

**NOTICE OF INTENT TO ADOPT AN ORDINANCE  
AMENDING SECTIONS 12-7-9 THROUGH 12-7-9.9 (OFF-HIGHWAY MOTOR  
VEHICLES-DEFINITIONS, ET AL.) OF THE NEW MEXICO UNIFORM TRAFFIC  
CODE ADOPTED AS THE SILVER CITY TRAFFIC ORDINANCE IN CHAPTER 50,  
SECTION 50-1 OF THE MUNICIPAL CODE OF THE  
TOWN OF SILVER CITY, NEW MEXICO**

**The Council of the Town of Silver City, Grant County, New Mexico hereby gives notice of its intention to adopt an amendment to the Town of Silver City Code of Ordinances. This notice is given the title as follows:**

**ORDINANCE NO. 1251**

**AN ORDINANCE AMENDING SECTION 12-7-9 THROUGH 12-7-9.9 (OFF-HIGHWAY  
MOTOR VEHICLES-DEFINITIONS, ET AL.) OF THE NEW MEXICO UNIFORM  
TRAFFIC CODE ADOPTED AS THE SILVER CITY TRAFFIC ORDINANCE IN  
CHAPTER 50, SECTION 50-1 OF THE MUNICIPAL CODE OF THE  
TOWN OF SILVER CITY, NEW MEXICO**

**Sponsored by: Councilor José A. Ray, Jr.**

**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 and all-terrain vehicles on paved streets and highways owned and controlled by the local authority; and

**WHEREAS**, the Town of Silver City is a local authority within the purview of the aforementioned amendment; and

**WHEREAS**, the Town 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 Town Council finds that with appropriate safeguards to protect the health, safety and welfare of operators, pedestrians, and Town streets and highways, such permission for operating certain classes of off-highway vehicles would be beneficial to the Town and its inhabitants;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CTY, GRANT COUNTY, NEW MEXICO THAT:**

**Section 12-7-9 et seq. of the New Mexico Uniform Traffic Code** (2016 Compilation as amended up through July, 2016, and as adopted by the Town of Silver City Municipal Code in Chapter 50, Section 50-1) is hereby amended by deleting a portion of that Section and replacing it

with the following:

## **12-7-9 OFF-HIGHWAY MOTOR VEHICLES**

### **12-7-9.1 DEFINITIONS**

Off-highway motor vehicle means a motor vehicle designed by the manufacturer for operation primarily off the highway, streets and roads, including All-Terrain Vehicles (ATV's) and Utility Task Vehicles (UTV's).

Utility Task Vehicle (UTV) means an off-highway motor vehicle that has, at the minimum, the following attributes:

- (1) Four or more highway or non-highway rated tires;
- (2) A steering wheel for steering control;
- (3) Non-straddle seating;
- (4) Maximum speed capability greater than 35 miles per hour;
- (5) Gross vehicle weight rating no greater than 1,750 pounds;
- (6) Less than 80 inches in overall width, exclusive of accessories;
- (7) Engine displacement of less than 1,000 cubic centimeters;
- (8) Muffler;
- (9) Identification by means of a 17-character vehicle identification number;
- (10) Driver and passenger side rear viewing mirrors;
- (11) Brakes;
- (12) Seat belts for driver and all passengers;
- (13) Signal horn; and
- (14) At least one headlight of sufficient candlepower to illuminate objects at 150 feet; and
- (15) At least one tail light 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.

Town Streets and highways in the Town means any roadway, alley, trail or pathway controlled by the Town, whether paved or unpaved, whether classified as a road, street, right-of-way, or easement.

Unpermitted off-highway motor vehicle shall mean any off-highway motor vehicle not having all the characteristics, safety accessories and required features of a Utility Task Vehicle as described herein this section.

### **12-7-9.2 REGISTRATION-PLATE REQUIRED**

(A) Unless exempted from the provisions of this section, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle 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 (66-3-1003 NMSA).

### **12-7-9.3 OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON TOWN STREETS**

(A) No person shall operate an ATV or other unpermitted off-highway motor vehicle on Town streets and highways, except as permitted under the circumstances described in paragraphs (B) and (C) herein and under the exemption mentioned in Section 12-7-9.6.

(B) Off-highway motor vehicles of any type or classification may cross streets or highways, except limited access highway or freeways, if the crossing 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.

(C) Off-highway motor vehicles properly registered of any type or classification may be driven adjacent to a street, yielding to all vehicles entering or exiting the street, in a manner so as not to interfere with traffic upon the street, only for the purpose of gaining access to, or returning from areas designated for the operation of off-highway motor vehicles, but the shortest route possible and when no other route is available.

### **12-7-9.4 OPERATION AND EQUIPMENT- SAFETY REQUIREMENTS**

(A) A person shall not operate an off-highway motor vehicle on Town 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 Town;
- (4) unless in possession of the person's registration certificate, driver's license, proof of insurance and safety permit;
- (5) unless the driver of the off-highway motor vehicle has attained the age of 18 years;
- (6) unless the off-highway motor vehicle meets the definition of utility task vehicle and possesses, at the minimum, all the characteristics, safety accessories, and other requirements mentioned in the definition section 12-7-9.1 herein;
- (7) unless the operator is insured in compliance with the provisions the State of New Mexico Mandatory Financial Responsibility Act;
- (8) unless the driver and all passengers possess and wear safety helmets;
- (9) unless the driver is wearing eye protection;
- (10) unless the off-highway motor vehicle produces no more than 96 decibels at any level of driving or acceleration.

### **12-7-9.5 OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT-REQUIREMENTS, ISSUANCE**

Any person operating an off-highway motor vehicle on Town streets shall be required to successfully complete an off-highway motor vehicle safety training course. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the State of New Mexico, Department of Motor Vehicles. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization.

**12-7-9.6 EXEMPTIONS**

The provisions of this Section shall not apply to persons who operate off-highway motor vehicles on privately held lands, nor to farm tractors as defined in Section 66-1-4.6 NMSA 1976, special mobile equipment as defined in Section 66-1-4.16 NMSA 1978, nor to off-highway motor vehicles being used exclusively for agricultural operations.

**12-7-9.7 ACCIDENTS AND ACCIDENT REPORTS**

The driver of an off-highway motor vehicle of any type or classification 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.

**Renumber existing Section 12-7-9.10 to 12-7-9.8 PENALTIES, and leave unchanged:**

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the Town of Silver City, Grant County, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

TOWN OF SILVER CITY

(Seal)

\_\_\_\_\_  
Ken Ladner, Mayor

Attest:

\_\_\_\_\_  
Ann L. Mackie, Town Clerk

Consideration of the final adoption of such proposed ordinance will not take place until at least two (2) weeks subsequent to the date of this notice and only at a public meeting called and held in accordance with Section 3-17-3, N.M.S.A. 1978. Consideration of adoption of said ordinance is currently scheduled for and will not take place prior to \_\_\_\_\_, 2016.

\_\_\_\_\_  
Ann L. Mackie, Town Clerk

\_\_\_\_\_  
Date