

ORDINANCE NO. 02-2021

AN ORDINANCE ALLOWING THE USE OF OFF-HIGHWAY AND ALL-TERRAIN VEHICLES, UNDER SPECIFIC GUIDELINES AND RESTRICTIONS, ON PAVED STREETS AND ROADWAYS INSIDE THE TOWN LIMITS OF ESTANCA; PURSUANT TO SECTION 66-3-1011 NMSA 1978.

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 paved streets owned and controlled by the authorizing entity, subject to certain conditions;

Whereas, the Governing Body of the Town of Estancia now deems it desirable to allow operation of recreational off Highway and all-terrain vehicles on paved streets owned and controlled by the Town of Estancia subject to certain conditions;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING OF THE TOWN OF ESTANCIA, NM.

SECTION 1. SHORT TITLE

This ordinance shall be known and may be cited as the Off-Highway Vehicle Ordinance for the Town of Estancia.

SECTION 2. DEFINITIONS

As used in this chapter, the following definitions shall apply:

- (a) “Off-Highway Vehicle” or “OHV” is a type of motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:
 - (1) An off-highway vehicle (OHV) is a motor vehicle designed to travel on four or more non-highway tires for recreational use by one or more persons, and having:
 - (a) a steering wheel for control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than 55 miles per hour;
 - (d) gross vehicle weight rating no greater than 1750 pounds;
 - (e) less than 80 inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than 1000 cubic centimeters; and
 - (g) identification by means of 17-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.

- (b) “All-Terrain Vehicle” or “ATV” is a type of off-highway motor vehicle. An all-terrain vehicle means:
 - (1) A vehicle 50 inches or less in width, having an unladen dry weight of 1000 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.

SECTION 3. PURPOSE

The purpose of this ordinance is to enact where Off-Highway Vehicles (OHVs) and All-Terrain Vehicles (ATVs) may be or may not be operated inside the town limits of Estancia and list requirements and restrictions for set operations in a safe and orderly manner pursuant to section 66-3-1011.

SECTION 4. SAFE OPERATION OF OHV/ATV INSIDE TOWN LIMITS

- (a) No operation of OHVs/ATVs inside town limits shall be allowed between the hours of 8:00 p.m. and 8:00 a.m.
- (b) Operation of OHVs/ATVs will be allowed on all town streets. This includes stopping, standing or parking. It is not allowed to drive OHVs/ATVs on State Highways, but it is allowable to cross State highways at intersections with other town streets so long as the crossing is done safely and directly across at shortest possible distance.
- (c) No operating driving of OHVs/ATVs at speed greater than the posted speed limit shall be allowed on any streets inside of the town.
- (d) Drivers/operators must follow all laws and ordinances pertaining to operation of Motor Vehicles as described under NMSA Section 66-7.
- (e) All drivers/operators must have a valid driver's license, provisional license or instruction permit. A motorcycle license is not a valid license for the purpose of this ordinance.
- (f) Pursuant to NMSA Section 66-3-1011(C)(3) all drivers/operators must have an off-highway motor vehicle permit.
- (g) The vehicle must be insured under the provisions of the Mandatory Financial Responsibility Act (NMSA Section 66-5-2-5) and the operator must be able to show proof of insurance or have proof of financial responsibility. The proof of insurance or proof of financial responsibility must have the vehicle identification number of the vehicle being operated clearly shown on said proof. A homeowner's policy will not suffice under this ordinance.
- (h) All OHVs/ATVs must be operated in single file and never be operated side-by-side with another OHV/ATV.
- (i) All occupants under age of 18 must wear approved helmets as defined by NMSA 66-3-1010.3(B)(1).
- (j) Pursuant to NMSA 66-3-1011(c) OHVs/ATVs must have the following equipment one.

1. One or more headlamps that comply with OHMVA (NM 66-3-1001)
 2. One or more trail lamps that comply with OHMVA (NM 66-3-1001)
 3. Brakes
 4. At least one mirror
 5. Muffler which keeps the maximum noise to a limit no greater than 96db
- (k) Drivers/operators must have eye protection if no windshield is present.
- (l) If the OHV is manufactured with seat belts they must be properly worn by operators and occupants in the seat where they are provided.
- (m) When approaching horses and riders, the operator/driver will pull the OHV ATV as far right as possible, turn off the engine and not start again until the horses are 50 ft past.
- (n) No approaching of wildlife while on OHVs/ATVs is allowable.
- (o) No more than two persons are permitted on any saddle seat vehicle.
- (p) No driver/operator or passenger may be seated anywhere that is not a designed seat.
- (q) Drivers/operators must follow all laws and ordinances pertaining to the operation of motor vehicles as described under NM statute 66-7.
- (r) In addition to the listed rules and restrictions, no person shall operate an OHV/ATV in a careless, reckless, or negligent manner so as to endanger the person or property of another.

SECTION 5. ENFORCEMENT

- (a) Any peace officer commissioned by any local, county or state agency within the State of New Mexico may enforce these rules and regulations. In addition to enforcement powers, a peace officer may also conduct random administrative stops in order to ensure compliance with registration, insurance and safety equipment guidelines and to cite into court any violations found in contradiction of those rules.
- (b) Pursuant to NMSA 1978 § 3-13-2 and the NMSA 1978 § 66-3.1015, the Torrance County Sheriff's Office and New Mexico State Police possess jurisdiction to enforce this ordinance within town limits.

SECTION 6. PENALTY

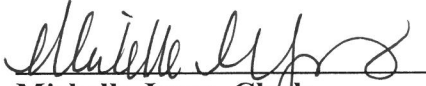
Any person violating any provision of this ordinance may be subject to a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment not to exceed thirty (30) days. Each time this ordinance is violated is a separate violation.

Three or more violations in a twelve (12) month period or six (6) violations in a five (5) year period may result in the driver/operator losing OHV/ATV privileges in the Town of Estancia indefinitely.

SECTION 7. EFFECTIVE DATE/CERTIFICATION OF ADOPTION

PASSED AND APPROVED:  ATTEST: 
Nathan Dial, Mayor Michelle Jones, Clerk

I, the undersigned, Michelle Jones, do hereby certify that the above is a true and correct copy of an ordinance dually adopted by the governing body of the Town of Estancia, at a regular meeting duly convened on Dec. 6, 2021.


Michelle Jones, Clerk