

VIRGINIA: AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF TAZEVELL COUNTY, VIRGINIA HELD AT THE COUNTY ADMINISTRATION BUILDING, LOCATED AT 197 MAIN STREET, IN THE TOWN OF TAZEVELL, VIRGINIA, AFTER A PUBLIC HEARING WAS HELD, ON THE 4TH DAY OF AUGUST, 2026, THE FOLLOWING ORDINANCE WAS ADOPTED, UPON A MOTION AND SECOND:

Ordinance No.: 26-08-05

Date: AUGUST 4, 2026

AN ORDINANCE TO AMEND AND RELOCATE SEC. 12-3 OF THE CODE OF ORDINANCES OF TAZEVELL COUNTY, VIRGINIA INTO A NEW SECTION

AND

AN ORDINANCE TO AMEND THE ORDINANCE TO PROHIBIT RECREATIONAL USE OF ALL TERRAIN VEHICLES ON PUBLIC RIGHTS OF WAY IN BURKES GARDEN

WHEREAS, the Tazewell County Board of Supervisors (“the Board”) desires to reconfigure and reorganize the current Code of Ordinances of Tazewell County, Virginia as it relates to roads, traffic, and the use and operation of all-terrain vehicles and utility vehicles;

WHEREAS, the Board finds that the most efficient way to resolve differences in areas of the Code of Ordinances is to hold a public hearing for the purposes of amending different sections within the Code of Ordinances;

WHEREAS, the Board desires to merge Sec. 12-3 of the Code of Ordinances with the Ordinance entitled “*Ordinance to Prohibit Recreational Use of All Terrain Vehicles on Public Rights of Way in Burkes Garden*” into a single, unified section within a new Article under Chapter 12 of the Code of Ordinances;

WHEREAS, the Board adopts, resolves, finds, ordains and otherwise confirms the following:

I. Ordinance to Amend and Relocate Sec. 12-3 of the Code of Ordinances of Tazewell County, Virginia into a new section.

WHEREAS, the Tazewell County Board of Supervisors (“the Board”) held a hearing on February 20, 2013 and then subsequently enacted an Ordinance, Sec. 12-3, entitled [*Travel by all-terrain vehicles on certain state routes.*]. A copy of said Ordinance is attached hereto as Exhibit 1 and incorporated herein by reference;

WHEREAS, the Board has determined that it is more appropriate to reorganize the Code of Ordinances of Tazewell County, Virginia by removing Sec. 12-3 and relocating such section, with amendments, to a separate location within the Code of Ordinances;

WHEREAS, the relocation of this material will enhance the organization and accessibility of the Code of Ordinances;

WHEREAS, pursuant to Virginia Code § 15.2-1433, renumbering or rearranging sections, articles, or other divisions of any ordinance, the Board considered these changes along with substantive changes after a public hearing;

WHEREAS, the Board has the authority to regulate the operation of vehicles on public highways within the County pursuant to Virginia Code § 46.2-1313 and other applicable provisions of the Code of Virginia;

WHEREAS, Virginia Code § 46.2-915.1 currently authorizes the operation of all-terrain vehicles on certain designated highways in Tazewell County subject to approval by the Board of Supervisors and compliance with specified conditions;

WHEREAS, the Board acknowledges that its authority to regulate State routes and rights of way is limited; except that Virginia Code § 46.2-800.2 does permit the Board to allow ATV or UTV traffic on certain State Routes by resolution;

WHEREAS, the Tazewell County Code of Ordinances, Chapter 12, Articles I through VII, regulates motor vehicles and traffic;

WHEREAS, this Ordinance to amend and relocate is enacted pursuant to the authority granted to the Board under Virginia Code §§ 46.2-800.2, 15.2-1427, 46.2-1313, 46.2-915.1 and other applicable provisions of the Code of Virginia;

WHEREAS, notice of intention to consider this Ordinance has been advertised in accordance with Virginia Code § 15.2-1427(F), and a public hearing has been held as required by law;

WHEREAS, the Board, in consideration thereof, desires to amend Sec. 12-3 of the Code of Ordinances in its entirety and replace the same in a different section of the Code of Ordinances of Tazewell County and specifically to include it within Chapter 12 of the Tazewell County Code of Ordinances as set forth in the provisions below; and,

II. Ordinance to Amend Ordinance to Prohibit Recreational Use of All Terrain Vehicles on Public Rights of Way in Burkes Garden.

