

**LUNA COUNTY, NEW MEXICO**

**ORDINANCE 112**

**AN ORDINANCE ADDRESSING OFF-HIGHWAY VEHICLES**

**WHEREAS**, the County of Luna (the "County") acting through its Board of County Commissioners, is a political subdivision duly organized and existing under the laws of the State of New Mexico;

**WHEREAS**, pursuant to Section 4-37-1, NMSA 1978, the Board of County Commissioners of Luna County are empowered to enact regulations which provide for health, safety, prosperity and improvement of order, comfort and convenience of the citizens of Luna County;

**WHEREAS**, the powers of a county as a body politic and corporate are exercised through the Board of County Commissioners pursuant to Section 4-38-1, NMSA 1978;

**WHEREAS**, the Board of County Commissioners desires to establish the rules allowing for operation of off-highway vehicles on streets and roadways owned and controlled by the County.

**NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS ON BEHALF OF THE PEOPLE OF LUNA COUNTY, NEW MEXICO:**

**SECTION 1 PURPOSE AND APPLICABILITY**

**1.1** This Ordinance shall apply to the operation of off-highway vehicles on County owned and controlled roadways consistent with the provisions of the Off-Highway Vehicle Act, Section 66-3-1001 through 1021, NMSA 1978.

**1.2** This Ordinance is only applicable to those areas in Luna County outside the incorporated municipalities of the City of Deming and Village of Columbus.

**1.3** Nothing contained in this ordinance applies to or affects operation of off-highway vehicles on private property nor does it authorize operation on roads or highways owned or controlled by the State of New Mexico or federal government or agencies thereof.

**SECTION 2 DEFINITIONS**

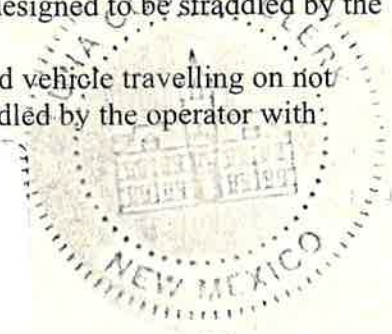
**2.1** County Owned or Controlled Roadway included within the scope of this Ordinance includes all designated County roads, both maintained and not maintained by the County, rights-of-way and easements that were constructed, signed and maintained for regular passenger-car use by the general public.

**2.2** Off-Highway Motor Vehicle (OHV) is a motorized vehicle designed by the manufacturer for operation off the highway or road and includes:

**2.2.1** All-Terrain Vehicle (ATV) which is a motorized vehicle, fifty (50) inches or less in width, having an unladen dry weight of one thousand (1,000) pounds or less, travelling on three or more low-pressure tires and having at least one seat designed to be straddled by the operator and handle-bar type steering control;

**2.2.2** Off-Highway Motorcycle (OHM) which is a motorized vehicle travelling on not more than two (2) tires and having a seat designed to be straddled by the operator with handle-bar type steering control;

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**2.2.3** Recreational Off-Highway Vehicle (UTV) which is a motorized vehicle designed for travel on four or more non-highway tires, for use by one or more persons, and being eighty (80) or less inches in overall width, exclusive of accessories, a Gross Vehicle Weight Rating not greater than one thousand seven hundred and fifty (1,750) pounds, an engine displacement of less than one thousand 1,000 cubic centimeters, maximum speed capability in excess of thirty-five (35) miles per hour, and having one or more nonstraddle seating, a steering wheel for steering control and identification by means of a seventeen (17) character Vehicle Identification Number.

**2.2.4** Any other vehicle identified or described by the New Mexico Department of Game and Fish or the Off-Highway Motor Vehicle Advisory Board fitting the general profile of vehicle operated off the highway for recreational purposes.

**2.3** Off-Highway Motor Vehicle Act refers to Sections 66-3-1001 through 1021, NMSA 1978, and may be referred to herein as “the Act” or “OHMVA”.

