

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW NO. 2004-25

Being a By-Law to permit the operation of all terrain vehicles with four wheels on highways under the jurisdiction of the Municipality of Powassan

WHEREAS the Highway Traffic Act R.S.O. H.8 section 191.8 (3) permits the Council of a municipality to pass by-laws permitting the operation of off-road vehicles with three or more wheels and low pressure bearing tires 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 the Council of the Corporation of the Municipality of Powassan deems desirable to enact such a by-law,

NOW THEREFORE the Council of the Corporation of the Municipality of Powassan enacts as follows;

1.0 Definitions

“All terrain Vehicle” means an off-road vehicle that,

- a) has four wheels, the tires of all which are 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 a driver only and no passengers

“Highway” means any part of a common or public highway, street, road, avenue, bridge which is actually used by the general public for the passage of vehicle and includes the area between the lateral property lines thereof.

“Low pressure bearing tire” means a wide, balloon type tire with a rounded cross section and no distinct shoulder area and that is designed to operate with inflation pressure of no greater than 70 kpa (10 psi)

2.0 All terrain vehicles with low pressure bearing tires are permitted to operate on roads under the jurisdiction of the Municipality of Powassan.

3.0 An all terrain vehicle shall not be operated on a highway unless it meets the equipment requirement of Regulation 316/03 as follows:

3.1) Weight and dimensions

- a) The all terrain vehicle must weigh 450 kilograms or less.
- b) The all terrain vehicle must have an overall width not greater than 1.35 metres, excluding mirrors.

3.2) Tires

All the tires on the all terrain vehicle must be low pressure bearing tires.

3.3) Motor vehicle safety standards

The all terrain vehicle must meet the motor vehicle safety standards prescribed for restricted-use motorcycles in the *Motor Vehicle Safety Regulations* made under the *Motor Vehicle Safety Act* (Canada) applicable when the vehicle was manufactured.

3.4) Equipment configuration and performance requirements

- a) If the all terrain vehicle was manufactured after May 31, 1991 and before January 1, 2002, it must meet the equipment configuration and performance requirements set out in the American National Standards Institute/Specialty Vehicle Institute of America publication entitled *Four Wheel All-Terrain Vehicles ANSI/SVIA-1-1990* or *Four Wheel All-Terrain Vehicles - Equipment, Configuration and Performance Requirements ANSI/SVIA-1-2001*.
- b) If the all terrain vehicle was manufactured after December 31, 2001, it must meet the equipment configuration and performance requirements set out in the American National Standards Institute/Specialty Vehicle Institute of America publication entitled *Four Wheel All-Terrain Vehicles - Equipment, Configuration and Performance Requirements ANSI/SVIA-1-2001*.

3.5) Equipment must be operating properly

A component, equipment or other feature of the all terrain vehicle that was part of the vehicle when manufactured and that is required by section 9 or 10 must operate properly and must not be missing, rendered partly or wholly inoperable or modified so as to reduce its effectiveness.

3.6) Braking system

The all terrain vehicles manufactured after January 1998 must be equipped with a service brake, parking brake and parking mechanism that comply with section 4 of the American National Standards Institute/Specialty Vehicle Institute of America publication entitled *Four Wheel All-Terrain Vehicles - Equipment, Configuration and Performance Requirements ANSI/SVIA-1-2001*.

3.7) Lamps

a) Despite subsection 62 (1) of the Act, the all terrain vehicle must be equipped with one or two lamps that emit a white light on the front of the vehicle and one or two lamps that emit a red light at the rear of the vehicle.

b) The lamps required by subsection (a) must be lit at all times the all terrain vehicle is operated on the highway.

c) The subsections of section 62 of the Act that refer to lamps required under subsections (1), (2) or (3) of that section shall be read as if referring to the lamps required under subsection (a) of this section.

