

ORDINANCE NO. 2016 - 03

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE AMENDING THE MODEL TRAFFIC CODE TO REGULATE THE USE OF UTVs, OHVs, SMMs AND GOLF CARTS WITHIN THE TOWN OF MOUNTAIN VILLAGE BY THE ADDITION OF SECTION 10.12 TO THE TOWN OF MOUNTAIN VILLAGE MUNICIPAL CODE

RECITALS:

- A.** The Town of Mountain Village (the "Town"), in the County of San Miguel and State of Colorado, is a home rule municipality duly organized and existing under the laws of the State of Colorado and the Town Charter.
- B.** The Town Council of the Town has determined that it desires to permit the use of utility-type vehicles, ("UTVs"), off highway vehicles ("OHVs"), special mobile machinery ("SMMs") and golf carts within the Town, subject to certain rules and regulations with respect to public health and safety.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Section 10.12 of the Town Municipal Code is hereby adopted and shall read as set forth on Exhibit A attached hereto.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5. Safety Clause.

The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare of the citizens of the Town.

Section 6. Effective Date.

This Ordinance shall become effective on May 11, 2016.

Section 7. PUBLIC HEARING.

A public hearing of this Ordinance shall be held on the 11th day of February, 2016, in the Town Council Chambers, 455 Mountain Village Boulevard, Mountain Village, Colorado.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 21st day of January, 2016.

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: _____

Dan Jansen, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado, this 11th day of February, 2016.

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: _____

Dan Jansen, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

Approved As To Form:


James Mahoney, Assistant Town Attorney

I, Jackie Kennefick, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town"), do hereby certify that:

1. The attached copy of Ordinance No.2016-03 ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council of the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on January 21, 2016 by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor	X			
Martin McKinley	X			
Bruce McIntire	X			
Dan Caton			X	
Laila Benitez	X			
Cath Jett	X			
Michelle Sherry			X	

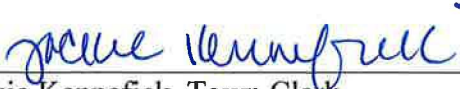
3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance, was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on January 27, 2016, in accordance with Section 5.2b of the Town of Mountain Village Home Rule.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on February 11, 2016. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor	X			
Martin McKinley, Mayor Pro-Tem	X			
Bruce McIntire	X			
Dan Caton	X			
Laila Benitez	X			
Cath Jett	X			
Michelle Sherry	X			

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me, as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 11th day of February, 2016.



Jackie Kennefick, Town Clerk

(SEAL)



EXHIBIT A

CHAPTER 10.12

**UTILITY TYPE VEHICLES, OFF HIGHWAY VEHICLES, SPECIAL MOBILE
MACHINERY AND GOLF CARTS**

Sections:

10.12 Utility Type Vehicles, Off Highway Vehicles, Special Mobile Machinery and Golf Carts

10.12 Utility Type Vehicles, Off Highway Vehicles, Special Mobile Machinery and Golf Carts

A. Definitions: As used in this Ordinance:

1. **"Utility Type Vehicle"** or **"UTV"** means any recreational vehicle designed for and capable of traveling over unimproved terrain: traveling on four or more low pressure tires, having a width of 30 to 70 inches, having an unladen dry weight of 2,200 pounds or less, having a seat height of 25 to 40 inches when measured at the forward edge of the seat bottom, and having side by side seating with a steering wheel for control.
2. **"Off-highway vehicle"** or **"OHV"** means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:
 - i. Vehicles designed and used primarily for travel on, over, or in the water;
 - ii. Snowmobiles;
 - iii. Military vehicles;
 - iv. Golf carts;
 - v. Vehicles designed and used to carry individuals with disabilities;
 - vi. Vehicles designed and used specifically for agricultural, logging, or mining purposes; or
 - vii. Vehicles registered pursuant to article 3 of title 42, C.R.S.
3. **"Special mobile machinery"** or **"SMM"** means machinery that is pulled, hauled, or driven over a highway and is either: (i) A vehicle or equipment that is not designed primarily for the transportation of persons or cargo over the public highways; or (ii) A motor vehicle that may have been originally designed for the transportation of persons or cargo over the public highways, and has been redesigned or modified by the addition of mounted equipment or machinery, and is only incidentally operated or moved over the public highways. "Special mobile machinery" includes vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches, and riding lawnmowers.
4. **"Golf cart"** means a self-propelled vehicle not designed primarily for operation on roadways and that has:
 - i. A design speed of less than twenty miles per hour;
 - ii. At least four wheels in contact with the ground;

