

DOÑA ANA COUNTY ORDINANCE NO. ~~2017~~ 292-2017**ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON PAVED STREETS OR HIGHWAYS OWNED AND CONTROLLED BY THE COUNTY OF DOÑA ANA AS SET FORTH IN THIS ORDINANCE.**

WHEREAS, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978 to allow the operation of off-highway motor vehicles on a paved street or highway owned and controlled by the authorizing entity, subject to certain conditions;

WHEREAS, the Board of County Commissioners of Doña Ana County, New Mexico deem it desirable to allow the operation of off-highway motor vehicles on paved streets or highways owned and controlled by the County of Doña Ana, subject to certain conditions;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DOÑA ANA COUNTY, NEW MEXICO:

SECTION 1: PURPOSE. The purpose of this Ordinance is to allow the operation of off-highway motor vehicles on a paved street or highway owned and controlled by the County of Doña Ana, as authorized in this Ordinance.

SECTION 2: TITLE OF ORDINANCE. This Ordinance shall be referred to as the "Off-Highway Motor Vehicle Ordinance".

SECTION 3: DEFINITIONS. "Off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

- A. "all-terrain vehicle", 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", 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) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (5) less than eighty inches in overall width, exclusive of accessories;
 - (6) engine displacement of less than one thousand cubic centimeters; and

- (7) identification by means of a seventeen-character vehicle identification number;
or
- C. 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 4: OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON PAVED STREETS OR HIGHWAYS OWNED AND CONTROLLED BY THE COUNTY OF DOÑA ANA.

- 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 or highway except as provided in Subsection B, C, or D of this section.
- B. 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 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.
- C. A recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the County of Doña Ana if:
 - (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
 - (2) the vehicle has brakes, mirrors 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 the provisions of the Mandatory Financial Responsibility Act [Sections 66-5-201 through 66-5-239 NMSA 1978];
 - (5) the operator of the vehicle is using eye protection that complies with the Off-Highway Motor Vehicle Act; and
 - (6) if the operator is under eighteen years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.

- D. 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.

SECTION 5: SPEED LIMIT. The Off-Highway Motor Vehicle Act allows the County to establish separate speed limits for off-highway motor vehicles. The speed limits shall be as follows:

- A. The speed limit for all-terrain vehicles operated within the county shall be thirty-five miles per hour or the posted speed limit, whichever is less. If the posted speed limit is higher than thirty-five miles per hour, the operator shall operate the all-terrain vehicle on the extreme right hand side of the roadway.
- B. The speed limit for recreational off-highway vehicles operated within the County shall be forty-five miles per hour or the posted speed limit, whichever is less.

SECTION 6: PASSENGERS. The Off-Highway Motor Vehicle Act allows the County to establish operating restrictions for off-highway motor vehicles. The operating restrictions shall be as follows:

- A. A person operating a recreational off-highway vehicle 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 recreational off-highway vehicle unless such vehicle is designed to carry more than one person, if designed for two persons, or upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.
- B. A person under the age of eighteen shall not operate an all-terrain vehicle while carrying a passenger.
- C. A person shall ride an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on either side of the off-highway motor vehicle.
- D. No person shall ride upon an all-terrain vehicle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars,
- E. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation of the all-terrain vehicle or the view of the operator.

SECTION 7: OBEDIENCE TO TRAFFIC LAWS REQUIRED. Any person operating an off-highway motor vehicle 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.

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 Board of County Commissioners that the remaining portions of the Ordinance be given full force and effect. It is the expressed intent of the Board of County Commissioners to adopt each section, phrase, paragraph, and word of this Ordinance separately.

SECTION 9: EFFECTIVE DATE.

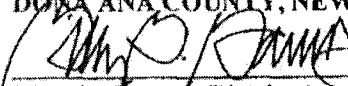

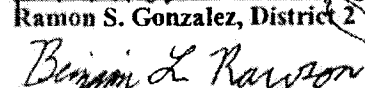
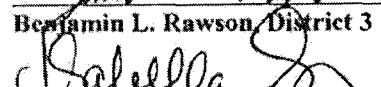
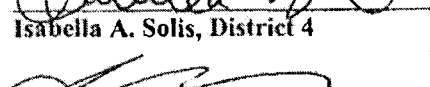
This ordinance shall become effective thirty days after the ordinance has been recorded in the office of the Doña Ana County Clerk.

ENACTED this 24th day of AUGUST, 2017

BOARD ENACTED this 22nd day of AUGUST, 2017

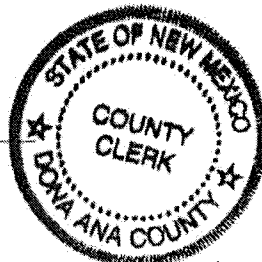
BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO



	Billy G. Garrett, District 1	For / <u>Against</u>
	Ramon S. Gonzalez, District 2	For / <u>Against</u>
	Benjamin L. Rawson, District 3	For / <u>Against</u>
	Isabella A. Solis, District 4	For / <u>Against</u>
	John L. Vasquez, District 5	For / <u>Against</u>

ATTEST:


Scott Krahling
County Clerk



COUNTY OF DONA ANA)
STATE OF NEW MEXICO) ss ORDINANCE/DAC
PAGES: 4

I Hereby Certify That This Instrument Was Filed for
Record On AUG 24, 2017 11:01:04 AM
And Was Duly Recorded as Instrument # 1719817
Of The Records Of Dona Ana County



Witness My Hand And Seal Of Office,
Scott Krahling, County Clerk, Dona Ana, NM

Deputy Gerardo Barrera