The lamps required on the front of an all terrain vehicle by subsection (a) must be aimed such that the high intensity portion of the beam is directed below the horizontal line through the centre of the lamp from which it comes, at a distance of 7.6 metres ahead of the lamp, when the vehicle is not loaded.

d) If the all terrain vehicle was manufactured after January 1, 1998, it must be equipped with a stop lamp or lamps on the rear of the vehicle that emit a red light when any brake is applied.

e) A stop lamp required under subsection (d) may be incorporated with a rear lamp or may be a separate lamp.

f) The all terrain vehicle must be equipped with,

i) one yellow reflex reflector on each side at the front;

ii) one red reflex reflector on each side at the rear; and

iii) one or two red reflex reflectors on the rear.

g) The reflex reflectors required by subsection (f) must comply with the requirements of the *Motor Vehicle Safety Regulations* made under the *Motor Vehicle Safety Act* (Canada) applicable when the vehicle was manufactured.

3.8) Windshield

The all terrain vehicle need not be equipped with a windshield, but if it is, the windshield must satisfy the requirements prescribed for a motorcycle windshield under subsection 1 (10) of Schedule 6 to Regulation 611 of the Revised Regulations of Ontario, 1990.

3.9) No obstruction of view

a) There must not be any object or non-transparent material placed on or attached to the all terrain vehicle that obstructs the driver's view of traffic approaching from any direction at an intersection, or of traffic approaching from the rear of the vehicle.

b) If the all terrain vehicle is towing a trailer, the trailer or load must not obstruct the driver's view of traffic approaching from any direction at an intersection, or of traffic approaching from the rear of the vehicle.

4.0 An all terrain vehicle shall not be operated on a highway unless it meets the operation requirement as follows:

4.1 Permit

a) The all terrain vehicle shall be operated under the authority of a permit issued under section 5 of the *Off-Road Vehicles Act* and a number plate showing the number of the permit shall be displayed on the vehicle as required under that Act.

b) Subsection (a) does not apply to an all terrain vehicle operated under the authority of a permit issued under section 7 of the *Highway Traffic Act*, as provided by section 7 of the *Off-Road Vehicles Act*.

4.2 Insurance

The all terrain vehicle shall be insured in accordance with section 2 of the *Compulsory Automobile Insurance Act* and section 15 of the *Off-Road Vehicles Act*.

4.3 Driver's licence

The driver of the all terrain vehicle shall hold a valid Class A, B, C, D, E, F, G, G2, M or M2 driver's licence issued under the Act unless he or she is exempt, under section 34 of the Act, from the application of section 32 of the Act.

4.4 Helmet

The driver of the all terrain vehicle shall wear a helmet that complies with section 19 of the *Off-Road Vehicles Act*.

4.5 Application of *Highway Traffic Act*

a) Except as otherwise provided in this Regulation, the provisions of the Act and its regulations applicable to motor vehicles apply with necessary modifications to the operation of an all terrain vehicle on a highway.

b) Subsection 62 (19), sections 64 and 66 and subsection 76 (1) of the Act do not apply to the operation of an all terrain vehicle on a highway.

4.6 Application of *Off-Road Vehicles Act*

The *Off-Road Vehicles Act* and the regulations made under that Act that apply to the operation of all terrain vehicles off the highway apply with necessary modifications to the operation of an all terrain vehicle on a highway.

4.7 Maximum speed

The all terrain vehicle shall not be driven at a rate of speed greater than,

(a) 20 kilometres per hour, if the speed limit established under the Act for that part of the highway is not greater than 50 kilometres per hour; or

(b) 50 kilometres per hour, if the speed limit established under the Act for that part of the highway is greater than 50 kilometres per hour.

4.8 Environmental protection

The all terrain vehicle shall not be operated in such a manner as to;

a) discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment that may have an adverse effect on the environment or impair the quality of any waters; or

(b) contravene any conditions, restrictions and prohibitions imposed by any legislation and related regulations enacted to protect the environment. O. Reg. 316/03, s. 23 (1).

c) The all terrain vehicle shall not be operated in such a manner that it causes or is likely to cause,

i) a risk to the safety of any person;

ii) harm or material discomfort to any person from dust, emissions or noise;

iii) harm, injury or damage, either directly or indirectly, to any property, flora or fauna; or

iv) alteration, disruption or destruction to the natural environment, including erosion damage or degradation of the right of way.

d) The all terrain vehicle shall not be driven in or through a river, stream or other watercourse on a highway if doing so would or would be likely to alter, disrupt or destroy any fish habitat.