WHEREAS, the Tazewell County Board of Supervisors (“the Board”) held a public hearing and then subsequently enacted an Ordinance on November 6, 2025 entitled “*An Ordinance to Prohibit Recreational Use of All Terrain Vehicles on Public Rights of Way in Burkes Garden*” (a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference);

WHEREAS, the Board has the authority to regulate the operation of vehicles on public highways within the County pursuant to Virginia Code § 46.2-1313 and other applicable provisions of the Code of Virginia;

WHEREAS, Virginia Code § 46.2-915.1(B) currently authorizes the operation of all-terrain vehicles on certain designated highways in Tazewell County subject to approval by the Board of Supervisors and compliance with specified conditions;

WHEREAS, the Board acknowledges that its authority to regulate State routes and rights of way is limited; except that Virginia Code § 46.2-800.2 does permit the Board to allow ATV or UTV traffic on certain State Routes by resolution;

WHEREAS, The Tazewell County Code of Ordinances, Chapter 12, Articles I through VII, regulates motor vehicles and traffic;

WHEREAS, the Board has determined that the operation of all-terrain vehicles and utility vehicles on public roadways within Tazewell County poses safety risks to operators, passengers, and other motorists due to the speed, volume, and character of motor vehicle traffic on such roadways;

WHEREAS, the Board has reviewed the compatibility of all-terrain vehicle and utility vehicle operations with state and local transportation plans and has determined that such operations are not consistent with the safe and efficient use of certain public roadways in Tazewell County;

WHEREAS, the Board finds there is a substantial impact on health, safety and general welfare of the public as it relates to the use and operation of ATVs and UTVs on certain roadways in Tazewell County, Virginia and that prohibiting the

operation of all-terrain vehicles and utility vehicles on certain public roadways within Tazewell County, except as specifically authorized by state law or this Ordinance, will promote public safety and welfare of the residents and visitors therein;

WHEREAS, this Ordinance is enacted pursuant to the authority granted to the Board under Virginia Code §§ 46.2-800.2, 15.2-1427, 46.2-1313, 46.2-915.1(B) and other applicable provisions of the Code of Virginia;

WHEREAS, notice of intention to consider this Ordinance has been advertised in accordance with Virginia Code § 15.2-1427(F), and a public hearing has been held as required by law; and,

WHEREAS, the Board, in consideration thereof, desires to more fully develop and further amend the previously described ordinance based upon the recitals herein and as set forth in the November 6, 2025 Ordinance (with the same incorporated herein by reference as if set forth verbatim), and to amend Chapter 12 of the Tazewell County Code of Ordinances to include the provisions as set forth below.

NOW THEREFORE, BE IT RESOLVED AND ORDAINED, pursuant to Virginia Code §§ 15.2-2028 and 15.2-1433, in addition to the other Code Sections referenced above, the Board hereby amends the February 20, 2013 Ordinance, Sec. 12-3, and merges the same into a new section within the Code of Ordinances of Tazewell County, Virginia as set forth below;

BE IT FURTHER RESOLVED AND ORDAINED pursuant to Virginia Code § 15.2-2028, in addition to the other Code Sections referenced above, the Board hereby amends the November 6, 2025 Ordinance, “*Ordinance to Prohibit Recreational*

