

ORDINANCE #38: PROHIBITING OPERATION AND USE OF ATV AND UNLICENSED MOTOR VEHICLES

38.1 Scope

Be it ordained by the Common Council of the Village of Beech Bottom, that the riding, operation, or other use of all-terrain vehicles for transportation or recreational purposes or motor vehicles which have not been licensed for street use by the West Virginia Department of Motor Vehicles, within or upon the streets, alleys, sidewalks, parking lots, and any realty owned, leased, or controlled by the Village of Beech Bottom. Additionally, this shall include any parks, playgrounds, linear parks, walking trails, and other public use property designated to exist by the Village of Beech Bottom, Brooke County Commission, State of West Virginia, or United States Government that exists within the corporate limits of the Village of Beech Bottom.

38.2 Definition of ATV (All Terrain Vehicle) and Motor Vehicle

For the purpose of this ordinance, the term "all-terrain vehicle" or "ATV" shall be defined in Section 17A-1-1 (ii) of the West Virginia Code and the term "motor vehicle" shall be as defined in Section 17A-1-1 (b) of the West Virginia Code.

38.3 Exceptions

38.3.1 It shall not be an offense for any person to lawfully ride or operate any such all-terrain vehicle or unlicensed motor vehicle upon a designated parade route, when such person is a duly registered and recognized participant in any such properly designated parade, provided that such ATV or unlicensed motor vehicle riding or operation occurs in conjunction with said parade.

38.3.2 The Federal Government, the State of West Virginia, and its political subdivisions are exempt from the operation of ATV and/or unlicensed motor vehicles when any such ATV or unlicensed motor vehicle is used for government purposes.

38.3.3 It shall be an absolute defense to alleged violation of this ordinance that the operator at time of arrest, the attachment to the vehicle of a snow plow, plow, or trailer, or other non-portable device designed to perform work by moving snow, earth, or for hauling materials, shall be prima facie evidence that this vehicle is performing work or is being transported to or from a place of work.

38.4 Parents or Guardians of Minors Riding ATV and/or Unlicensed Vehicles

The parent or guardian of any person not having attained the age of eighteen (18) years shall not authorize or knowingly permit any such minor to violate any provision within this ordinance. Any such authorization or knowingly permitting any such minor to violate provisions of this ordinance shall constitute a separate criminal violation hereof and shall subject such parent or guardian to the criminal penalties set forth in this ordinance. The citing of any parent or guardian pursuant to this section shall not be reason to prohibit the police officer from also citing the driver of said ATV or unlicensed motor vehicle.

38.5 Penalty

Any violation of the provisions of this ordinance shall constitute the commission of a misdemeanor criminal offense. The fines upon conviction shall be levied as follows:

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| 1 st offense: | Not less than seventy five dollars (\$75.00) nor more than one hundred dollars (\$100.00) |
| 2 nd offense: | Not less than one hundred dollars (\$100.00) nor more than one hundred fifty dollars (\$150.00) |
| 3 rd and subsequent offense: | Not less than one hundred fifty dollars (\$150.00) nor more than three hundred dollars (\$300.00) |

38.6 Non Acceptance of Liability

Nothing contained within this ordinance is intended or shall be construed so as to create or form the basis of civil or administrative liability whatsoever on the part of the Village of Beech Bottom or any of its officers, officials, employees, or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the Village of Beech Bottom related to any manner to the enforcement or non-enforcement of this ordinance by the Village's officers, officials, employees, or agents.

38.7 Severability

The provisions of this ordinance are severable with the exception of 38.6, and in the event that any provision or part hereof shall be held invalid for any reason by any Court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any other provisions of this ordinance not specifically held to be invalid. It is hereby declared to be the intent of the Village of Beech Bottom that this ordinance would have been adopted if any such invalid provision or part hereof had not been included herein.

1st Reading: ~~October 4, 2016~~ June 1, 2021

2nd Reading: ~~October 18, 2016~~

3rd Reading: ~~November 15, 2016~~