



ORDINANCE NO: 2022-03

ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE VILLAGE OF MAGDALENA 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 a paved street owned and controlled by the authorizing entity, subject to certain conditions;

WHEREAS, the Village of Magdalena 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 a paved street owned and controlled by the authorizing authority, subject to certain conditions;

WHEREAS, the Board of Trustees of the Village of Magdalena now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the Village of Magdalena, subject to certain conditions;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MAGDALENA, NEW MEXICO:

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

SECTION 2. DEFINITIONS. As used in this Ordinance:

- A. "All-Terrain Vehicle" is a type of off-highway motor vehicle. 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 PAVED STREETS OWNED AND CONTROLLED BY THE VILLAGE OF MAGDALENA.

- 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 Village of Magdalena, if:
 - (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978;

- (2) the vehicle has brakes, mirror, and mufflers;
 - (3) the operator has valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;
 - (4) the operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, Chapter 55, Article 5, NMSA 1978;
 - (5) **all** operators and passengers are wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act; Chapter 66, Article 3, NMSA 1978, an additional operating restriction allowed by NMSA 1978, Section 66-3-1011(E); and,
 - (6) Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving and parked vehicles under the Motor Vehicle Code.
- C. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are 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. The statute allows the Village to establish separate speed limits and operating restrictions for off-highway vehicles. The speed limits shall be as defined below:

The speed limit for all-terrain vehicles operated within the Village shall be the posted speed limit on public roads or streets, and ten (10) m.p.h. elsewhere within the Village.

SECTION 4. PENALTIES. Penalties shall comport with NMSA 1978, Section 66-3-1020.

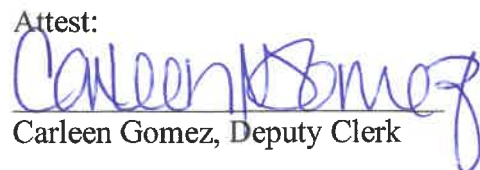
SECTION 5: SEVERABILITY. In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of the ordinance be given full force and effect. It is the expressed intent of the City Council 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.

Approved, Adopted, and Ordained this 12th day of December 2022.

VILLAGE OF MAGDALENA


Richard Rumpf, Mayor

Attest:

Carleen Gomez, Deputy Clerk

