

**SUPERCEDING NOTICE OF INTENT
TO ADOPT AN ORDINANCE AMENDING SECTIONS 12-7-9 THROUGH 12-7-9.10
(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. 1269

**AN ORDINANCE AMENDING SECTION 12-7-9 THROUGH 12-7-9.10 (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 (ROV'S) and all-terrain vehicles (ATV'S) 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 of Silver City has adopted the New Mexico Uniform Traffic Ordinance ("UTO") as amended through July, 2017 as the Town's traffic ordinance in Chapter 50, Section 50-1 of the Town's Municipal Code; and

WHEREAS, the Town Council finds that with appropriate safeguards to protect the health, safety and welfare of operators, pedestrians, and Town streets, such permission for operating certain classes of off-highway vehicles would be beneficial to the Town and its inhabitants, and finds that the Town's traffic code should be amended to reflect that intention;

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

Section 12-7-9 is deleted in its entirety and replaced with the following

:

12-7-9 RECREATIONAL OFF-ROAD VEHICLES (ROV'S) Definitions:

Recreational Off-Highway motor vehicle ("ROV"), for the purposes of this ordinance, means a motor vehicle designed by the manufacturer for operation primarily off the highway, streets and roads, which is characterized by the following:

- (1) Four or more 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 directional signals;
- (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, for the purposes of this ordinance, means any paved roadway owned and controlled by the Town, whether classified as a road, street, right-of-way, or easement.

Section 12-7-9.2 is deleted in its entirety and replaced with the following:

12-7-9.2 OPERATION OF ROV'S ON TOWN STREETS

(A) ROV'S as described herein may be operated upon Town streets during the hours of 6:00 am to 10:00 pm under the conditions mentioned herein.

(B) ROV'S as described herein shall not be operated on Town trails, open spaces, riparian zones, stream beds, or parks.

(C) No person shall operate an ATV or other unpermitted off-highway motor vehicle within the Town.

(D) No person shall operate an ROV within Town limits unless the operator has attained the age of eighteen years.

Section 12-7-9.3 is deleted in its entirety and the sections following shall be renumbered accordingly.

Section 12-7-9.6 is deleted in its entirety and the sections following shall be renumbered.

Section 12-7-9.7 is deleted in its entirety and the sections following shall be renumbered.

Section 12-7-9.9 is deleted in its entirety and replaced with the following:

12-7-9.9 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 an ROV as defined herein 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 under 18 years of age 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.
- (11) no ROV shall be operated within Town limits between the hours of 10:00 pm and 6:00 am of the following day.
- (12) the operation of an ROV within Town limits shall obey all motor vehicle traffic rules, including but not limited to street signs, street signals, handicapped parking restrictions, seat belt requirements, pedestrian rights, speed limits, cell phone and texting restrictions, and display of directional signals.

Section 12-7-9.10 B. is amended as follows:

All Class 1 Violations having a \$10 penalty assessment shall now have a \$50 penalty assessment; All Class 2 Violations having a \$50 penalty assessment shall now have a \$100

penalty assessment; All Class 3 Violations having a \$100 penalty assessment shall now have a \$150 penalty assessment; and, All Class 4 violations having a \$200 penalty assessment shall now have a \$300 penalty assessment.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this _____ day of _____, 2018.

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_____.

Ann L. Mackie, Town Clerk

Date