

**TOWN OF PECOS CITY
ORDINANCE NO. 23-06-01**

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF PECOS CITY, CHAPTER 58 "TRAFFIC AND VEHICLES" BY ADDING ARTICLE XI, "OFF-HIGHWAY VEHICLES, AND SECTION ADDRESSING THE USE OF RECREATIONAL OFF-HIGHWAY VEHICLES, AS DEFINED BY TEXAS TRANSPORTATION CODE SECTION 551A-001(1-D) AND REGULATING THE USE OF SUCH VEHICLES ON PUBLIC STREETS OR HIGHWAYS WITHIN THE CITY LIMITS; PROVIDING FOR A PENALTY IN AN AMOUNT OF NOT LESS THAN TWO HUNDRED AND FIFTY DOLLARS (\$250.00) AND NOT MORE THAN FIVE HUNDRED DOLLARS (\$500.00) FOR VIOLATION OF ANY PROVISIONS HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; EFFECTIVE DATE AND PROVIDING FOR NOTICE.

WHEREAS, the Texas Transportation Code, authorizes the governing body of a municipality to regulate and control the operation of off-highway type vehicles within the city's legal boundaries and on its public roadways to ensure the public safety of the community; and

WHEREAS, in the state law amendments, the term off-highway vehicle was amended to include All terrain vehicles (ATVs), Utility Vehicles (UTVs), Sand Rails, and Recreational off-highway vehicles (ROVs); and

WHEREAS, the City Council desires to expand certain recreational off-highway vehicles that can be driven on certain public roadways only with certain posted speed along with other restrictions; and

WHEREAS, the City Council's intent is to continue to **prohibit** the operation of UTVs, ATVs and Sand Rails, in the interest of public safety but allow the operation of ROVs on certain roadways; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF PECOS CITY, TEXAS, THAT:

SECTION 1. FINDINGS OF FACT

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

SECTION 2. AMENDMENT TO THE CODE

The Town of Pecos City Code, Chapter 58 "Traffic and Vehicles", is hereby amended to read as follows, with all new language:

Sec. 58-401. – Definitions.

The following words, terms, and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

“All Terrain Vehicle” (ATV) as referenced hereafter, shall mean a motor vehicle that is:

- (a) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger.
- (b) designed to propel itself with three or more tires in contact with the ground;
- (c) designed by the manufacturer for off-highway use;
- (d) not designed by the manufacturer primarily for farming or lawn care; and
- (e) not more than 50 inches wide.

“Highway” is defined in TRC 541.301(5) – the width between the boundary lines of a public maintained way any part of which is open to the public for vehicular travel. The term “highway” also includes all public roadways and the entire width of the right-of-way. Shoulders and the ditch are included in the “highway”.

“Operator” shall mean the person operating and having physical control over the off-highway vehicle. An operator must carry a valid drivers’ license and must be 21 years of age or over.

“Owner” shall have the meaning assigned by the Texas Transportation Code, § 502.001, and shall mean the person who has legal title to the UTV or ROV has the legal right of possession of the vehicle, or has the legal right of control of it.

“Public Roadway” shall have the meaning assigned by the Transportation Code § 251.002, as a public road or highway that has been laid out and established according to law and that has not been discontinued as a public road.

“Public Highway” shall have the meaning assigned by the Transportation Code § 502.001(35), as it exists or may be amended, and includes a road, street, way, thoroughfare, or bridge:

- (1) That is in the state;
- (2) That is for the use of vehicle;
- (3) That is not privately owned or controlled; and
- (4) Over which the state or city has legislative jurisdiction under its police power.

“Recreational off-highway vehicle” (ROV) as referenced hereafter, shall mean a motor vehicle that is:

- (a) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
- (b) designed to propel itself with four or more tires in contact with the ground;
- (c) designed by the manufacturer for off-highway use by the operator only; and

- (d) not designed by the manufacturer primarily for farming or lawn care.

“Sand Rail” as referenced hereafter, shall mean a vehicle that is:

- (a) is designed or built primarily for off-highway use in sandy terrains, including for use on sand dunes;
- (b) has a tubular frame, an integrated roll cage, and an engine that is rear-mounted or placed midway between the front and rear axles of the vehicle; and
- (c) has a gross vehicle weight, as defined by Section 541.401, of:
 - (i) not less than 700 pounds; and
 - (ii) not more than 2,000 pounds.

“Unique Vehicle” shall mean a category of vehicles that includes off-highway vehicles, golf carts, and neighborhood electric vehicles (NEVs).

“Utility vehicle” (UTV) as referenced hereafter, shall mean a motor vehicle that is not a golf cart, as defined by Section 551.401, or lawn mower and is:

- (a) equipped with side-by-side seating for the use of the operator and a passenger;
- (b) designed to propel itself with at least four tires in contact with the ground;
- (c) designed by the manufacturer for off-highway use only; and
- (d) designed by the manufacturer primarily for utility work and not for recreational purposes.

“ROV Registration Permit” shall mean a privilege granted upon compliance with terms of this article to legally operate an ROV upon a public highway roadway or parking or parking area within the corporate boundaries of the Town of Pecos City for the term that the permit was issued.

“ROV Registration Permit Decal” shall mean a certificate for attachment to an ROV identifying the off-highway vehicle as permitted by the city and giving an expiration date.

Secs. 58-402—58-409. - Reserved

Sec. 58-410. – Required and Prohibited Equipment Regulations

Every ROV operated within the Town to the Pecos City shall be equipped with all the following equipment which shall be operational at all times:

- (1) a brake system maintained in good operating condition;
- (2) an adequate muffler system in good working condition and shall comply with all state, federal and city regulations, specifically Chapter 22, Article II (“Noise”) of the City Code; and
- (3) a United States Forest Service qualified spark arrester.
- (4) lighted headlamps and taillamps:
 - i. during the period from one-half hour before sunset to one-half hour after sunrise; and
 - ii. at any time when visibility is reduced because of insufficient light

or atmospheric conditions.

- (5) a slow-moving vehicle emblem if operated at 25 MPH or less
- (6) a windshield, rearview mirrors, turn signals, and an operational horn.
- (7) an off-highway vehicle license plate that is required to be displayed on the vehicle anytime the vehicle is on a public highway
- (8) a current city issued registration permit decal
- (9) an orange triangle flag must be affixed on the rear of the ROV

Every ROV powered by gasoline, shall at all times be equipped with an exhaust system in good working order and shall comply with all state, federal and city regulations, specifically Chapter 22, Article II et. seq. ("Noise") of the City Code.

An operator may not operate a ROV at any time when:

- (1) the vehicle has an exhaust system that has been modified with a cutout, bypass, or similar device; or
- (2) the spark arrester has been removed or modified, unless the vehicle is being operated in a closed-course competition event.
- (3) the vehicle has any type of flashing lights being utilized
- (4) is utilizing a stereo, radio, or boombox that does not comply with the city regulations, specifically, Chapter 22, Article II et. Seq. ("Noise") of the City Code.

Secs. 58-411—58-414. - Reserved

Sec. 58-415. Operation Regulations

- (a) All operators of ROVs shall be 21 years or older and be licensed to operate a motor vehicle as provided by the Texas Transportation Code and shall carry a valid drivers' license while operating ROV.
- (b) All operators of ROVs shall abide by all traffic regulations applicable to vehicular traffic when using any public roadway/highway in the City.
- (c) No person shall at any time operate ROV on any alleyway or sidewalk. ROVs are only allowed on public roadways and prohibited from any alleys, sidewalks and/or any trails being utilized by pedestrians.
- (d) ROVs may only be operated on a public street/highway with a posted speed limit of not more than 35 mph, unless otherwise restricted. No person shall operate a ROV at a speed greater than 30 mph at any time in the city (unless operating at 35 mph on the designated street/highways with the 35 mph posted speed limit).
- (e) ROVs are prohibited on any public highway, regardless of the speed limit, on that portion of the public highway while under construction or repair.

- (f) The operator of a ROV shall not overtake and pass in the same lane occupied by the vehicle being overtaken. (do not pass another vehicle in the same lane)
- (g) No operator shall operate a ROV between lanes of traffic, medians, or between adjacent lines of rows of vehicles.
 - (i) ROVs shall move to the right and yield the right-of-way to faster moving vehicles.
 - (j) The operator and every occupant of a ROV or off-highway vehicle shall be limited to the seating capacity as designed by the manufacturer and all occupants shall remain seated in a seat designed to hold passengers while the off-highway vehicle is in motion. The operator shall not transport a person on a part of the off-highway vehicle not designed or intended to transport a passenger.
- (k) No operator shall allow a person to ride in the lap of the operator or any other person being transported.
- (l) No operator of ROV shall transport or carry a child under the age of 5 years of age as a passenger.
- (m) No operator shall use a wireless communication device in a school zone during restricted school hours.
- (n) A person may not operate, ride, or be carried on a ROV vehicle unless the person wears:
 - (1) a safety helmet that complies with United States Department of Transportation standards;
 - (2) eye protection; and
 - (3) seat belts or safety harness, the vehicle must be equipped with seat belts in order to operate in city limits.
 - (i) Subsections (n)(1) and (2) do not apply to a motor vehicle that has four (4) wheels, is equipped with bench or bucket seats and seat belts/harness, and includes a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of vehicle rollover.
 - (ii) This section does not apply to a motor vehicle that is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the vehicle.
- (o) A person may not operate a ROV vehicle on a highway in a careless or reckless manner that endangers, injures, or damages any person or property.

- (p) A person may not carry a passenger on a ROV operated on a highway unless the vehicle is designed by the manufacturer to transport a passenger.
- (q) It shall be unlawful for a person to operate an UTV, ATV, or Sand Rail on any public roadway.

Secs. 58-416—58-419. – Reserved

Sec. 58-420. Exceptions and Affirmative Defenses

- (a) Golf carts, UTVs or ROVs or off-highway vehicles owned and/or operated for official government purposes by the Town of Pecos City or any other governmental entity are exempt from regulation by this Code.
- (b) It shall be an affirmative defense to prosecution that the operator was operating the golf cart, UTV or ROV to evacuate persons during a declared emergency and for 72 hours after the emergency unless otherwise ordered by the City.
- (c) Parades. It shall be an affirmative defense to prosecution that the golf cart, UTV or ROV was operated in a city approved parade route for the purpose of participating in a parade pursuant to a valid permit issued by the city for such purpose.

Secs. 58-421—58-424. – Reserved

Sec. 58-425. Registration Permit

No person shall operate a ROV on a highway/street of the city, prior to city registration and display of a current registration permit decal affixed to the off-road vehicle. The permit shall be available through the Town of Pecos City Pecos Permit Department.

The first-time registration fee is \$150.00 no proration and is set to expire at the end of the calendar year of which year the registration permit is given. The subsequent registration fee will be \$75.00 thereafter. The city registration permit process includes [the following] (1) through (5) below:

- (1) The applicant shall complete the city -supplied registration permit application which shall contain the following:
 - a. Name and physical and mailing address of the applicant owner.
 - b. Location where the vehicle is regularly stored overnight.
 - c. Model, make and ROV vehicle ID number.
 - d. Current Driver's License information of owner.
 - e. A statement that the applicant has been furnished a copy of this ordinance

and that s/he agrees to comply with all conditions contained in this ordinance and to any local, state or federal laws governing the use ROVs.

- f. A statement that the registration permit holder and any operator shall indemnify and hold harmless the Town of Pecos City, Texas for any and all civil liability associated with said registration and that the permit holder, operator, and user waive any and all rights to sue or allow subrogation by insurance company. Owners and operators of ROVs shall be fully liable, responsible and accountable for the action of any individual that they provide permission to operate, drive and use an off-road vehicle on all city public highways/streets, public pedestrian trails/path, and public parking areas. This personal liability shall extend, but not be limited to all personal injuries (including death), property damage, or related damage claims resulting from the operation of a ROV on the streets/highways in the Town of Pecos City. Nothing herein shall limit liability for a person's operation or use of a ROV as provided by law.
- g. Any other information that the city may reasonably require.

(2) Accompanied by the permit fee of \$150.00 for first time applicants and \$75.00, thereafter.

(3) Accompanied by proof of financial responsibility consistent with the minimum requirements of the Texas Transportation Code for the operation of motor vehicles. A copy of the certificate of insurance shall be attached to the application.

(4) Accompanied by a current copy of the applicant's driver's license.

(5) Signed by the applicant/owner.

Upon receipt of the completed application and permit fee, a member of the police department shall make arrangements to inspect the ROV for adherence to this ordinance.

When the designated inspector has approved the recreational off-highway vehicle, the annual permit decal shall be issued to the owner. The decal shall be immediately affixed to the front panel of the driver's side of the ROV and/or off-highway vehicle so as to be clearly visible.

The registration permit shall be effective for one calendar year or until such time as revoked for non-compliance or when the ROV and/or off-highway vehicle is transferred to a new owner.

Secs. 58-426—58-429. — Reserved

Sec. 58-430. Revocation of the Registration Permit

The registration permit may be revoked and the ROV registration permit decal ordered surrendered or removed if:

- (1) The owner or operator of the ROV and/or off-highway vehicle fails to abide by the rules and regulations of this ordinance, including failure to maintain liability insurance.
- (2) The owner operator of the ROV and/or off-highway vehicle fails to abide by the traffic laws and/or operates the off-highway vehicle in an unauthorized area. Including city property and/or sidewalks.
- (3) The city reserves the right to permanently restrict future permitting after two documented violations of this chapter.

Secs. 58-431—58-434. – Reserved

Sec. 58-435. Registration Permit is Non-Transferable

The city ROV registration permit is not transferable. Upon transfer of ownership of a ROV to another person who intends to operate the ROV in the city limits, the new owner/transferee must register the ROV in his/her name and pay the required permit fee as provided herein for operation of the ROV on city highways and streets.

Secs. 58-436—58-449. – Reserved

SECTION 3. PENALTY CLAUSE; INCLUSION INTO THE CODE

This Ordinance is hereby incorporated into and made a part of the Town of Pecos City Code. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than Two Hundred and fifty Dollars (\$250.00) and no more than Five Hundred Dollars (\$500.00) per offense. Each day of violation shall constitute a separate offense.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 5. SEVERABILITY

In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the Town of Pecos City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

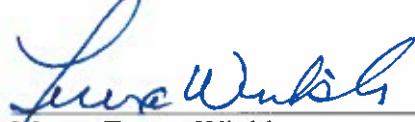
SECTION 6. NOTICE BY PUBLICATION

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty twice within ten (10) days after final passage of said Ordinance in the official newspaper of the Town of Pecos City; the ordinance will then take effect ten days upon final publication.

PASSED, APPROVED, AND ADOPTED on first reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with the Town of Pecos City Code of Ordinances on this 8th day of June, 2023.

PASSED, APPROVED, AND ADOPTED, as revised on final reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with the Town of Pecos City Code of Ordinances on this 10th day of August, 2023.

TOWN OF PECOS CITY



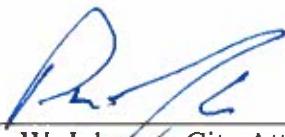
Mayor Teresa Winkles

ATTEST:



Syra Nichols, City Secretary

APPROVED TO FORM:



Parker W. Johnson, City Attorney

