

City of Bayard

ORDINANCE NO. 4-2019

AN ORDINANCE AMENDING SECTION 12-7-9 THROUGH 12-7-9.10 (OFF-HIGHWAY MOTOR VEHICLES-DEFINITIONS, ET AL.) OF THE NEW MEXICO UNIFORM TRAFFIC CODE ADOPTED AS THE BAYARD TRAFFIC ORDINANCE IN CHAPTER 38, SECTION 38-1 OF THE MUNICIPAL CODE OF THE CITY OF BAYARD, NEW MEXICO

WHEREAS, the New Mexico State Legislature recently amended Section 66-3-1011, NMSA authorizing a local authority to permit by ordinance the operation of recreational off-highway (ROV'S) and all-terrain vehicles (ATV'S) on paved streets and highways owned and controlled by the local authority; and

WHEREAS, the City of Bayard is a local authority within the purview of the aforementioned amendment; and

WHEREAS, the City Council has considered the benefits and disadvantages of permitting such operations, including but not limited to considerations of public convenience, energy conservation and public safety; and

WHEREAS, the City of Bayard has adopted the New Mexico Uniform Traffic Ordinance ("UTO") as amended through July, 2018 as the City's traffic ordinance in Chapter 38, Section 38-1 of the City's Municipal Code; and

WHEREAS, the City Council finds that with appropriate safeguards to protect the health, safety and welfare of operators, pedestrians, and City streets, such permission for operating certain classes of off-highway vehicles would be beneficial to the City and its inhabitants, and finds that the City's traffic code should be amended to reflect that intention;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BAYARD, GRANT COUNTY, NEW MEXICO THAT:

Section 12-7-9 to 12-7-9.10 is deleted in its entirety and replaced with the following:

12-7-9 RECREATIONAL OFF-ROAD VEHICLES (ROV'S) Definitions:

Recreational Off-Highway motor vehicle ("ROV"), for the purposes of this ordinance, 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 35 miles per hour;
- (4) Gross vehicle weight rating no greater than 1,750 pounds;
- (5) Less than 80 inches in overall width, exclusive of accessories;
- (6) Engine displacement of less than 1,000 cubic centimeters;
- (7) Identification by means of a 17-character vehicle identification number;
- (8) Muffler;
- (9) Driver and passenger side rear viewing mirrors;
- (10) Brakes;
- (11) Seat belts for driver and all passengers;
- (12) Horn and directional signals;
- (13) One or more headlights of sufficient candlepower to illuminate objects at 150 feet;
- (14) At least one taillight and one brake light to exhibit red or amber light at a distance of two hundred feet under normal atmospheric conditions.

All Terrain Vehicle (ATV) means an off-highway motor vehicle of three or more low pressure tires, no more than fifty inches in width where the driver straddles the frame of the vehicle and steers with handlebars for steering control. ATV also includes its variations, including ATV side-by-sides, quads, and other such vehicles designed for racing. ATV units are not permitted for use within Bayard limits.

City Streets, for the purposes of this ordinance, means any paved roadway owned and controlled by the City, whether classified as a road, street, right-of-way, or easement.

12-7-9.1 OFF-HIGHWAY MOTOR VEHICLES -- REGISTRATION; PLATE REQUIREMENT

(1) A person shall not operate a ROV unless the ROV has been registered in accordance with Chapter 66, Article 3 NMSA 1978. The owner shall affix the validating sticker as provided in Chapter 66, Article 3, NMSA 1978. (66-3-1003 NMSA 1978)

12-7-9.2 OPERATION OF ROV'S ON CITY STREETS AND HIGHWAYS -- PROHIBITED AREAS.

(1) No person shall operate a ROV within City limits unless the operator has attained the age of eighteen years; or individuals under the age of 18 who have acquired a regular driver's license (learner's permit and provisional license are not allowed);

(2) No person under age eighteen shall operate a ROV while carrying passengers;

(2) ROV's shall only be operated upon city owned streets and alleys;

(3) ROV's may cross Highway 180 and Highway 356, if the crossings are made after coming to a complete stop prior to entering the street. ROV's 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.

(4) No person shall operate an unpermitted ROV within the city.

12-7-9.3 DRIVING OF ROV'S ADJACENT TO STREETS AND HIGHWAYS.

No person shall operate a ROV on areas not designated as a city street, alleyway. Example: property between Hwy 180 sidewalks and Mingo's Party Place.

12-7-9.4 OPERATION OF ROV'S ON PRIVATE LANDS.

It is unlawful to operate a ROV on private lands except with the express permission of the owner of the lands. (66-3-1013 NMSA 1978)

12-7-9.5 ACCIDENTS AND ACCIDENT REPORTS.