Use of All Terrain Vehicles on Public Rights of Way in Burkes Garden,” and further prohibits operation of ATVs and UTVs on any public right of way, including but not limited to improved streets and roads belonging to the Commonwealth of Virginia or the County, located in boundary of the Burkes Garden Fire District, the Clear Fork Fire District, the Tazewell County Fire District, the Thompson Valley Fire District, the Tannersville Fire District, and the Cove Fire District or the respective “Fire Response Areas” as currently defined (The Boundary of said Districts at the time of enactment of this ordinance being as shown on the attached map, marked Exhibit 3), by persons who are not the owners of property which is subject to the public right of way or their employees, agents, immediate family, guests, or invitees; and,

BE IT FURTHER RESOLVED AND ORDAINED, that amendments of the two above-described Ordinances are hereby and shall be MERGED, and that Chapter 12 of the Tazewell County Code of Ordinances the Tazewell County Code of Ordinances shall now include the following:

[NEW ORDINANCE BELOW]

Tazewell County Code of Ordinances

Chapter 12 – Motor Vehicles and Traffic

Article VIII. – Use of All Terrain Vehicles and Utility Vehicles on Routes within Tazewell County, Virginia.

Sec. 12-325. Title. – Travel by all-terrain vehicles or utility vehicles on certain routes Ordinance.

Sec. 12-326. Definitions. – As used in this Ordinance, the following terms shall have the meanings as set forth below:

- A. “All-terrain vehicle” or “ATV” means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use, as defined in Virginia Code § 46.2-100. “All-terrain vehicle” does not include four-wheeled vehicles commonly known as “go-carts” that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.
- B. “Highway” or “public highway” or “public roadway” means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including streets and alleys, as defined in Virginia Code § 46.2-100.
- C. “Operator” means any person who operates, drives, or is in actual physical control of an all-terrain vehicle or utility vehicle.
- D. “Utility vehicle” or “UTV” means a motor vehicle that is designed for off-road use, is powered by a motor, and is used primarily for utility purposes, including but not limited to vehicles commonly known as side-by-sides, UTVs, or multi-purpose off-highway vehicles.
- E. “Agriculture activity,” “agriculture activities,” “farm,” and “farming” mean any operation devoted to the production of crops, animals, or fowl, including the production of fruits and vegetables of all kinds, meat, dairy, and poultry

products, the housing of livestock nuts, tobacco, nursery, and floral products as defined and described in Virginia Code § 3.2-300.

Sec. 12-327. Prohibition on Operation.

A. **General Prohibition.** No all-terrain vehicle or utility vehicle shall be operated on any state route in the County of Tazewell except in compliance with the Code of Virginia and this section or any other applicable section within the Code of Ordinances.

B. **Specific Prohibitions.** No person shall operate any all-terrain vehicle or utility vehicle on any public highway or public roadway within the fire districts or fire response areas of Burkes Garden, Clear Fork, Thompson Valley, Tannersville, Tazewell County, and the Cove in Tazewell County, Virginia, except as specifically authorized by subsection C of this Section or other applicable provisions of state law.

C. **Exceptions.** The prohibition set forth in subsection A and B shall not apply to the following:

- i. **Authorized Crossings.** All-terrain vehicles and utility vehicles may cross a public highway by the most direct route where necessary to access off-road trails or private property, provided that:
 - a. The crossing is made at a right angle to the highway;
 - b. The operator yields the right-of-way to all oncoming traffic;
 - c. The crossing is made quickly and safely; and,

- d. The operator complies with all other applicable provisions of state law including, but not limited to, Virginia Code § 46.2-915.1(A)(2).
- ii. **Designated Routes.** The following routes are exempted from this ordinance as follows:
 - a. Pursuant to this section, persons may operate ATVs or UTVs upon the below indicated routes, only under the conditions herein set forth in this section:
 - 1. Along the Pocahontas Trail in and between the Town of Pocahontas and Boissevain; across Virginia Routes 644, 663, 659, 627, 734, and 747 or on such courses as approved by the Tazewell County Board of Supervisors by resolution after receiving public input during a public hearing;
 - 2. There shall be no issuance of any permit by the Recreational Development Authority or any agent thereto, as hereinafter described, until the County Administrator shall cause to be posted signs, whose design, number, and location are approved by the Virginia Department of Transportation, warning motorists that ATVs or UTVs may be operating on the highway;

