

The Corporation of the Township of Huron-Kinloss



BY-LAW

2015-89

Being a by-law to permit and control the operation of off-road vehicles on highways under the jurisdiction of The Corporation of the Township of Huron-Kinloss

WHEREAS Section 191.8(3) of the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, as amended (the "HTA"), authorizes the Council of a municipality to pass by-laws permitting the operation of off-road vehicles with three or more wheels 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 entitled "Operation of Off-Road Vehicles on Highways" under the HTA (the "Regulation") regulates the operation of off-road vehicles on highways;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "*Municipal Act, 2001*"), assigns spheres of jurisdiction and authorizes municipalities to pass by-laws respecting matters pertaining to highways within their jurisdiction;

AND WHEREAS the Council of The Corporation of the Township of Huron-Kinloss deems it advisable to regulate the operation of off-road vehicles on highways within its jurisdiction, or on any part or parts of such highways;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss enacts as follows:

1.0 Definitions:

- 1.1 "Core Services" means accessing food, lodging, or fuel within the urban areas of the Township;
- 1.2 "Highway" shall have the same meaning as defined in section 1 of the HTA and shall include any part or parts thereof but shall expressly exclude any sidewalks, paths or other parts of the Highway used exclusively by pedestrians or cyclists;
- 1.3 "Off Road Vehicle" means:
 - 1.3.1 an all-terrain 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 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;

1.3.2 a multi-purpose off-highway utility 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;

1.3.3 a recreational off-highway 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.

1.4 "Township" shall mean The Corporation of the Township of Huron-Kinloss.

2.0 General Provisions:

- 2.1 Off-Road Vehicles shall be permitted on Highways under the jurisdiction of the Township, provided the Off-Road Vehicle, as well as the person operating it, complies with the provisions of:
 - a) this by-law;
 - b) the HTA;
 - c) the Regulation; and
 - d) the *Off-Road Vehicles Act*, R.S.O. 1990, c. O.4, as amended (the "ORV Act").
- 2.2 Pursuant to section 22 of the Regulation, no person shall operate an Off-Road Vehicle on any Highway under the jurisdiction of the Township at a rate of speed greater than:
 - 2.2.1 20 kilometers per hour, if the speed limit established for that part of the Highway is not greater than 50 kilometers per hour; or,
 - 2.2.2 50 kilometers per hour, if the speed limit established for that part of the Highway is greater than 50 kilometers per hour.
- 2.3 Pursuant to section 19.3 of the Regulation, no person shall drive an Off-Road Vehicle on a Highway under the jurisdiction of the Township with a passenger on the vehicle who is under the age of eight.
- 2.4 Pursuant to section 19(1) of the Regulation, the driver of every Off-Road Vehicle and every passenger on an Off-Road Vehicle shall wear helmets that comply with section 19 of the ORV Act.
- 2.5 Pursuant to section 19.4 of the Regulation, no person shall drive an Off-Road Vehicle on a Highway under the jurisdiction of the Township while it is towing a trailer or any other attachment if there is a passenger on the trailer or other attachment.
- 2.6 The operator of an Off-Road Vehicle on a Highway under the jurisdiction of the Township shall ensure that:

- 2.6.1 when towing a trailing device, that the said trailing device shall be equipped with a rigid hitch which shall be securely fastened to the Off-Road Vehicle; and,
- 2.6.2 that the trailing device shall meet all the requirements of this by-law, the HTA, the Regulation and the ORV Act.
- 2.7 The exemptions as set out in sections 26 to 28 in the Regulation, regarding the operation of Off-Road Vehicles on Highways shall apply to this by-law and the permissions granted hereunder.
- 2.8 All employees for the Township, while in the performance of their duties, shall be exempt from the provisions in this by-law.
- 2.9 No person shall operate an Off-Road Vehicle on any property owned by the Township, except for a Highway or a trail approved by the Township for such use, without the permission of the Township.
- 2.10 No person shall operate an Off-Road Vehicle:
 - 2.10.1 in such a way so as to disturb or distort the natural environment including, fish habitats, property, and any flora or fauna;
 - 2.10.2 in any urban area of the Township including, but not limited to, Ripley and Lucknow, except as a means of direct access to Township-approved Off-Road Vehicle trails or to obtain Core Services; and
 - 2.10.3 in the area west of Lake Range Drive to Lake Huron in the Township (not to include Lake Range Drive itself) except as a direct access to Township-approved Off-Road Vehicle trails or to obtain Core Services.
- 3.0 This by-law may be enforced by police officers or municipal law enforcement officers appointed or authorized by the Township.
- 4.0 No person shall hinder or obstruct, or attempt to hinder or obstruct, a police officer or a municipal law enforcement officer exercising a power or performing a duty under this by-law.
- 5.0 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*, R.S.O 1990, Chapter 33, as amended.
- 6.0 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 full force and effect.
- 7.0 That By-Law 2008-44 passed on the 21st day of April, 2008 is hereby repealed.
- 8.0 This by-law shall come into full force and effect upon final passage.
- 9.0 This by-law may be cited as the "Off-Road Vehicle By-Law".

Read, Enacted, Signed and Sealed this 16th day of November, 2015.

Original Signed by Wilf Gamble

Deputy Mayor

Original Signed by Sonya Watson

Clerk