CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA ● JANUARY 18, 2024

Committee Meeting **COUNCIL CHAMBERS** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. UNFINISHED BUSINESS

3. NEW BUSINESS

: **2024-36:** Article 355 All-Terrain Vehicles - update to reflect State Code
Article 355 - All Terrain Vehicles .docx

4. ADJOURNMENT

5. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas-and-minutes/

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 01/18/24
Department: Ordinance Committee
Category: Ordinance
Initiator:

2024-36: Article 355 All-Terrain Vehicles - update to reflect State Code

ATTACHMENTS:

- Article 355 - All Terrain Vehicles .docx

ARTICLE 355
All-Terrain Vehicles

355.01 Definition of all-terrain vehicle.

355.02 Acts prohibited by operator.

355.03 Safety awareness courses.

355.04 Rental dealers required to provide safety equipment.

355.05 Private property exemption.

355.06 Exemption for farm, commercial use; current regulations.

355.07 Applicability of rules of operation.

355.99 Penalty.

CROSS REFERENCES

State law provisions - see W. Va. Code Art. 17F-1

355.01 DEFINITION OF ALL-TERRAIN VEHICLE.

(a) As used in this article:

(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.

(2) "Utility terrain vehicle" means any motor vehicle with four or more low- pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

(3) "Motorcycle" means any motor vehicle manufactured with no more than two wheels and having a seat or a saddle for the use of the operator.

(b) As used in this article, "all-terrain vehicles" and "vehicle", or the plural, mean all-terrain vehicles, utility-terrain vehicles and motorcycles.

(WVaC 17F-1-9)

355.02 ACTS PROHIBITED BY OPERATOR.

(a) No all-terrain vehicle may be operated in this Municipality:

(1) On any interstate highway except by public safety personnel responding to emergencies;

(2) On any road or highway with a center line or more than two lanes except for the purpose of crossing the road, street or highway, if:

A. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

B. The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

C. The operator yields his or her right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

D. Both the headlight and taillight are illuminated when the crossing is made if the vehicle is so equipped;

(3) With more than one passenger unless more passengers are allowed under manufacturers' recommendations;

(4) With a passenger under the age of eighteen, unless the operator has at a minimum a level of two intermediate driver's license or its equivalent or is eighteen years of age or older;

(5) Unless riders under the age of eighteen are wearing size appropriate protective helmets that meet the current performance specifications established by the American National Standards Institute Standard z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell safety standards for protective headgear for vehicle users;

(6) Anytime from sunset to sunrise without an illuminated headlight or lights and taillights;

(7) Without a manufacturer-installed or equivalent spark arrester and a manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; or

(8) Unless operating in compliance with the provisions of Section 355.03 .

(b) An all-terrain vehicle may be operated upon the shoulder, or as far to the right on the pavement as possible when there is not enough shoulder to safely operate, on any road, street or highway referred to in subsection (a)(2) of this section other than an interstate highway for a distance not to exceed ten miles to travel between a residence or lodging and off-road trails, fields and areas of operation, including stops for food, fuel, supplies and restrooms, if:

(1) The vehicle is operated at speeds of twenty-five miles per hour or less; and

(2) The vehicle is operated at any time from sunset to sunrise the all-terrain vehicle must be equipped with headlights and taillights which must be illuminated.

(c) Operation of an all-terrain vehicle in accordance with subsection (b) shall not constitute operation of a motor vehicle on a road or highway of this Municipality as contemplated by the provisions of Section 355.07 .

(d) Notwithstanding any provision of this article to the contrary, the Municipality may authorize the operation of all-terrain vehicles on certain specified roads, streets or highways which are marked with centerline pavement markings, other than interstate highways, to allow participation in parades, exhibitions and other special events, in emergencies or for specified purposes.

(WVaC 17F-1-1)

355.03 SAFETY AWARENESS COURSES.

(a) On and after January 1, 2005, no person under the age of eighteen may operate an all-terrain vehicle without a certificate of completion of a vehicle rider awareness course as offered or approved by the Commissioner of Motor Vehicles.

(b) The provisions of subsection (a) of this section do not apply to the operation of an all-terrain vehicle on any private or public recreational trail or area or affiliated trail or area operated by any person or entity which has in place a safety program.

(WVaC 17F-1-2)

355.04 RENTAL DEALERS REQUIRED TO PROVIDE SAFETY EQUIPMENT.

Any person or entity renting or leasing all-terrain vehicles for recreational purposes must provide protective helmets as defined by the provisions of Section 355.02(a)(5), to all persons using such vehicles who are under the age of eighteen and offer protective helmets to all persons eighteen and older using the rented or leased vehicles: Provided, that for the provisions of this section to be applicable, the age and identity of the users of the all-terrain vehicle must be disclosed to the person or entity providing the rented or leased vehicle.

(WVaC 17F-1-4)

355.05 PRIVATE PROPERTY EXEMPTION.

Except as provided by the provisions of Section 355.02(a)(3) to (5), and except as provided by the provisions of Section 355.03, the provisions of this article do not apply if

the all-terrain vehicle is operated exclusively on lands owned or leased by the vehicle owner or on private lands of others with the owner's permission.

(WVaC 17F-1-5)

355.06 EXEMPTION FOR FARM, COMMERCIAL USE; CURRENT REGULATIONS.

(a) Except as provided by the provisions of Section 355.02(a)(4) and (5), nothing in this article may be construed to preclude or limit the use or operation of all-terrain vehicles for lawful nonrecreational commercial purposes, including, but not limited to, farm use, oil and gas operations, timbering, surveying and public utilities access.

(b) Nothing in this article may be construed to supersede or contravene the provisions of any agreement between the State of West Virginia and any private or governmental entity entered into prior to the effective date of this article, or any lawfully promulgated legislative rule, including any emergency legislative rule, regulating the operation of all-terrain vehicles.

(WVaC 17F-1-6)

355.07 APPLICABILITY OF RULES OF OPERATION.

(a) Every person operating an all-terrain vehicle upon a public road or highway of this Municipality shall be subject to all of the duties applicable to the driver of a vehicle by the provisions of West Virginia Code Chapter 17C and this Traffic Code except where inconsistent with the provisions of this article and except as to those provisions of West Virginia Code Chapter17C and this Traffic Code which by their nature can have no application.

(b) Notwithstanding the provisions of subsection (a) of this section, a motor vehicle operator's license is not required of an operator of an all-terrain vehicle when he or she is operating said vehicle in conformity with the provisions of Section 355.02(a)(2) or (b) except when the operator is under the age of eighteen and is transporting a passenger under the age of eighteen.

(WVaC 17F-1-7)

355.99 PENALTY.

(a) Except as provided in the provisions of subsection (b) of this section and in addition to any other legal remedy for violation of civil or criminal provisions of this Code, any person who violates the provisions of this article 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 article shall be fined not more than one hundred dollars ($100.00).

(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 355.02 shall be subject to the following penalties:

(1) For a first offense, a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) or not more than ten hours of community service, or both;

(2) For a second offense, a fine of not less than one hundred dollars ($100.00) nor more than two hundred dollars ($200.00) or not more than twenty hours of community service, or both;

(3) For a third or subsequent offense, a fine of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00) or not more than one hundred hours of community service, or both.

(WVaC 17F-1-8)