

City of Española

ORDINANCE NO: 2021-01

AN ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE CITY OF ESPAÑOLA

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

WHEREAS, the Governing Body of the City of Española has adopted by reference the 2016 Compilation of the New Mexico Uniform Traffic Code, including Section 66-3-1101(C), which permits local authorities to authorize by ordinance or resolution the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the authorizing authority, subject to certain conditions;

WHEREAS, the Governing Body of the City of Española now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the City of Española, subject to certain conditions;

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ESPAÑOLA, NEW MEXICO:

SECTION 1: PURPOSE. The purpose of this Ordinance is to allow the operation of recreational off-highway vehicles and all-terrain vehicles on a paved street or roadway owned and controlled by the City of Española, as authorized in this Ordinance.

SECTION 2: DEFINITIONS. As used in this Ordinance:

- A. “All-Terrain Vehicle” or “ATV” is a type of off-highway motor vehicle. An ATV 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. “Off-Highway Motor Vehicle” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes Recreational Off-Highway Vehicles and All-Terrain Vehicles, defined herein.
- B. “Recreational Off-Highway Vehicle” or “ROHV” is a type of off-highway motor vehicle and is defined to mean:
 - (1) 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) Any other vehicle that may enter the market that fits the general profile of vehicles operated off the highway for recreational purposes as defined by rule by the Department of Game and Fish or as otherwise defined in Section 66-3-1001.1(E), NMSA 1978 of the Off-Highway Motor Vehicle Act.

SECTION 3: OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON PAVED STREETS OWNED AND CONTROLLED BY THE CITY OF ESPAÑOLA.

- 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 paved street owned and controlled by the City of Española, 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; and
 - (2) the vehicle has brakes, mirror, and mufflers; and
 - (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit as required by Section 66-3-1010.2 NMSA 1978; and
 - (4) the ROHV or ATV is registered in accordance with Section 66-3-1003, NMSA 1978; and
 - (5) the operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, Chapter 55, Article 5, NMSA 1978; and
 - (6) the operator of the vehicle is wearing eye protection that complies with the Off-Highway Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978; and
 - (7) the operator follows all traffic regulations and state statutes as described in the Off-Highway Motor Vehicle Act; and
 - (8) the operator of the ATV or ROHV is not under 16 years of age; and
 - (9) the operator who is under 18 years of age is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.
- C. Off-Highway Motor Vehicles may cross streets or highways, except limited access highways or freeways, if the crossing is made after coming to a complete stop prior to entering the street. 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 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 owned, 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. A person under the age of eighteen shall not operate an Off-Highway Motor Vehicle:

- (1) or ride upon an Off-Highway Motor Vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards of the Department of Game and Fish;
- (2) without an Off-Highway Motor Vehicle safety permit; or
- (3) while carrying a passenger.

SECTION 4: SPEED LIMIT. Pursuant to Section 66-3-1011, NMSA 1978, the City may establish separate speed limits and operating restrictions for Recreational Off-Highway Vehicles and All-Terrain Vehicles. The speed limits are defined as follows:

- (1) The speed limit for ROHVs and ATVs operated on authorized roadways within the City of Española shall be 30 miles per hour or the posted speed limit, whichever is less. No ROHV or ATV may be operated on any road where the posted speed limit is higher than 50 miles per hour.
- (2) The operator shall operate the ROHV or ATV on the extreme right hand side of the roadway whenever practical to do so.

SECTION 5: PASSENGERS.

- A. A person operating a ROHV or ATV shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a ROHV or ATV unless such vehicle is designed by the manufacturer to carry more than one person(s).
- B. No person shall operate a ROHV or ATV while carrying any package, bundle, or other article which prevents keeping both hands on the controls and full attention to the roadway.

SECTION 6: OBEDIENCE TO TRAFFIC LAWS REQUIRED. Any person operating a ROHV shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1978 [except 66-7-102.1 NMSA 1978]. City of Espanola Peace Officers shall have the authority to enforce the provisions of this Ordinance in accordance with Section 66-3-1015, NMSA 1978.

SECTION 7: ACCIDENTS AND ACCIDENT REPORTS. The operator of a ROHV involved in an accident resulting in injuries to or the death of a person or resulting damage to public or private property to the extent of five hundred dollars (\$500.00) or more shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the operator 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.

SECTION 8: 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 Governing Body to adopt each section, phrase, paragraph, and word of this Ordinance separately.


SECTION 9: REPEAL. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent they conflict with this Ordinance.

Effective Date. This Ordinance shall become effective on the 17th day of August, 2021.

PASSED, APPROVED AND ADOPTED this 27th day of July, 2021.

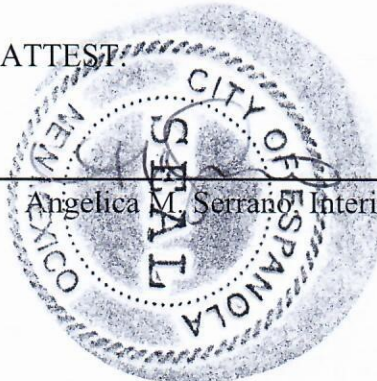
(Signatures and Attest below)

