

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

**RE: Putnam County ATV Ordinance for Subdivisions**

WHEREAS, Section 11, Article IX of the Constitution of West Virginia and West Virginia Code §7-1-3 provide that county commissions have the superintendence and administration of the internal police affairs of their counties, including the regulation of roads and ways;

WHEREAS, West Virginia Code §7-1-3kk authorizes a county commission to enact ordinances, issue orders and take other appropriate and necessary action for the elimination of hazards to public health and safety and to abate anything which the commission deems to be a public nuisance within a county;

WHEREAS, the County Commission of Putnam County, West Virginia, hereby finds that operation of ATVs on the roads, streets and avenues within a subdivision situated in Putnam County is a safety hazard;

WHEREAS, the County Commission of Putnam County, West Virginia, hereby finds that operation of ATVs on the roads, streets and avenues within a subdivision situated in Putnam County constitutes a public nuisance;

Now, THEREFORE, the County Commission of Putnam County, West Virginia, sitting in regular session this 27<sup>th</sup> day of July, 2017 hereby approves and adopts the following "Putnam County ATV Ordinance for Subdivision"; **PROVIDED**, that the individual subdivision(s) petition the County Commission to be included under the Ordinance;

The adoption having been moved by Commissioner R. Andrew Skidmore, and duly seconded by Commissioner Ronald R. Foster, the vote on passage of the motion was as follows:

Stephen A. Andes	Nay
Ronald R. Foster	Aye
R. Andrew Skidmore	Aye

President Andes declared the Ordinance approved and passed.

WHEREFORE, it is therefore ADJUDGED and ORDERED that the attached Putnam County ATV Ordinance for Subdivisions be adopted.

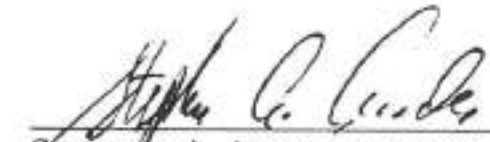
ENTERED this 27<sup>th</sup> day of July, 2017.




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Fee Amt: Page 1 of 5  
Putnam County Clerk  
Brian Wood County Clerk

BK **105** PG **843-847**

PUTNAM COUNTY COMMISSION

  
\_\_\_\_\_  
STEPHEN A. ANDES, PRESIDENT

  
\_\_\_\_\_  
RONALD R. FOSTER, COMMISSIONER

  
\_\_\_\_\_  
R. ANDREW SKIDMORE, COMMISSIONER

## **PUTNAM COUNTY ATV ORDINANCE FOR SUBDIVISIONS**

### **I. JURISDICTION.**

(a) That any Putnam County homeowners association as provided in W.Va. Code §17F-1-3(2), may petition the Putnam County Commission for the enactment of an ordinance regulating or prohibiting the operation of all-terrain vehicles (ATVs) upon any street, road or avenue within the area 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 verified homeowners association as defined under West Virginia law; (2) that the homeowners association has, through an appropriate vote of the majority of its 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 verifying that it is a duly authorized homeowners association under West Virginia law, specifying the geographical area to be regulated by the Ordinance; (4) providing verification that a majority of the 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 regulating or prohibiting the operation of all-terrain vehicles; (5) specifically requesting the Putnam County Commission to enact such an Ordinance regulating or prohibiting the operation of all-terrain vehicles; and (6) specifically designating the road(s) to be regulated by the Ordinance with reasonable certainty; and

(b) That upon receipt of the petition of the Putnam County Homeowner's Association that the Putnam County Commission approves the petition and orders that the Putnam County ATV Ordinance for Subdivisions shall be applicable upon any street, road or avenue of that particular subdivision (a list of subdivisions subject to the Ordinance shall be maintained and provided to law enforcement); and

(c) The Magistrate Court of Putnam County and the Circuit Court of Putnam County shall have concurrent jurisdiction with respect to misdemeanors under this Ordinance.

### **(a) DEFINITIONS.**

- (1) "*All-terrain vehicle*" or "*ATV*" means any motor vehicle, designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be

used by a single operator or by an operator and no more than one passenger as defined in W.V. Code § 17F-1-9(a);

- (2) "*Utility terrain vehicle*" shall mean any motor vehicle with four or more low-pressure tires designed for off-highway use having a bench or bucket seating or each occupant and a steering wheel for control as defined in W.Va. Code §17F-1-9(b);
- (3) "*Motor bike*" shall include two wheeled motor cross bikes, cross country bikes, dirt bikes, or other similar motorized units.
- (4) As used in this Ordinance, all-terrain vehicles or ATVs shall mean all-terrain vehicles, utility terrain vehicles, and motor bikes. This term does not include motorized wheelchairs or mobility scooters used by individuals with disabilities; nor does the term include mopeds.
- (5) "*Area regulated by the homeowner's association*" means any roads, streets, and avenues encompassed by the boundaries of the subdivision as approved by the Putnam County Commission upon the filing of a petition requesting that the subdivision be included under the provisions of this Ordinance.

**(b) PROHIBITIONS.**

(1) It is unlawful for any person to use or operate any all-terrain vehicle (ATV) upon any street, road or avenue, whether or not the same shall contain a center line, within the boundaries of the subdivision specifically designated in the petition filed on behalf of the homeowners association and approved by the Putnam County Commission.

**(c) PENALTIES.**

It is a misdemeanor for any person to violate any provision of Section (b) of this Ordinance.

- i. For a first offense, the penalty shall be a fine of One Hundred Dollars, plus any applicable court cost(s).
- ii. For a second offense, the penalty shall be a fine of Three Hundred Dollars, plus any applicable court cost(s).
- iii. For a third or subsequent offense, the penalty shall be a fine of One Thousand Dollars, plus any applicable court cost(s).

Any violation of this Ordinance also constitutes a public nuisance.

**(d) ENFORCEMENT.**

This Ordinance may be enforced by any law enforcement agency, including but not limited to, the Sheriff, State Police, State Department of Natural Resources and any municipal police officer.

**(e) EXEMPTIONS.**

There is exempt from the operation of this Ordinance, the operation of all-terrain vehicles (ATVs) for lawful, non-recreational commercial purposes including, but not limited to: farm use, oil and gas operations, timbering, surveying, and public utility access; PROVIDED, the County Commission requires those persons claiming an exemption for lawful, non-recreational commercial purposes 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 utility access.

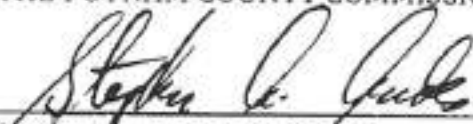
**(f) SEVERABILITY.**

If any clause, paragraph, subparagraph, section or subsection of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby, but shall remain in full force and effect.

**(g) EFFECTIVE DATE.**

This Ordinance is effective upon passage.

THE PUTNAM COUNTY COMMISSION

  
Stephen A. Andeš, President

  
Ronald R. Foster, Commissioner

  
R. Andrew Skidmore, Commissioner

STATE OF WEST VIRGINIA, Putnam  
County Commission Clerk's Office  
08/08/2017. The foregoing Court Order  
together with the certificate of its  
acknowledgment, was this day presented  
in said office and admitted to record

Teste:  Clerk

Adopted July 27, 2017.