3. ATVs or UTVs may only be operated on the routes herein set forth during daylight hours;
 4. ATVs or UTVs may only be operated on the routes indicated on the highway for at most one (1) mile between one (1) off-road trail and another;
 5. ATV or UTV operators shall, when operating on the highway, pursuant to this section, obey all rules of the road applicable to other motor vehicles; and,
 6. Such ATVs or UTVs shall operate at speeds of no more than twenty-five (25) miles per hour.
- b. No ATV or UTV may be operated on any state route pursuant to this section unless the operator thereof is permitted to do so by the Recreational Development Authority of Tazewell County in accordance with this section. The following conditions, in addition to any that may be present in the Code of Virginia, apply to this section:
1. The Recreational Development Authority may issue permits to persons for operation of their ATV or UTV on state routes as described in this section. Such permit shall be issued only upon (1) a written acknowledgement by the permittee that the permittee has read and understands the limitations and

conditions set forth in this section and (2) an executed release of liability by the permittee.

2. The Recreational Development Authority may develop a form permit which shall include a map showing which routes the authority has approved for travel. The Authority may charge a fee for the permit not to exceed fifty dollars (\$50.00) for county residents and one hundred dollars (\$100.00) for persons who are not county residents. Notwithstanding the provisions of this subsection, the authority may elect that any permit to operate an ATV or UTV upon a recreational trail developed by the Southwest Regional Recreational Authority (SRRA), or by another locality, or by a sister state, shall also serve as a permit to operate an ATV or UTV in accordance with this section.

- iii. **Law Enforcement, Fire, and Emergency Medical Services.** All-terrain vehicles and utility vehicles operated by law-enforcement officers, firefighters, or emergency medical services personnel responding to emergencies in the course of official training exercises or drills.
- iv. **Agriculture or Farming Activities.** All-terrain vehicles or utility vehicles used in conjunction with farming or agricultural activities

on or adjacent to the property where such farming or agricultural activities are conducted.

v. **Private Property Operations.** Members of the household or employees of the owner or lessee of private property operating all-terrain vehicles or utility vehicles on such private property.

vi. **Authorized Government Use.** All-terrain vehicles or utility vehicles operated by County, state, or federal government employees or agents in the performance of their official duties, where such operation is authorized by proper authorities.

D. Revocation of Prior Approvals. Any and all prior approvals granted by the Board of Supervisors of Tazewell County pursuant to Virginia Code § 46.2-915.1(B) for the operation of all-terrain vehicles or utility vehicles on designated highways in Tazewell County are hereby revoked and rescinded with the exception of the following: approvals for operation along the Pocahontas Trail in and between the Town of Pocahontas and Boissevain and across Virginia Routes 644, 663, 659, 627, 734, and 747.

E. Signs and Warnings. The County Administrator, or his designee, is authorized and directed to coordinate with the Virginia Department of Transportation to remove any signs previously posted pursuant to Virginia Code § 46.2-915.1(B) warning motorists that all-terrain vehicles may be operating on designated highways in Tazewell County.

Sec. 12-328. Prohibition on Operation.

Any person operating an all-terrain vehicle or utility vehicle pursuant to the exceptions set forth in Sec. 12-326(B) of this Ordinance shall comply with all applicable requirements of state law, including but not limited to:

A. Age Restrictions. No person under the age of 16 shall operate an all-terrain vehicle on any public highway, except that:

- i. Children between the ages of 12 and 16 may operate all-terrain vehicles powered by engines of no more than 90 cubic centimeters displacement; and,
- ii. Children less than 12 years old may operate all-terrain vehicles powered by engines of no more than 70 cubic centimeters displacement.

