

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 10th day of September, 2020, the following Order was made and entered:

**SUBJECT:** Order clarifying that Kanawha County's Safe Roads Ordinance B (2004) does not, as a matter of law, prohibit Street Legal Special Purpose Vehicles as authorized by SB 690 (2020) and W.Va. Code §17A-13-1.

The following Motion was offered by W. Kent Carper, Commissioner:

The County Commission of Kanawha County, West Virginia, hereby states the following:

**WHEREAS**, in 2004, the West Virginia Legislature passed HB 4022, which added a new chapter to the West Virginia Code designated Chapter 17F "All-Terrain Vehicles, and further, that HB4022 allowed for local governments, including County Commissions, to adopt ordinances regulating the operation of All-Terrain Vehicles (ATVs); and,

**WHEREAS**, in 2004, Kanawha County, after ten public hearings held throughout the County, adopted a Safe Roads Ordinance, which prohibited ATVs from operating on paved roads in the unincorporated areas of Kanawha County; and

**WHEREAS**, Kanawha County's Safe Roads Ordinance finds that many residents requested that the Kanawha County Commission prohibit ATVs from operating on paved public roads due to narrow road conditions as well as due to concerns for the safety of the operators of licensed motor vehicles as well as the operators of ATVs; and

**WHEREAS**, in 2020, the Legislature passed SB690, which created a new code section, §17A-13-1, relating to the operation of street-legal special purpose vehicles, which allows certain ATVs and UTVs, if licensed, registered, insured, and outfitted with specific equipment and safety features, to be declared "street legal" and to operate on certain paved roads throughout the State of the West Virginia; and

**WHEREAS**, SB690 was introduced in the Senate on April 4<sup>th</sup>, 2020, and following unanimous approval in the Senate moved through the legislative process without a public hearing, and following approval in the House and concurrence by the Senate, became completed legislative action on March 7<sup>th</sup>, 2020; and,

**WHEREAS**, through the passage of SB690, the West Virginia Legislature has authorized a new class of street-legal vehicles and created a licensing and registration system for the same, and Kanawha County recognizes and acknowledges to State's authority to take said action; and,

**WHEREAS**, owners of street-legal special purpose vehicles must obtain and display a motorcycle trailer inspection sticker from the Division of Motor Vehicles if the owner wishes to drive such vehicle as provided in W.Va. Code §17A-13-1; and,

**WHEREAS**, the intent of Kanawha County's 2004 Safer Roads Ordinance was to prohibit ATVs, including ATVs operated by unlicensed and uninsured operators, from traveling on paved roads, and further, the Safe Road Ordinance did not contemplate and does not explicitly reference street-legal special purpose vehicles, as such designation did not exist in 2004; and

**WHEREAS**, the Kanawha County Commission finds as a matter of law that the Kanawha County Safe Roads Ordinance (2004) is not applicable to and does not prohibit Street Legal Special Purpose Vehicles as authorized by SB 690 and W.Va. Code §17A-13-1 (2020); and

**WHEREAS**, the Kanawha County Commission finds that in all other respects the Safe Road Ordinance (2004) remains in full force and effect, and;

**WHEREAS**, under no circumstances does this Order relieve the operator of a Special Purpose Vehicle from operating such vehicle in a safe manner in accordance with the requirements of Chapter 17 of the state code and other applicable regulations, including but not limited to driving under the influence, reckless driving, speeding, unsafe or improper ingress and egress onto paved roads, and other acts of negligence; and,

**WHEREAS**, this Order and the Safe Roads Ordinance do not apply to the incorporated municipalities of Kanawha County, and further this Order does not affect the independent authority of a municipality to adopt its own regulations; and further does not impair a Homeowners Association's authority to enforce its own rules and regulations; and

**THEREFORE**, the Kanawha County Commission makes the following Motion:

**Order declaring that Kanawha County's Safe Roads Ordinance B (2004) does not, as a matter of law, prohibit Street Legal Special Purpose Vehicles as authorized by SB 690 (2020) and W.Va. Code §17A-13-1.**

The adoption of the foregoing Motion having been moved by

**W. Kent Carper**

\_\_\_\_\_, Commissioner, and duly seconded by

**Ben Salango**

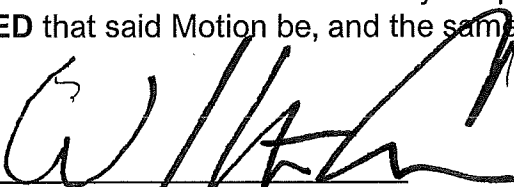
\_\_\_\_\_, Commissioner, the vote thereon was as follows:

W. Kent Carper, President              **AYE**  

Henry C. Shores, Commissioner      **AYE**  

Ben Salango, Commissioner          **AYE**  

**WHEREUPON**, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said Motion be, and the same is hereby adopted.



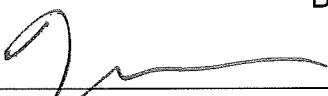
W. Kent Carper, President



Henry C. Shores, Commissioner



Ben Salango, Commissioner

Approved by:   
Marc J. Slotnick, County Attorney

**Further, the Clerk of the County Commission is directed to send a certified copy of this order to the Commissioner of the Division of Motor Vehicles, the Superintendent of the WV State Police, the Sheriff of Kanawha County, and to each municipal police agency in Kanawha County.**

Attachment: Kanawha County Safe Roads Ordinance B (2004)