4.9 Rules of the road

- a) The all terrain vehicle shall be driven on the shoulder of the highway in the same direction as the traffic using the same side of the highway.
- b) Despite subsection (a), the all terrain vehicle may be driven on the roadway in the same direction as the traffic using the same side of the highway if,
 - c) there is no shoulder; or
 - d) the shoulder of the highway is obstructed and cannot be used by the all terrain vehicle.
- e) Despite subsection (a), the all terrain vehicle shall not be driven on the shoulder but shall be driven on the roadway in the same direction as the traffic using the same side of the highway if it is being driven across a level railway crossing.
- f) When driven on the shoulder of the highway, the all terrain vehicle shall be driven as close to and parallel with the right edge of the shoulder as can be done practicably and safely.
- (g) When driven on the roadway pursuant to subsection (b), the all terrain vehicle shall be driven as close to and parallel with the right edge of the roadway as can be done practicably and safely.
- h) When entering the shoulder or the roadway, the all terrain vehicle shall yield the right of way to vehicles already using the shoulder or the roadway, as the case may be, and shall enter the shoulder or roadway only when it is safe to do so.
- i) The all terrain vehicle shall not be driven in the median strip of the highway.
- j) The all terrain vehicle shall not be driven on any part of the highway that is designated as a construction zone under subsection 128 (8) of the Act or on any other part of the highway where construction work or highway maintenance is being carried out, unless the all terrain vehicle is operating as a vehicle described in subsection 128 (13) of the Act or as a road service vehicle.
- k) If part or all of the highway is closed under subsection 134 (2) of the Act, the all terrain vehicle shall not be driven on any adjacent part of the highway that may be open, unless the all terrain vehicle is operating as a vehicle described in subsection 128 (13) of the Act or as a road service vehicle.
- l) The all terrain vehicle shall not overtake and pass any moving motor vehicle or motorized snow vehicle at any time when both the all terrain vehicle and the other vehicle are travelling on the same shoulder or roadway of the highway.

- m) Despite subsection (1), an all terrain vehicle may overtake and pass another all terrain vehicle when both are travelling on the shoulder if the movement can be made in safety while remaining on the shoulder and to the left of the all terrain vehicle being overtaken and passed.
 - n) Despite clause 142 (4) (b) of the Act, a person driving an all terrain vehicle on the highway may indicate the intention to turn right by extending the right hand and arm horizontally beyond the right side of the vehicle.
 - o) Before commencing a left turn in the manner required by subsection 141 (5), (6) or (7) of the Act, the all terrain vehicle shall, without interfering with the movement of traffic travelling in the same direction as the all terrain vehicle, move away from the shoulder or from the right edge of the roadway, as the case may be, and be positioned on the roadway in the position from which the left turn is to be made.
 - p) Upon completing a left turn, the all terrain vehicle shall, without interfering with the movement of traffic travelling in the same direction as the off- road vehicle, move back to the right edge of the roadway or shoulder, as the case may be.
- 5) All applicable provisions of the Highway Traffic Act R.S.O. 1990 as amended and Ontario Regulation 316/03 as amended shall apply to the operation of all terrain vehicles on highways.
- 6) No person shall operate an all terrain vehicle:
- 6.1 In any park, beach, or other municipality owned lands within the municipality without the consent of the Municipality of Powassan.
 - 6.2 On any sidewalk under the jurisdiction of the Municipality of Powassan.
 - 6.3 On any unopened road allowance under the jurisdiction of the Municipality of Powassan.
 - 6.4 On any private property without the consent of the owner.
- 7). All terrain vehicles shall be subject to all regulations and by-laws governing the parking of vehicles within the municipality.
- 8). Penalty
- 8.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act.
 - 8.2 All such penalties shall be recovered under the Provincial Offence Act.

9) If a court of competent jurisdiction should declare any section or part of any section of this by-law to be invalid such section or part of a section shall not construed as having persuaded or influenced council to pass the remainder of the by-law and it is hereby declared the remainder of the by-law shall be valid and remain in force.

10) This By-law shall take effect upon adoption.

READ A FIRST time and considered read a SECOND and THIRD time and passed as such in open Council this 21st day of September 2004.

Mayor

Clerk