B. Protective Helmets. No person shall operate an all-terrain vehicle on any public highway unless the operator is wearing a protective helmet of a type approved by the Superintendent of State Police for use by motorcycle operators.

C. Passenger Restrictions. No person shall operate an all-terrain vehicle with a passenger at any time, unless such all-terrain vehicle is designed and equipped to be operated with more than one rider.

D. Property Owner Consent. No person shall operate an all-terrain vehicle or utility vehicle on another person's property without the written consent of the owner of the property or as explicitly authorized by law.

E. **Driver's License.** No person shall operate a utility vehicle on any public highway unless such person has in his or her possession a valid driver's license.

Sec. 12-329. Penalties.

A. **Civil Penalty.** Any person who violates any provision of this Ordinance shall be subject to a civil penalty of not more than five hundred dollars (\$500.00) for each violation pursuant to Virginia Code § 46.2-915.1.

B. **Separate Violations.** Each day or portion thereof during which a violation of this Ordinance occurs or continues shall constitute a separate offense.

C. **Additional Remedies.** The civil penalty prescribed in this Section shall be in addition to any other penalties, remedies, or enforcement actions available under state law or County ordinance. Further, in addition to or in lieu of any criminal proceedings or other civil remedies, the County Attorney is authorized, pursuant to Virginia Code § 15.2-1432, to seek a judicial injunction against any person or entity to enforce the prohibition herein set forth.

D. **Enforcement.** This Ordinance may be enforced by any law-enforcement officer having jurisdiction in Tazewell County, including but not limited to the Tazewell County Sheriff's Office, the Virginia State Police, and any Town police departments within the County.

Sec. 12-330. Notice to Law Enforcement.

Pursuant to Virginia Code § 46.2-800.2(B), the Clerk of the Board of Supervisors is hereby directed to notify in writing the Virginia State Police and all law-enforcement agencies within Tazewell County of the adoption of this Ordinance, together with a certified copy of the Ordinance.

Sec. 12-331. Miscellaneous Provisions.

- A. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.
- B. **Conflicting Ordinances Repealed.** The Tazewell County Code of Ordinances Section 12-3 is hereby reserved as of the Effective Date (now Chapter 12, Article VIII, Section 12-325, et seq., previously enacted on February 20, 2013 and amended as merged on August 4, 2026); and, any and all other ordinances within the Code of Ordinances of Tazewell County, Virginia in conflict with Chapter 12, Article VIII, Section 12-325, et seq. shall be repealed to the extent that the conflict relates to the authorization of operating all-terrain vehicles or utility vehicles on public roadways in Tazewell County.
- C. **Amendment Procedures.** This Ordinance may not be amended or repealed by any subsequent action of the Board to authorize use of ATVs on

any of the aforesaid rights of way, pursuant to Virginia Code § 46.2-800.2 or any other enabling statute, without at least one public hearing conducted at a regular meeting of the Board of Supervisors pursuant to Virginia Code § 15.2-1427 as required for the enactment, amendment, or repeal of any other ordinance.

D. **Effective Date.** This Ordinance shall be effective on September 1, 2026 in accordance with Virginia Code § 15.2-1427.

[END OF ORDINANCE]

BE IT FURTHER RESOLVED AND ORDAINED, that the former Sec. 12-3 of the Code of Ordinances is hereby RESERVED as of September 1, 2026; and,

BE IT FURTHER RESOLVED AND ORDAINED that the County Administrator is hereby authorized to execute any documents as may be necessary to confirm the prohibition described in this ordinance with the Virginia Department of Transportation, Virginia State Police or other State agency, or the Tazewell County Sheriff's Office;

It is so **ORDAINED AND RECORDED** this _____ day of August, 2026.

ATTEST:

Charles E. Presley, Jr.,
Chairman – Board of Supervisors

C. Eric Young
Tazewell County Administrator

RECORDED VOTE:

MEMBERS PRESENT:

MEMBERS ABSENT:

AYES:

NAYS:

ABSTENTIONS:
