



ORDINANCE NO: 18-015

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

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 County of Sierra 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 County of Sierra 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 County of Sierra, subject to certain conditions;

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF SIERRA, 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 County of Sierra, as authorized in this Ordinance.

SECTION 2. DEFINITIONS. As used in this Ordinance:

- A. "All-Terrain Vehicle" 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" 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 a seventeen-character vehicle identification number; or

(2) By rule of the 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 COUNTY OF SIERRA.

A. A person shall not operate an off-highway motor vehicle on any

- (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 roads owned and controlled by the County of Sierra, 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, mirror, and mufflers;
- (3) the operator has a valid driver's license; instruction permit or provisional license and an off-highway motor vehicle safety permit;
- (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 and a safety helmet that comply with the Off-Highway Motor Vehicle Act; Chapter 66, Article 3, NMSA 1978.

C. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossing are 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 owed, 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 statute allows the County to establish separate speed limits and operating restrictions for off-highway vehicles. The speed limits shall be as defined below:

- (1) The speed limit for all-terrain vehicles operated within the county shall be 35 miles per hour or the posted speed limit, whichever is less. 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.

The speed limit for recreational off-highway vehicles, UTV's, operated within the county shall be 45 miles per hour or the posted speed limit, whichever is less. Pursuant to NMSA 1978, Section 66-3-1003.1 (2017), the an off-highway motor vehicle owner who wishes to indicate an intent to operate an 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.**

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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 Board of County Commissioners 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.

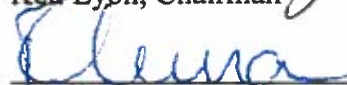
PASSED, APPROVED AND ADOPTED THIS 15th DAY OF May, 2018.

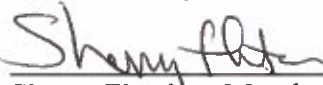
**BOARD OF COUNTY COMMISSIONERS
SIERRA COUNTY, NEW MEXICO**

ATTEST:


Shelly Trujillo, Clerk


Ken Lyon, Chairman


Frances Luna, Member


Sherry Fletcher, Member

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