

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

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

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

WHEREAS the West Virginia Legislature 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 of public roads within the County; and

WHEREAS the Legislature specifically authorized the County Commission of Jefferson County pursuant to W. Va. Code § 17F-1-3(3) to lawfully enact an ordinance regulating or prohibiting the 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. Code § 17F-1-3(3); and

WHEREAS the Jefferson County Commission has adopted a Comprehensive Plan on the

18th day of March, 2004, and meets the conditions for a local government to regulate the operation of all-terrain vehicles.

It is hereby enacted as an Ordinance of Jefferson County, West Virginia upon the duly authorized Motion, second and approval by the Jefferson County Commission on this 17th 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 road or highway within Jefferson County, West Virginia, whether or not the road or highway has a center line.

(b) 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 ride, designed for or capable of travel over unimproved terrain.

(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 this is not obstruction preventing a quick and safe crossing providing that the operator has a valid driver's license.

(d) Roads – a way made for traveling; a way; a course; a highway. This definition shall include public or private roads to which the public has access.

Highway – a public road; a main road; a thoroughfare.

II. In addition to any other legal remedy for violation of civil or criminal provisions

of this Ordinance of 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 subject to the penalties set forth in § 17F-1-8, W. Va. Code.

III. There is exempt from this Ordinance, the operation of all-terrain vehicle for lawful farm use, pursuant to W.Va. Code § 17F-1-6.

IV. 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 vehicle in all areas regulated by the homeowners' association; provided a petition in the form authorized by the County Commission, setting forth and verifying (1) that the petitioner is a duly constituted homeowners association as defined under West Virginia Law, (2) that the homeowner association has, through an appropriate vote of the majority of its participating members upon proper notice as provided by the homeowners association by-laws or rules, authorized and duly appointed representative or representative of the homeowners association, through its officers and/or directors, (3) to file a petition with the County Commission certifying that it is a duly authorized homeowners association under West Virginia Law, specifying the area to be regulated by the Ordinance, (4) providing verification that a majority of the participating property owners, who are legitimate voters in the homeowners association, have voted at a duly noticed, properly held meeting to petition the County Commission to enact an Ordinance regulation or prohibiting the operation of

all-terrain vehicles, (5) specifically requesting the County Commission to enact such Ordinance regulating or prohibiting the operation of all-terrain vehicles and (6) specifically designating the roads or area to be regulated by the homeowners association with reasonable certainty.

This Ordinance shall be effective the 1st day of July, 2004

Adopted this 17th day of June , 2004.

/s/
A. G. Hooper, President
Jefferson County Commission