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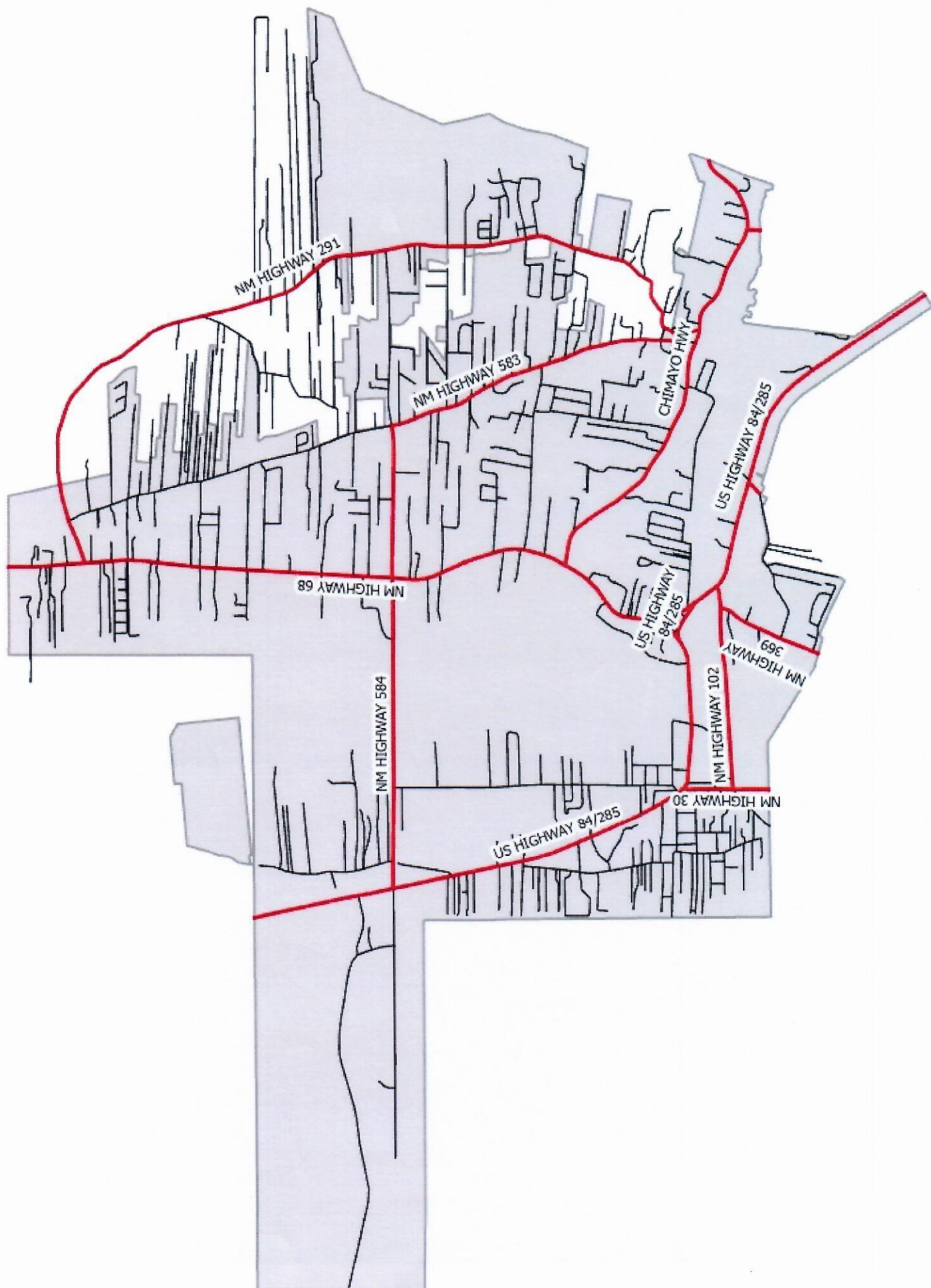


Javier E. Sánchez, Mayor

ATTEST:



Angelica M. Serrano, Interim City Clerk



Notice that on April 13, 2021, at 6:00pm, the City Council of the City of Española will be meeting in the Council Chambers at 405 N. Paseo de Onate, Española NM, and online via zoom, and will after a public hearing consider for adoption ORDINANCE 2021-01, AN ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE CITY OF ESPAÑOLA. a copy of the ordinance is available for inspection at the city clerk's office during regular business hours. Done this march 18, 2021, by angelica m. serrano, interim city clerk. (Published March 18th, 2021)

Advertiser's Bill

32 lines one time at \$21.76

_____ lines _____ times at _____

Affidavit \$5.00

Subtotal \$26.76

Tax \$2.39

Total \$29.15

Payment received at **Rio Grande SUN**

Date 4/6/21

By Marc Chav

Affidavit of Publication

State of New Mexico
County of Rio Arriba

I, Robert Trapp, being first duly sworn, declare and say I am the Publisher of the **Rio Grande SUN**, a weekly newspaper published in the English language and having a general circulation in the County of Rio Arriba, State of New Mexico, and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 of the Session Laws of 1937. The publication, a copy of which is hereto attached, was published in said paper once each week for 1 consecutive weeks and on the same day of each week in the regular issue of the paper during the time of publication and the notice was published in the newspaper proper, and not in any supplement. The first publication being on the

18 day of March, 2021

and the last publication on the 18 day of

March, 2021. Payment for said advertisement has been duly made, or assessed as court costs. The undersigned has personal knowledge of the matters and things set forth in this affidavit.

Robert Trapp Publisher

Subscribed and sworn to before me this 18 day of March A.D. 2021

Maria V Lopez Garcia
Maria V. Lopez Garcia /Notary Public
My commission expires 13 July 2021