### **SECTION 3 OHV OPERATION ON COUNTY ROADWAY**

**3.1** An OHV may be operated on a County Owned or Operated Roadway if:

**3.1.1** The vehicle has one or more headlights and one or more taillights that comply with the OHMVA;

**3.1.2** The vehicle has brakes, mirrors and mufflers;

**3.1.3** The operator has valid driver’s license or permit as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the OHMVA;

**3.1.4** The operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act;

**3.1.5** The operator of the vehicle is using eye protection that complies with the OHMVA;

**3.1.6** The vehicle complies with the registration, license plate, validation stickers and display requirements of the OHMVA; and

**3.1.7** The vehicle is equipped by a spark arrester approved by the United States Forest Service.

**3.2** Operators of OHVs under the age of eighteen (18) years must also comply with the following:

**3.2.1** Must be at least thirteen (13) years of age and have a valid motorcycle license and off-highway vehicle safety permit or be at least fifteen (15) years of age and have a valid driver’s license, instruction permit or provisional license and off-highway vehicle safety permit;

**3.2.2** Must be accompanied by or under the direct supervision of a parent, guardian, custodian of certified safety/OHV instructor;

**3.2.3** May not operate while carrying a passenger under the age of eighteen (18) years; and

**3.2.4** Must wear a safety helmet that complies with the OHMVA.

**3.3** All operators shall be subject to the applicable requirements and penalties for moving and parked vehicles of the Motor Vehicle Code, except for those provisions in conflict with the OHMVA, including provisions relating to driving while under the influence of intoxicating liquor or drugs and to the penalty provisions of the OHMVA (Section 66-3-1020, NMSA 1978).

### **SECTION 4 RESTRICTIONS AND PROHIBITIONS ON OHV OPERATION**

**4.1** No person may operate an OHV on any limited-access highway, freeway or interstate except to cross, after coming to a complete stop prior to crossing and yielding the right of way to all oncoming traffic .

**4.2** ATVs and OHMs operated pursuant to this ordinance shall be subject to a speed limit of 35

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mph or the posted speed limit, whichever is less, and only on the right-hand side of the roadways.

**4.3** UTVs operated pursuant to this ordinance shall be subject to a speed limit of 45 mph or the posted speed limit, whichever is less.

**4.4** Operators of OHVs shall ride only on the permanent and regular seat attached thereto and shall not carry any passenger unless such vehicle is designed to carry more than one person on permanent and regular seating attached to the OHV.

**4.5** Operators of OHVs may not carry any person, package, bundle or other items which prevent the Operator from keeping both hands on the steering mechanism or which interferes with the operation of the OHV or obstructs the Operator's view.

**4.6** OHVs may not be used on County Owned or Controlled Roadways in the pursuit with the intent to hunt or take a game animal except as allowed by the New Mexico State Game Commission.

**4.7** No Operator shall use any OHV in the pursuit of or harassment of livestock belonging to another person or entity, except in the course of valid agricultural operations, nor in any manner that has a direct negative effect on or interferes with persons engaged in agricultural practices.

**4.8** OHVs may not be operated on land owned, controlled or administered by the New Mexico State Game Commission or the New Mexico State Parks Division except as specifically authorized by law.

## **SECTION 5 MISCELLANEOUS**

**5.1** The provisions of this ordinance shall not apply to persons who operate OHVs on privately held land or to OHVs that are:

**5.1.1** owned and operated by an agency or department of the United States, the State of New Mexico or a political subdivision of this state;

**5.1.2** owned by nonresidents and used in this state only for organized competition purposes, provided that the use is not on a rental basis, unless a holding a valid non-resident permit;

**5.1.3** brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;

**5.1.4** in the possession of dealers as stock-in-trade and not used for demonstration purposes;

**5.1.5** farm tractors, as defined by Section 66-1-4.6, NMSA 1978, special mobile equipment, as defined by 66-1-16, NMSA 1978, or OHVs being used for agricultural operations; or

**5.1.6** used exclusively on private closed courses.

**5.2** This ordinance does not authorize OHV use anywhere other than County Owned or Controlled Roadways and specifically does not authorize operation on private lands or roads without the express permission of the landowner or leaseholder of such lands.



APPROVED AND ADOPTED THIS 9TH DAY OF JUNE, 2022.

BOARD OF COUNTY COMMISSIONERS  
LUNA COUNTY, STATE OF NEW MEXICO

ATTEST:

Linda M. Smrkovsky

Linda M. Smrkovsky, Chair  
Commissioner, District 2

Berenda McWright

Berenda McWright,  
County Clerk

by  
Hedi Nabors

Barbara L. Reedy

Barbara L. Reedy,  
Commissioner, District 1

John S. Sweetser

John S. Sweetser,  
Commissioner, District 3