

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 163**

**AN ORDINANCE ENACTING A NEW CHAPTER 72 OF THE ELEPHANT BUTTE
MUNICIPAL CODE PROVIDING FOR THE OPERATION OF OFF HIGHWAY
MOTOR VEHICLES ON CITY STREETS AND PROVIDING FINES FOR
VIOLATIONS**

WHEREAS, the New Mexico Motor Vehicle Code provides for licensing and regulation of off-highway motor vehicles in the Off-Highway Motor Vehicle Act, NMSA 1978, §§ 66-3-1001 et seq. (“Act”); and

WHEREAS, the legislature amended section 66-3-1011 in 2016 to authorize a municipality to authorize and regulate by ordinance or resolution the operation of off-highway motor vehicles on paved streets or highways owned or controlled by the municipality; and

WHEREAS, the City desires to authorize off-highway motor vehicles to be operated on paved streets or highways owned or controlled by the city.

NOW THEREFORE BE IT ORDAINED by the governing body of the City of Elephant Butte that:

Section One. Title VII of the City of Elephant Butte Code of Ordinances, “Traffic Code,” is amended to add the following new material as Chapter 72, Sections 72.01 – 72.05.

CHAPTER 72: OFF-HIGHWAY MOTOR VEHICLES.

§ 72.01. DEFINITIONS.

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

OFF HIGHWAY MOTOR VEHICLE. A motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

(A) ***ALL-TERRAIN VEHICLE***. 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***. 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 no more than one thousand cubic centimeters; and
- (7) Identification by means of a seventeen-character vehicle identification number; or

(C) By rule of the New Mexico Department of Game & Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

§ 72.02. OPERATION ON STREETS OR HIGHWAYS.

An off-highway motor vehicle that is in compliance with the following requirements may be operated on any street or highway owned and controlled by the city when:

- (A) The vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, Sec. 66-3-1001 through 66-3-1021, NMSA 1978;
- (B) The vehicle has brakes, mirrors and mufflers;
- (C) The operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;
- (D) The operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act, Sec. 66-5-201 through 66-5-248, NMSA 1978;
- (E) The vehicle is currently registered in this state or another state pursuant to the provisions of NMSA 1978, § 66-3-1004; and
- (F) The operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

§ 72.03. SPEED LIMIT.

- A. The speed limit for all-terrain vehicles operated within the city shall be 35 miles per hour or the posted speed limit, whichever is less. If the posted speed limit is higher than 35 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 all other off-highway motor vehicles operated within the city shall be 45 miles per hour or the posted speed limit, whichever is less.

§ 72.04. PASSENGERS.

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, in which event a passenger may ride upon the permanent and regular seat. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation of the off-highway motor vehicle or the view of the operator.

§ 72.05. 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 Two. Severability. If any provision of this ordinance is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section Three. Effective Date. This ordinance shall be effective five (5) days following publication of notice of adoption.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Elephant Butte this 20th day of July, 2016.



Eunice Kent, Mayor

(SEAL)

ATTEST:



Karen Rieth, City Clerk