

## ORDINANCE NO. 17-15

### **AN ORDINANCE AMENDING CHAPTER 25 OF THE ROSWELL CITY CODE TO ADD A SECTION REGULATING THE USE OF RECREATIONAL OR UTILITY OFF-HIGHWAY VEHICLES ON PAVED STREETS OWNED BY THE CITY**

WHEREAS, the New Mexico Legislature has passed the Off-Highway Motor Vehicle Act ("Act") NMSA 1978, §§ 66-3-1001 to -1016, permitting the operation of off-highway motor vehicles on streets, allowing a municipality, by ordinance or resolution, to authorize off-highway motor vehicles to be operated on a paved street owned or controlled by the City and permitting the City to legislate the use of off-highway motor vehicles in a way that fits with the community; and

WHEREAS, authorizing recreational or utility off-highway vehicles to be operated on certain paved streets owned or controlled by the City will increase access to, and participation in, recreational opportunities; and

WHEREAS, the City desires to authorize recreational or utility off-highway vehicles to be operated on a paved street or highway owned or controlled by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL AS THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO, that:

SECTION 1. Chapter 25 of the Roswell City Code shall be amended to include new Secs. 24-11 to 24-15 to read as follows:

#### Sec. 24-11. Definitions.

As used in this division, the following definitions shall apply:

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

- (1) "recreational or utility 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:
  - (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

#### Sec. 24-12. Operation on streets or highways -- prohibited areas.

(A) A person shall not operate a recreational or utility off-highway motor vehicle on any:

- (1) limited access highway at any time;
- (2) paved street or highway except as provided in Subsection B or C of this section;

- (3) walking trails; or
  - (4) city parks.
- (B) Recreational or utility 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. Recreational or utility 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 or utility off-highway vehicle may be operated on a paved street owned and controlled by the city if:
- (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, NMSA 1978, §§ 66-3-1001 to -1021;
  - (2) the vehicle has brakes, mirrors, and mufflers;
  - (3) the operator has a 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, NMSA 1978, §§ 66-5-201 to -248;
  - (5) a person shall not operate a recreational or utility off-highway motor vehicle or ride upon an off-highway motor vehicle without wearing eye protection that complies with the Off-Highway Motor Vehicle Act; and
  - (6) if the operator is under eighteen years of age, the operator must be wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.

Sec. 24-13. Speed limit.

The speed limit for recreational off-highway vehicles operated within the city shall be 45 miles per hour or the posted speed limit, whichever is less. A recreational off-highway vehicle traveling on a paved street shall travel at a speed that complies with the Off-Highway Motor Vehicle Act.

Sec. 24-14. Passengers.

A person operating a recreational or utility off-highway vehicle shall ride only upon the permanent and regular seat attached thereto. The operator shall not carry any other person. No other additional person shall ride on a recreational or utility off-highway vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, or upon another seat firmly attached, in compliance with manufacturer specifications, to the recreational or utility off-highway vehicle at the rear of the operator.

Sec. 24-15. Obedience to traffic laws required.

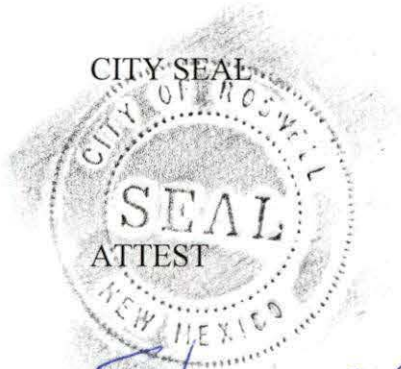
Any person operating a recreational or utility off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1978.

SECTION 2. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

SECTION 3. If any section, paragraph, clause or provisions of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

SECTION 4. This ordinance shall be effective after five days following its publication as required by law.

PASSED, ADOPTED, SIGNED and APPROVED the 11 day of January, 2018.



*Sharon Coll*  
Sharon Coll, City Clerk

*Dennis Kintigh*  
Dennis Kintigh, Mayor