and General Elections

Approve / Disapprove Resolution No. **R-17-41**; Budget Adjustment for Fiscal Year 2018

Approve / Disapprove Resolution No. **R-17-42**; Internal Control for Line Item Adjustment

Approve / Disapprove Resolution No. **R-17-43**; A Resolution to Apply for Funding from the New Mexico Water Trust Board for North Hurley Drainage Project and Rosedale Road Drainage Project

Approve / Disapprove Resolution No. **R-17-45**; Administrative Fee to be Charged if Property Tax is less than \$5.00

Approve / Disapprove Resolution No. **R-17-46**; A Resolution Supporting an Audit of the Cancer Center Contract Process

Approve / Disapprove Resolution No. **R-17-47**; A Resolution Supporting the 2018 Legislative Priorities of the New Mexico Association of Counties **Bids and Requests for Proposals (RFP)**

Approve / Disapprove Bid No. **B-17-02**; Lower Mimbres Volunteer Fire Department 40,000 Gallon Fire Water Storage Tank

Approve / Disapprove Bid No. **B-17-03**; Purchase of a Truck

Recess as the Grant County Board of Commissioners and Convene as the Grant County Health Care Claims Board

Approve / Disapprove August 2017, Health Plan Claims (Indigent Fund) in the amount of \$80,860.86

Adjourn as the Grant County Health Care Claims Board and Reconvene as the Grant County Board of Commissioners

County Reports Elected Officials' Reports Commissioners' Reports

Adjournment
Brett Kasten,
Commission Chairman
By: (s)Bernadette L. Sublasky,
Executive Assistant

STATE OF NEW MEXICO

STATE TRANSPORTATION COMMISSION

RESOLUTION NO. 2018-11 (SEP)

DESIGNATING CERTAIN SEGMENTS OF NM 15, NM 35, NM 153, NM 211 AND NM 293 FOR OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES (ROVs)

WHEREAS, on or about August 16, 2018, in accordance with the Off-Highway Motor Vehicle Act, NMSA 1978, Sections 66-3-1001.1, 66-3-1011 and 67-3-2(D), and pursuant to the provisions of New Mexico State Transportation Commission Policy 71, *Recreational Off-Highway Vehicles on Paved State Highways* (“CP 71”), Grant County (the “County”) passed, approved and adopted Resolution No. R-18-27 requesting the New Mexico State Transportation Commission to designate certain segments of the state highway system for the operation of ROVs (“Route Designation Request”); and

WHEREAS, the specific state highway segments that the County requested to be designated as ROV routes are depicted on the attached maps, and are more particularly described as: (1) NM 15 from mile marker 6.2 (near Pinos Altos) to its intersection with NM 35 (mile marker 25.2); (2) NM 35 from its intersection with McKnight Canyon Road, Forest Road 152 (mile marker 12.2) to the end of route at its intersection with NM 15 (mile marker 27.4); (3) NM 153 from its intersection with NM 211 (mile marker 0.0) to mile marker 3.9 (Turkey Creek area of the Gila River); (4) NM 211 from its intersection with NM 293 (mile marker 4.0) to its intersection with NM 153 (mile marker 5.4); and (5) NM 293 from its intersection with NM 211 (mile marker 0.0) to mile marker 4.8 (Box Canyon area of the Gila River) (collectively, “Designated Routes”); and

WHEREAS, on September 19, 2017, in support of its ROV Route Designation Request, the County passed, approved and adopted Ordinance No. O-17-03 to allow the operation of ROVs on paved streets or highways owned or controlled by the County; and

WHEREAS, CP 71 authorizes the New Mexico State Transportation Commission to designate segments of the state highway system for the operation of ROVs where the use of such vehicles complements the character of the community, and reasonably safe conditions can be maintained; and

WHEREAS, on August 13, 2018, County residents, James Koons and Trent Bohl, respectively, submitted letters to the New Mexico State Transportation Commission verifying their support of the County’s ROV Route Designation Request; and

WHEREAS, on August 16, 2018, County Sheriff, Raul D. Villanueva, also submitted a letter to the New Mexico State Transportation Commission supporting the County’s ROV Route Designation Request and which specifically confirms County law enforcement’s support for monitoring the Designated Routes; and

WHEREAS, on September 4, 2018, in accordance with the provisions of CP 71, the New Mexico Department of Transportation ("NMDOT") through its District One Engineer, submitted to the New Mexico State Transportation Commission its recommendation verifying that ROVs can be operated with reasonable safety on the Designated Routes; and

NOW, THEREFORE, BE IT RESOLVED THAT THE NEW MEXICO STATE TRANSPORTATION COMMISSION recognizes the importance of approving the County's ROV Route Designation Request for the promotion of tourism and recreation in and around the County as it applies to ROVs and in conformity with CP 71; and

BE IT FURTHER RESOLVED, THAT THE NEW MEXICO STATE TRANSPORTATION COMMISSION, grants the County's ROV Route Designation Request contingent upon the following conditions: (1) the County and NMDOT's execution of an agreement by and between the County and NMDOT, which defines the roles and responsibilities for construction and maintenance of Designated Route facilities, including signage, the terms and conditions for ROV operation, and the allocation of legal responsibilities pertaining to the use of ROVs on the Designated Routes; (2) construction and completion of any improvements to the Designated Routes, including signage, required by NMDOT for the operation of ROVs, except that the Secretary of NMDOT may authorize use of the Designated Routes utilizing temporary traffic control devices while the remaining contingencies are completed; (3) that ATVs shall not be operated upon the Designated Routes; and (4) the County shall be responsible for patrolling the Designated Routes and enforcing the provisions of the Off-Highway Motor Vehicle Act and CP 71.

ADOPTED BY THE STATE TRANSPORTATION COMMISSION IN OPEN MEETING ON SEPTEMBER 20, 2018.



Ronald Schmeits, Chairman
District 4

Butch Mathews, Vice-Chairman
District 5



Dr. Kenneth White, Secretary
District 1



David Sepich, Commissioner
District 2



Keith Mortensen, Commissioner
District 3



Billy Moore, Commissioner
District 6