The driver of a ROV involved in an accident resulting in injuries to, or the death of, any person, or resulting in damage to public or private property to the extent of five hundred dollars (\$500) or more, shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. (66-3-1014 NMSA 1978)

12-7-9.6 ENFORCEMENT OF ROV REGULATIONS.

A state, county or local police officer, upon displaying his badge of office, has the authority to enforce the provisions of Sections 12-7-9.1 through 12-7-9.5 of this ordinance and may require the operator of any ROV to produce the certificate of registration or nonresident permit, proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the Department of Game and Fish, when required by Section 12-7-9.8, and the personal identification of the operator, and may issue citations for violations of the provisions of Sections 12-7-9 through 12-7-9.9 of this ordinance. (66-3-1015 NMSA 1978)

Section 12-7-9-7 is deleted in its entirety and the sections following shall be renumbered.

12-7-9.7 ROV SAFETY PERMIT; REQUIREMENTS, ISSUANCE.

A person under the age of eighteen that has secured a driver's license (learner's permit and provisional license are not allowed) shall be required to 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 by the Department of Game and Fish. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization. (66-3-1010.2 NMSA 1978)

12-7-9.8 OPERATION AND EQUIPMENT – SAFETY REQUIREMENTS.

A. A person shall not operate an off-highway motor vehicle on City streets:

- (1) in a careless, reckless or negligent manner so as to endanger the person or property of another;
- (2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;
- (3) in excess of the speed limits of the City;
- (4) unless in possession of the person's registration certificate, nonresident permit, driver's license, proof of insurance and safety permit;
- (5) unless the vehicle is equipped with a spark arrester approved by the United States Forest Service.
- (6) unless the operator is insured in compliance with the provisions the State of New Mexico Mandatory Financial Responsibility Act;
- (7) unless the driver, and all passengers under 18 years of age possess and wear safety helmets;
- (8) unless the driver is wearing eye protection;
- (9) the operation of an ROV within City limits shall obey all motor vehicle traffic rules, including but not limited to street signs, street signals, handicapped parking restrictions, seat belt requirements, pedestrian rights, speed limits, cell phone and texting restrictions, and display of directional signals.
- (10) in the left lane of traffic or in a side-by-side manner. ROV's must be operated single file and as far to the right of the right lane as safely possible.

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 for sales for organized competition.

Section 12-7-9.9 PENALTIES.

A. A person who violates the provisions of this Section is guilty of a penalty assessment misdemeanor. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate a ROV in violation of the provisions of this Section is in violation of this Section and subject to the same penalty as the child operating the ROV in violation of this section. (66-3-1020 NMSA 1978)

B. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:

CLASS 1 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to possess a registration certificate or non-resident permit	66-3-1010.3	\$50.00
Violations involving headlights or taillights	66-3-1010.3	\$50.00

failure to possess an off-highway motor vehicle safety permit	66-3-1010.3	\$50.00
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selling a vehicle that produces noise in excess of ninety-six decibels	66-3-1010.3	\$50.00
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any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	66-3-1010.3	\$50.00
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CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
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failure to complete a required off-highway motor vehicle safety training course	66-3-1010.3	\$100.00
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operating a vehicle in excess of posted speed limits	66-3-1010.3	\$100.00
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operating an off-highway motor vehicle that produced noise that exceeds ninety-six decibels	66-3-1010.3	\$100.00
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CLASS 3 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
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Operating a vehicle that is not equipped with an approved spark arrester	66-3-1010.3	\$150.00
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a person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet	66-3-1010.3	\$150.00
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a person under the age of eighteen operating an off-highway vehicle while carrying a passenger	66-3-1010.3	\$150.00
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CLASS 4 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
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operating an off-highway motor vehicle in a careless, reckless or negligent manner so as to endanger the person or property of another	66-3-1010.3	\$200.00
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operating an off-highway motor
vehicle on any road or area closed
to off-highway motor vehicle traffic
under local, state or federal
regulations

66-3-1010.3

\$200.00

C. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:

(1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a Class 2 penalty category;

(2) any class 2 or 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and

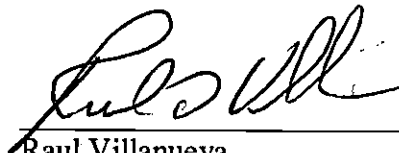
(3) each subsequent violation in a Class 4 penalty category will result in an additional penalty of two hundred dollars (\$200).

D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.

E. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

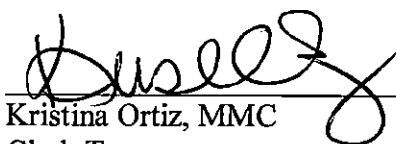
F. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor, and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

PASSED, ADOPTED AND APPROVED by vote of the Council of the City of Bayard, Grant County, New Mexico, this 9th day of September, 2019.



Raul Villanueva
Mayor Pro-tem

ATTEST:



Kristina Ortiz, MMC
Clerk Treasurer