- iii. An empty weight of not more than one thousand three hundred pounds; and
 - iv. A carrying capacity of not more than four persons.
5. "**Toy vehicle**" means any vehicle that has wheels and is not designed for use on public highways or for off-road use. "Toy vehicle" includes, but is not limited to, gas-powered or electric-powered vehicles commonly known as mini bikes, "pocket" bikes, kamikaze boards, go-peds, and stand-up scooters. "Toy vehicle" does not include off-highway vehicles or snowmobiles.
6. "**Operator**" means the person who is in actual physical control of a vehicle.
7. "**Insured**" means the same insurance requirements needed to operate a street legal motorcycle in the State of Colorado.
8. "**State and city traffic laws**" means any traffic codes adopted by the Town.
9. "**Valid driver's license**" means any current, legal license not subject to revocation or suspension.

B. Terms and Conditions.

1. Operation of UTVs, OHVs, SMMs, and Golf cars on public Town streets shall be subject to the terms of this Ordinance.
2. **Certain Vehicles Not Permitted.**
- i. Operation of toy vehicles on public Town streets shall be prohibited.
 - ii. No three wheel vehicles are allowed on any Town streets.
 - iii. Vehicles that have been modified to be used as an UTV, OHV, or SMM shall not be permitted.
3. **Permitted Operators.** It shall be legal for Operators with a valid driver's license at least eighteen (18) years of age to operate UTVs and SMMs on public Town streets. Only Town-owned or commercially-owned OHVs are permitted on public Town streets and may only be operated by Operators with a valid driver's license at least eighteen (18) years of age and in the course of their employment.
4. **Golf carts.** Golf carts shall be permitted on designated golf cart paths only. Golf carts shall be permitted to cross public streets at designated intersections in order to stay on a golf cart path.
5. UTV, OHV, and SMM use shall be subject to the following conditions and restrictions:

- i. Proof of insurance is required to be with the UTV, OHV, or SMM at all times.
- ii. An Operator of a UTV, OHV, or SMM must maintain liability insurance coverage in the minimum required by State law.
- iii. All Town-owned or commercial UTVs, OHVs, or SMMs must be clearly labeled on the exterior of the vehicle with identification stating the business name of the business owner, a contact phone number, and a clearly visible and legible vehicle identification number.
- iv. Operators must obey all State and Town traffic laws, including posted speed limits, and except as otherwise specifically provide for in Colorado statutes.
- v. If Operators operate UTVs, OHVs or SMMs on public Town streets at a speed more than five (5) miles under the posted speed limit, the UTV, OHV or SMM must use a flashing amber light as described in Section B(5)(vi)(1) below.
- vi. UTVs, OHVs, or SMMs must have the following safety equipment, which must be operational and in good working order:
 1. Flashing amber light mounted in the highest point of the vehicle capable of being seen from three hundred sixty (360) degrees
 2. Reflective triangle evidencing a slow moving vehicle
 3. Horn or other audible warning device

C. Trail System. No unauthorized motor vehicles shall be permitted on any Town trail system.

D. Limitation of Liability

1. Nothing in this ordinance shall be construed as an assumption of any duty of care by the Town with respect to, or the assumption of any liability by the Town for any injuries to persons or property which may result from the operation of an UTV, OHV, SMM and golf carts on the streets within the Town limits.

E. Violations, Fines and Fees.

1. Any persons in violation of any Town or State of Colorado traffic laws will be ticketed and assessed fines that are applicable to said violations. The Town

Police Department or any other legal policing authority is given all rights to write citations to those individuals violating laws as outlined in this Ordinance.

2. With respect to any violation of traffic laws contained in the Town Municipal Code, the minimum fine per violation shall be One Hundred Dollars (\$100.00).