

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.



Deputy Mayor



Clerk

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2015-89 of the Township of Huron-Kinloss, attached hereto are the set fines for those offences. This Order is to take effect March 9, 2016.

Dated at London this 9th day of March 2016.



Stephen J. Fuerth
Regional Senior Justice
West Region

**THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS BY-LAW
No. 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

PART I - PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence (Section(s))	COLUMN 3 Set Fine
1.	Operate ORV with non-compliant trailing device	s. 2.6.1	\$250.00
2.	Operate ORV on Township property without permission	s. 2.9	\$250.00
3.	Operate ORV disturbing or distorting the natural environment	s. 2.10.1	\$250.00
4.	Operate ORV in urban area of Township	s.2.10.2	\$250.00
5.	Operate ORV in area west of Lake Rage Drive to Lake Huron in the Township	s.2.10.3	\$250.00

NOTE: Penalty provision for the offences indicated above is Section 5.0 of By-Law 2015-89, a certified copy of which has been filed.