

ORDINANCE NO. 1319

AN ORDINANCE AMENDING TITLE 7 OF THE MUNICIPAL CODE OF THE CITY OF
DEMING WITH THE ADDITION OF
CHAPTER 5 OFF-HIGHWAY MOTOR VEHICLES

WHEREAS, the New Mexico Legislature amended the Off -Highway Motor Vehicle Act ("Act") (Section 66- 3- 1001 through 66- 3- 1020, NMSA 1978) during the 2016 Legislative Session permitting the operation of off-highway motor vehicles on streets; and

WHEREAS, the amendment to the Act went into effect on May 18, 2016; and

WHEREAS, the Act allows a City, by ordinance or resolution, to authorize off-highway motor vehicles to be operated on a paved or dirt street owned or controlled by the City and permits the City to enact the use of off-highway motor vehicles in a way that fits with the community; and

WHEREAS, the City and surrounding area are rich with the natural terrain, open space and trails that create exceptional opportunities for the recreational use of off-highway vehicles, which opportunities improve the quality of life for its residents and create additional tourism and economic benefits to the City; and

WHEREAS, authorizing recreational off-highway vehicles to be operated on certain paved or dirt streets owned or controlled by the City will increase access to, and participation in, these recreational opportunities; and

WHEREAS, the City of Deming desires to authorize the operation of recreational off-highway vehicles on paved streets or highways owned or controlled by the City of Deming; and

WHEREAS, it is unlawful to travel on New Mexico Department of Transportation or State owned or controlled roadways, streets, or combination thereof consisting of but not inclusive to, Pine Street, 8th Street, Florida Street, or County Club Rd.; and

WHEREAS, it is lawful to cross the forementioned roadways, streets, or combination thereof to access City owned and controlled roadways, streets, or combination thereof.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF DEMING GOVERNING BODY THAT:

SECTION 1. Purpose. The purpose of this Ordinance is to allow the operation of recreational off-highway vehicles (ROV) on a graveled road, paved street, or highway owned and controlled by the City of Deming, as authorized in this Ordinance. ATVs, defined below, are not allowed to be operated on graveled roads and are not allowed on paved streets, or multi-use paths or right of way within city limits.

SECTION 2. Definitions.

- A) "all-terrain vehicle" (ATV), which means a motor 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.
- B) "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) less than eighty inches in overall width, exclusive of accessories;
 - 5) engine displacement of one thousand cubic centimeters or less; and
 - 6) identification by means of a vehicle identification number.(g) 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;
 - 7) Limited access highway: Limited Access highways are roads that have been built to allow traffic to move more freely. These roads include interstates and freeways that connect major cities, as well as state highways that connect smaller towns and cities. The term "limited access" means that there are no intersections on these roads.
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SECTION 3. Operation.

- A) A person shall not operate an off-highway motor vehicle on any limited access highway or freeway at any time.
- B) A person age 18 or older may operate an ROV off-highway motor vehicle on any road, street or highway or an ATV on dirt roads owned and controlled by and within the City of Deming, provided:
 - 1) the vehicle has one or more headlights and one or more taillights and brake lights that comply with the Off -Highway Motor Vehicle Act;
 - 2) the vehicle has a horn, brakes, mirror(s), safety seat belts for each passenger and muffler(s)
 - 3) the operator is 18 years of age or older, has a valid driver' s license, instruction permit or provisional license; and
 - 4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act; and
 - 5) the operator of the vehicle is wearing eye protection, or the vehicle provides eye protection by a full windshield. Half or partial windshields do not qualify as eye protection; and
 - 6) the operator and all passengers of the ROV are properly secured by safety belts including compliance with 2006 New Mexico Statutes 66-7-369 Child Passenger Restraint; Enforcement.

- C) Off-highway motor vehicles may cross streets or highways, except those highways or freeways with limited access, including any NMDOT or State controlled streets if crossing is made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.
- D) Traveling on NMDOT or State roadways, streets, or a combination thereof is not permitted on, but are not limited to, Pine Street, 8th Street, Florida Street, and Country Club Rd. which are the primary access roadways.
- E) In addition to the off-highway registration sticker required by the Off-Highway Motor Vehicle Act (section 66-3-1003) this Ordinance requires vehicles also have the ON Highway Registration with sticker and plate properly applied available from the NM Department of Motor Vehicles.
- F) A speed of 45mph or the posted speed limit, whichever is less, must not be exceeded.
- G) Hours of movement on City streets by Off-Highway Vehicles are strictly prohibited after 10pm or before 7am seven days a week.
- H) All traffic laws must be obeyed.

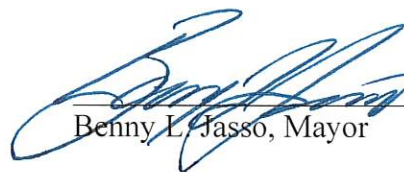
SECTION 4. Penalty

- A) Penalty: Any person violating the provisions of this section shall, upon conviction, be punished as provided in section 1-4-1 of this code. (Ord. 768, 3-9-1987)

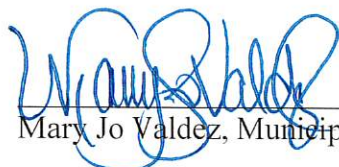
PASSED, ADOPTED, AND APPROVED, this 21st day of February, 2023.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk