Council Action and Executive Summary

Type of Action: ☒ Ordinance
☐ Resolution
☐ TIDD Resolution

District: ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading: June 1, 2020
Adopted: July 6, 2020
Drafter: David Dollahon
City Manager's Office
Program: COUNCIL & COMMUNITY SUPPORT
Line of Business: COUNCIL & COMMUNITY SUPPORT

Title: AN ORDINANCE REPEALING AND REPLACING SECTIONS 27-12-7-9, 27-12-7-9.2 AND ADDING A NEW SECTION 27-12-7-9.11 OF CHAPTER 27, TRAFFIC OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED (LCMC) RELATED TO UTILITY TERRAIN VEHICLES (UTVS) AND THEIR REGISTRATION.

TYPE OF ACTION: ☒ Legislative
☐ Administrative
☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To amended existing and add new sections to the Municipal Code related to UTVs.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Las Cruces City Council approved Ordinance No. 2915 on March 20, 2020, related to allowing Utility Terrain or Utility Task Vehicles (UTVs) on City streets, in accordance with New Mexico Statutes Annotated, NMSA, 1978, as amended.

The Ordinance, as proposed, would repeal and replace two sections within the Traffic Chapter of the Las Cruces Municipal Code, 1997, as amended (LCMC), related to definitions and prohibited area specific to adding language for Utility Terrain or Utility Task Vehicles (UTVs). Further, the proposed Ordinance also adds a new section to the Traffic Chapter related to requiring and implementing the registration of UTVs.

Chapter 27, Traffic, of the LCMC, Section 12-7-9 et. seq. is related to Off-Highway Motor Vehicles. Specific changes proposed within the Ordinance are as follows:
1. Section 27-12-7-9 (Definitions) - repealed and replaced: Adds the maximum speed for UTVs to be no greater than 45 miles per hour; includes "Utility Task Vehicle" in the definition; and adds more specifics to the definition.
2. Section 27-12-7-9.2 (Prohibited areas) - repealed and replaced: Adds prohibition of UTVs for areas posted where they are not allowed; prohibition of being on city sidewalks, bike and pedestrian trails, city parks, and non-designated city rights-of-way.
3. Section 27-12-7-9.11 (UTV permit required) - new language: Adds requirements to require permitting of UTVs inside the city limits; permit application and affixing requirements; required information for the permit; fee establishment; placement of the approved permits; maximum time period for the approved permit; and revocation provisions.

SUPPORT INFORMATION:
Exhibit A - UTV amendments -registration - 2020
ANNUAL BUDGET APPROVAL:
☐ Yes
☐ No
☒ N/A

BUDGET / FISCAL IMPACT:
BUDGETED AMOUNT: AVAILABLE AMOUNT: EXPENDITURE AMOUNT:

Additional Budgetary Information: Funding Source(s):
Any established registration fee for UTVs would be established by the City Council through separate Resolution, at a later date, and would result in a budget adjustment at a later date.

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No
☐ N/A

OPTIONS / ALTERNATIVES:
1. Vote "Yes", this will approve the Ordinance and repeal and replace two sections and add a new section to Chapter 27, Traffic, of the Las Cruces Municipal Code, 1997 as amended, related to UTVs and their registration.
2. Vote "No", this will not approve the Ordinance nor repeal and replace two sections and add a new section to Chapter 27, Traffic, of the Las Cruces Municipal Code, 1997 as amended, related to UTVs and their registration.
3. Vote to "Amend", this will amend the Ordinance, as proposed, and would be based on direction provided by the City Council.
4. Vote to "Table", this will delay the approval of the Ordinance and would require direction from the City Council to City staff as to how to proceed.

REFERENCE INFORMATION:
N/A
ORDINANCE 2930; COUNCIL BILL 20-038

AN ORDINANCE REPEALING AND REPLACING SECTIONS 27-12-7-9, 27-12-7-9.2 AND ADDING A NEW SECTION 27-12-7-9.11 OF CHAPTER 27, TRAFFIC OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED (LCMC) RELATED TO UTILITY TERRAIN VEHICLES (UTVS) AND THEIR REGISTRATION.

The City Council is informed that:

WHEREAS, the City Council approved Ordinance No. 2915 on March 20, 2020 authorizing Utility Terrain Vehicles (UTVs) to drive on City streets in accordance with New Mexico state laws; and

WHEREAS, additional requirements are now necessary to help better control and enforce the requirements of allowing the UTVs on City streets; and

WHEREAS, Section 27-12-7-9 (Definitions) of the Las Cruces Municipal Code, 1997, as amended (LCMC) is proposed to be repealed and replaced in its entirety to allow for the addition of the maximum speed for UTVs to be no greater than 45 miles per hour; includes "Utility Task Vehicle" in the definition; and adds more specifics to the definition; and

WHEREAS, Section 27-12-7-9.2 (Prohibited areas) of the LCMC is proposed to be repealed and replaced in its entirety to add prohibitions of UTVs for areas posted where they are not allowed and prohibition of being on city sidewalks, bike trails, pedestrian trails, city parks, and non-designated city rights-of-way; and

WHEREAS, Section 27-12-7-9.11 (UTV permit required) of the LCMC is proposed to be added to include requirements to require permitting of UTVs inside the city limits; permit application and affixing requirements; required information for the permit; fee establishment; placement of the approved permits; maximum time period for the approved permit; and revocation provisions.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Las Cruces:

(I)

THAT the Sections 27-12-7-9 and 27-12-7-9.2 are hereby repealed and replaced in their entirety and Section 27-12-7-9.11 is hereby added to the Las Cruces Municipal Code, 1997, as amended, as shown in Exhibit "A", attached hereto and made part of this Ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this 06 day of July 2020
APPROVED

___________________________
Mayor

ATTEST:

___________________________
City Clerk

Moved by: Tessa Abeyta-Stuve

Seconded by: Johana Bencomo

AYES  Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa Abeyta-Stuve, Johana Bencomo

NAYS
ARTICLE VII. - SPECIAL RULES FOR MOTORCYCLES AND OFF-HIGHWAY VEHICLES

Sec. 27-12-7-9. - Off-highway motor vehicles - Definitions.

As used in this section:
A. “Department” means the department of game and fish;
B. “Division” means the motor vehicle division of the taxation and revenue department;
C. “Fund” means the trail safety fund; and
D. “Off-highway motor vehicle” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road includes:
   (1) “All-terrain vehicle,” which means a motor vehicle 50 inches or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on three of more low pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
   (2) “Off-highway motorcycle,” which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control; or
   (3) “Snowmobile,” which means a motor vehicle designed to travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;
   (4) “Recreational off-highway vehicle,” which means a motor vehicle designed for travel on four or more nonhighway tires, for recreational use by one or more persons and having:
      (a) A steering wheel for steering control;
      (b) Nonstraddle seating;
      (c) Maximum speed capability not greater than 45 miles per hour;
      (d) Gross vehicle weight rating no greater than 1,750 pounds;
      (e) Less than 80 inches in overall width, exclusive of accessories;
      (f) Engine displacement of less than 1,000 cubic centimeters; and
      (g) Identification by means of a 17-character vehicle identification number; or
   (5) By rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off-highway for recreational purposes.
   (6) “Utility Terrain Vehicle or Utility Task Vehicle, (UTV)” which means a recreational off-highway vehicle as defined by this section and is a side-by-side, four wheel drive that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,000 cubic centimeters or less, and has total weight no greater than 1,750 pounds.
E. “Staging area” means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and
F. “Unpaved public roadway” means a dirt-graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.
Sec. 27-12-7-9.2. - Operation of off-highway motor vehicles on streets or highways - Prohibited areas.

A. No person shall operate an off-highway motor vehicle on any limited access street at any time or any paved street or highway except as provided in subsections B and F of this section.

B. 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 street. 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 crossing in the most direct manner, as close to a perpendicular angle as possible.

C. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered land except as specifically allowed pursuant to NMSA 1978, ch. 17, art. 6.

D. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to NMSA 1978, ch. 16, art. 2, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

E. A Recreational Vehicle MAY NOT be operated in the following areas of the City:
   (1) Any area posted that ATV's, UTV's or Recreational off-highway vehicles are not allowed;
   (2) On city sidewalks, bike trails, pedestrian trails, city parks, or non-designated city rights of way.

F. Unless authorized, a person shall not:
   (1) Remove, deface or destroy any official sign installed by state, federal, local or private land management agency; or
   (2) Install any off-highway motor vehicle-related sign.

G. A recreational off-highway vehicle or UTV may be operated on a paved street or highway owned and controlled by the City of Las Cruces 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 et seq.;
   (2) The vehicle has brakes, mirrors and mufflers;
   (3) The operator has 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 provisions of the Mandatory Financial Responsibility Act, NMSA 1978, § 66-5-201 et seq.;
   (5) The operator of the vehicle is using eye protection that complies with Off-Highway Motor Vehicle Act;
   (6) If the operator is under 18 years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act; and
   (7) The vehicle must have Department of Transportation approved tires, a safety glass windshield, and a muffler;
   (8) The UTV displays an approved City of Las Cruces permit in accordance with the provisions listed herein.

G. Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator
using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving and parked vehicles under the Motor Vehicle Code or City traffic or parking ordinances.

H. The speed limit for recreational off-highway vehicles or UTVs operated within the City shall be 45 miles per hour or the posted speed limit, whichever is less.

Sec. 27-12-7-9.11 UTV Permit Required.
A. A permit application must be approved and a permit must be properly affixed to the UTV in accordance with this section when the UTV is operated in accordance with Sec. 27-12-7-9.2 above.
B. A permit application containing the following information must be completed and approved by the Las Cruces Police Department, prior to and as a condition of receiving a permit:
   (1) Registered owner’s name, address, and telephone number; and
   (2) Make, model, vehicle identification number and New Mexico registration number of the UTV; and
   (3) Proof of insurance and City of Las Cruces Insurance Verification Form; and
   (4) Weight and class description of the vehicle; and
   (5) Proof of valid driver’s license.
   (6) Proof of payment of permit fee. UTV Permit fees shall be adopted by Resolution of the City Council and shall be made available to the public.
C. Permits must be affixed to the front lower center windshield area, or other location visible from the front center of the recreational vehicle’s left front quarter panel.
D. A granted permit will be valid for a maximum of three (3) years.
E. A permit may be revoked for a violation of any provision of this article, after due investigation by the City of Las Cruces Police Department and final determination by the Chief of Police. Any revocation may be appealed to the City Manager by providing a request for appeal in writing within 14 days of the final revocation. Documented violation of law or ordinance may be the basis for the revocation of a permit.