

**BEFORE THE COUNTY COMMISSION OF MORGAN COUNTY, WEST VIRGINIA**

**ORDINANCE RELATING TO THE REGULATION OF  
ALL-TERRAIN VEHICLES IN MORGAN COUNTY, WEST VIRGINIA**

WHEREAS the West Virginia Legislature, by an act designated as W.Va. Code §17F-1, et. sec has adopted an amendment to the Code of West Virginia 1931 relating to the regulation of all-terrain vehicles, generally prohibiting the operation of all-terrain vehicles on interstate highways and on center lined roads or roads with more than two lanes containing certain exceptions and other prohibitions; and

WHEREAS the West Virginia Legislature has specifically authorized the political subdivisions of the state of West Virginia, including the County Commission of any County within this State with authority to regulate the operation of all-terrain vehicles on public roads within the County; and

WHEREAS the Legislature specifically authorized the County Commission of Morgan County pursuant to W.Va. Cod §17F-1-3(3) to lawfully enact an ordinance regulating or prohibiting to operation of all-terrain vehicles on any road in this County except on interstate highways; and

WHEREAS W.Va. Code §17f-1-3(3) authorizes only a county who has adopted a countywide comprehensive plan pursuant to W.Va. Cod §17F-1-3(3); and

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<sup>1</sup> All-terrain vehicle, or ATV, shall mean any motor vehicle, fifty-two inches or less in width, having an unladen weight of eight hundred pounds or less, traveling on three or more low pressure tires with a seat designed to be straddled by the rider, designed for or capable of traveling over unimproved terrain.

WHEREAS the Morgan County Commission has adopted a comprehensive plan on the 21<sup>st</sup> day of December, 1978 and meets the conditions for a local government to regulate the operation of all-terrain vehicles.

It is hereby enacted as an Ordinance of Morgan County, West Virginia upon the duly authorized motion, duly seconded and approved by the Morgan County Commission on this \_\_\_\_\_ day of June, 2004 as follows:

I. (a) It shall be unlawful for any person to operate an all-terrain vehicle, as defined in W.Va. Code §17F-1-9 on any public road or highway within Morgan County, West Virginia, whether or not the same shall contain a center line.

(b) Said public road or highway is designated to mean all those certain roads or highways designated as being public roads of highways by the West Virginia Division of Highways over which the West Virginia Division of Highways has supervisory control or management for the maintenance and care of the public road or highway as may be from to time listed and compiled by the West Virginia Division of Highways, which list is attached and incorporated herein and made a part of this Ordinance.

(c) All-terrain vehicles, as defined in W.Va. Code §17F-1-9, shall be permitted to cross a public road or highway at an angle of approximately ninety degrees to the direction of the public road where there is no obstruction preventing a quick and safe crossing providing that the operator has a valid driver's license.

II. It is further ordered that the said list shall be provided, together with a copy of this Ordinance, to all law enforcement officers in Morgan County, including the West Virginia State Police, the Sheriff of Morgan County, the West Virginia Department of Natural Resources, and any other law enforcement official.

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III. In addition to any other legal remedy for violation of civil or criminal provisions of this Ordinance or W. Va. Code §17F-1 et. Seq.:

(a) Any person who violates the provision of this Ordinance or who owns or has control over an all-terrain vehicle and knowingly permits it to be used in violation of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars per violation.

(b) Any parent, legal guardian or person who has actual responsibility for a child under eighteen years of age who knows or should have known the child is operating or is a passenger on an all-terrain vehicle without a helmet as required by the provisions of section one of this Ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to the following penalties:

1. For a first offense, a fine of one hundred dollars;
2. For a second offense, a fine of two hundred dollars;
3. For a third offense or subsequent offense, a fine of five hundred dollars.

IV. There is exempt from the operation of this Ordinance, the operation of all-terrain vehicles for lawful, non-recreational commercial purposes including but not limited to farm use, oil and gas operations, timbering, surveying, and public utilities access as provided pursuant to W. Va. Code §17F-1-6.

(a) The County Commission further requires those persons claiming an exemption for lawful, non-recreational commercial purposes as defined in W.Va. Code §17F-1-6 to provide evidence that the all-terrain vehicle is being used for lawful, non-recreational commercial purposes including but not limited to farm use, oil and gas operations, timbering, surveying, and public utilities access.

(b) The County Commission will promulgate rules and procedures to obtain a verification that the all-terrain vehicles are to be used for lawful, non-recreational

Commercial purposes as defined in W.Va. Code §17F-1-6 and therefore are exempt from this Ordinance.

V. It is further enacted by the County Commission that any homeowner association as provided in W. Va. Code §17-1-3-(2), may petition the County Commission for the enactment of an ordinance regulation or prohibiting the operation of all-terrain vehicles in the location and area regulated by the homeowner association; provided a petition in the form authorized by the County Commission, setting forth and verifying (1) that the petitioner is a verified homeowner association as defined under West Virginia Law, (2) that the homeowner association has, through an appropriate vote of the majority of its members upon proper notice as provided by the homeowner association by-laws or rules, authorized and duly appointed representative or representatives of the homeowner association, through its officers and/or directors, (3) to file a petition with the County Commission verifying that it is a duly authorized homeowner association under West Virginia Law, specifying the geographical area to be regulated by the Ordinance and (4) providing verification that a majority of the property owner, who are legitimate voters in the homeowner association, have voted at a duly noticed, properly held meeting to petition the County Commission to enact an Ordinance regulating or prohibiting the operation of all-terrain vehicles, (5) specifically requesting the County Commission to enact such an Ordinance regulating or prohibiting the operation of all-terrain vehicles, and (6) specifically designating the roads or geographical area to be regulated by the homeowner association with reasonable certainty.

This Ordinance shall be effective the 3<sup>rd</sup> day of August, 2004.