



BY-LAW

NO. 2016 - 016

**BEING A BY-LAW TO PERMIT AND CONTROL THE OPERATION OF
"OFF-ROAD VEHICLES" ON HIGHWAYS UNDER THE JURISDICTION OF
THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE**

WHEREAS pursuant to the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, Section 8 (1) and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

WHEREAS Sections 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended gives broad authority to lower-tier municipalities to provide any service or thing that the municipality considers necessary or desirable for the public and respecting matters within the sphere of jurisdiction highways, including parking and traffic on highways;

AND WHEREAS Section 191.8 (3) of the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, authorizes the Council of a municipality to pass by-laws permitting the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway;

AND WHEREAS Ontario Regulation 316/03 "Operation of Off-road Vehicles on Highways" regulates the operation of off-road vehicles.

AND WHEREAS Council deems it advisable to regulate the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality;

NOW THEREFORE the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. DEFINTIONS

- 1.1 "Boulevard" – means that part of the highway situated between the curb line and the property line of the lot abutting the highway, but does not include a sidewalk or shoulder.
- 1.2 "By-law Enforcement Officer – means a commissionaire, assistant or and other officer or civilian person engaged by the South Bruce O.P.P and/or appointed by the Municipality of Kincardine to enforce or carry out the provisions of this by-law or any part or parts thereof.
- 1.3 "Core Services" – means accessing lodging, fuel or other retails services within the urban areas of the Municipality.

1.4 "Highway" – includes a common and public highway, street, avenue, parkway, driveway, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

1.5 "Municipality" – means The Corporation of the Municipality of Kincardine

1.6 "Off Road Vehicle" means:

"multi-purpose off-highway utility vehicle" means an off-road vehicle that,

- (a) has four or more wheels, the tires of which are all in contact with the ground,
- (b) has a steering wheel for steering control,
- (c) has seats that are not designed to be straddled, and
- (d) has a minimum cargo capacity of 159 kilograms.

"recreational off-highway vehicle" means an off-road vehicle that,

- (a) has four or more wheels, the tires of which are all in contact with the ground,
- (b) has a steering wheel for steering control,
- (c) has seats that are not designed to be straddled, and
- (d) has an engine displacement equal to or less than 1,000 cubic centimetres.

"all-terrain vehicle" means an off-road vehicle that,

- (a) has four wheels, the tires of which are all in contact with the ground,
- (b) has steering handlebars.
- (c) Has a seat that is designed to be straddled by the driver, and
- (d) Is designed to carry,
 - (i) a driver only and no passengers, or
 - (ii) a driver and only one passenger , if the vehicle,
 - (A) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
 - (B) is equipped with foot rests for the passenger that are separate from the foot rests for the driver.

1.7 "Recognized Agencies" – shall be the Ontario Federation of All-Terrain Vehicle Clubs, South Bruce Peninsula ATV Club and the Huron Shores ATV Club.

1.8 "Sidewalk" – means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians.

1.9 "Urban Area" - means an area that has more than 400 people per square kilometre and has more than 1,000 people. If two or more urban areas are within two kilometres of each other, they are merged into a single urban area. For the Municipality of Kincardine, the urban areas shall be defined as all of Ward 1, subdivisions in Wards 2 and 3 north of Ward 1 and west of County Road #23 and Highway #21, Underwood, Inverhuron, Tiverton, and Bervie.

2. REGULATIONS

2.1 Off Road Vehicles shall be permitted upon the highways under the jurisdiction of The Corporation of the Municipality of Kincardine and

Page 3
Off-Road Vehicles Use By-law
By-law No. 2016 - 016

in accordance with regulation 316/03 of the *Highway Traffic Act*, the *Off-Road Vehicle Act*, in accordance with the provisions of this by-law.

- 2.2 The exemptions as set out in sections 25 through 28 of Ontario Regulation 316/03, as amended from time to time, regarding the operation of Off-Road Vehicles on highways shall apply to this By-law and the permission granted hereunder.
- 2.3 Unless such lands form part of a trail route approved and maintained by a Recognized Agency, no person shall operate an off-road vehicle over or upon the following areas:
- a) Any Community Centre under the jurisdiction of the Municipality;
 - b) Any park, playground, trail, sand dune or beach area under the jurisdiction of the Municipality;
 - c) Any shoreline road allowance under the jurisdiction of the Municipality;
 - d) Any sports field under the jurisdiction of the Municipality; or
 - e) Any cemetery under the jurisdiction of the Municipality;
 - f) On any municipal public property in the Municipality without the consent of the Municipality;
 - g) Along any sidewalk or boulevard within the Municipality;
 - h) All ATV's shall travel on shoulder of road, but may operate on road if shoulder is not safe;
 - i) Schedule "A" list person(s) or companies exempt from this by-law.
- 2.4 No person shall operate an off-road vehicle:
- a) In such a way as to disturb or distort the natural environment including fish habitats, property, and any flora or fauna;
 - b) In any urban area including but not limited to Kincardine, Tiverton, Inverhuron except as a means of direct access for the purpose of entering or exiting the urban area or to obtain core services;
 - c) Without a valid off-road vehicle license plate and insurance.
- 2.5 If a court of competent jurisdiction should declare any section or part of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

3. PENALTIES/ENFORCEMENT

- 3.1 Every person(s) who violates a provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.
- 3.2 All provisions of this by-law may be enforced by a By-law Enforcement Officer of The Corporation of the Municipality of Kincardine.

4. GENERAL

- 4.1 That Schedule 'A' is attached hereto and forms part of this by-law.
- 4.2 That By-law No. 2008-142 be hereby repealed.


Page 4
Off-Road Vehicles Use By-law
By-law No. 2016 - 016

4.3 This by-law shall come into force and effect upon its final passage.

4.4 This by-law may be cited as the "Off-Road Vehicles Use By-law."

READ a FIRST and SECOND TIME this 1st day of February, 2016.

READ a THIRD TIME and FINALLY PASSED this 1st day of February, 2016.



Mayor



Clerk

Schedule 'A'

The following are exempt from By-law number 2016 - 016

1. By-law Department employees for The Corporation of the Municipality of Kincardine.
2. All Police Officers while performing his or her duties.
3. All Fire Department personnel while performing his or her duties.
4. All Medical Rescue personnel while performing his or her duties.
5. All employees of the Municipality of Kincardine while performing his or her duties.
6. Hydro One or Westario Power Employee(s) and its contractors while performing his or her duties.
7. Ministry of Natural Resources employees while performing his or her duties.
8. Farmers(s), Trapper(s), Public Utility Worker(s), and Commercial Snow Removal are exempt while performing his or her duties.
9. County of Bruce By-law Enforcement personnel while performing his or her duties.
10. Any person operating an Off-Road Vehicle for the purpose of rendering assistance during a declared emergency within the Municipality.