

THE CORPORATION OF THE TOWN OF GANANOQUE  
BY-LAW NO. 2020-110

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**BEING A BY-LAW TO REGULATE THE OPERATION OF OFF-ROAD VEHICLES  
ON ROADWAYS WITHIN THE TOWN OF GANANOQUE**

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**WHEREAS** Section 191.8(3) of *Highway Traffic Act* authorizes 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, as amended, passed under the *Highway Traffic Act*, regulates the operation and requirements of All-Terrain Vehicles, Extreme Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles or; Off-Road Motorcycles, which are classes of off-road vehicles;

**AND WHEREAS** Ontario Regulation 340/94, as amended, passed under the *Highway Traffic Act*, permits an additional licensing option for Full Class G licence holders or higher wishing to operate a three-wheeled motorcycle;

**AND WHEREAS** Section 35 of the *Municipal Act*, 2001, allows a municipality to restrict the common law right of passage by the public on a highway within its jurisdiction;

**AND WHEREAS** the Council of the Town of Gananoque, received Council Report RDS-2020-11, and concurs with the recommendation to pass a By-law to regulate the operation of Off-Road Vehicles on roadways within the Town of Gananoque;

**AND WHEREAS** the Council of the Corporation of the Town of Gananoque deems it appropriate to pass such a By-law.

**NOW THEREFORE** be it resolved that the Council of the Corporation of the Town of Gananoque enacts as follows:

**1. DEFINITIONS**

- 1.1. **All-Terrain Vehicle** means an off-road vehicle that:
  - 1.1.1. has four (4) wheels, the tires of all of which are in contact with the ground;
  - 1.1.2. has steering handlebars;
  - 1.1.3. may include single-rider, two-up and side-by-side All-Terrain Vehicles and utility vehicles, and;
  - 1.1.4. in all respects meets the requirement of the *Highway Traffic Act* and the *Off-Road Vehicles Act* and any regulations passed thereunder, as amended and as may be replaced from time-to-time, and the expression "ATV" shall have the corresponding meaning.
- 1.2. **Approved Trail** means all municipally owned roadways within the boundaries of the Town of Gananoque as indicated on Schedule 'A.'
- 1.3. **Roadway** includes a common or public roadway, highway, street, avenue, parkway, square, place, drive, 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.
- 1.4. **Highway Traffic Act** means the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended.

- 1.5. **Motorized Vehicle** means an automobile, motorcycle, a motor-assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a power-assisted bicycle, an All-Terrain Vehicle, a Motorized Snow Vehicle, a farm tractor, a self-propelled implement of husbandry, or road maintenance equipment.
- 1.6. **By-law Enforcement Officer** means a municipal law enforcement officer duly authorized by the Council of the Town of Gananoque to enforce this By-law.
- 1.7. **Extreme Terrain Vehicle** means an off-road vehicle that:
- 1.7.1. has six or eight wheels, the tires of which are all in contact with the ground;
  - 1.7.2. has no tracks that are in contact with the ground;
  - 1.7.3. has seats that are not designed to be straddled;
  - 1.7.4. has a minimum cargo capacity of 159 kilograms, and;
  - 1.7.5. in all respects meets the requirement of the *Highway Traffic Act* and the *Off-Road Vehicles Act* and any regulations passed thereunder, as amended and as may be replaced from time-to-time, and the expression "Extreme Terrain Vehicle" shall have the corresponding meaning.
- 1.8. **Multi-Purpose Off-Highway Utility Vehicle** means an off-road vehicle that:
- 1.8.1. has four or more wheels, the tires of which are all in contact with the ground,
  - 1.8.2. has a steering wheel for steering control,
  - 1.8.3. has seats that are not designed to be straddled;
  - 1.8.4. has a minimum cargo capacity of 159 kilograms, and;
  - 1.8.5. in all respects meets the requirement of the *Highway Traffic Act* and the *Off-Road Vehicles Act* and any regulations passed thereunder, as amended and as may be replaced from time-to-time, and the expression "Multi-Purpose Off-Highway Utility Vehicle" shall have the corresponding meaning.
- 1.9. **Off-Road Motorcycle** means an off-road vehicle, designed primarily for recreational use, that:
- 1.9.1. has steering handlebars,
  - 1.9.2. has two wheels, the tires of which are all in contact with the ground,
  - 1.9.3. has a minimum wheel rim diameter of 250 millimetres,
  - 1.9.4. has a minimum wheelbase of 1,016 millimetres,
  - 1.9.5. has a seat that is designed to be straddled by the driver,
  - 1.9.6. is designed to carry a driver only and no passengers;
  - 1.9.7. does not have a sidecar, and;
  - 1.9.8. in all respects meets the requirement of the *Highway Traffic Act* and the *Off-Road Vehicles Act* and any regulations passed thereunder, as amended and as may be replaced from time-to-time, and the expression "Off-Road Motorcycle" shall have the corresponding meaning.
- 1.10. **Off-Road Vehicles Act** means the *Off-Road Vehicles Act*, R.S.O. 1990, c. 0.4, as amended.
- 1.11. **Police Officer** means the Chief of Police or an officer of the Gananoque Police Service or other police service having jurisdiction in the area, who are duly appointed under the *Police Services Act*.



- 1.12. **Provincial Offences Act** means the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

**2. INTERPRETATION**

- 2.1. This By-law includes Schedules attached to it, and the Schedules are hereby declared to form part of the By-law.
- 2.2. The headings and subheadings used in this By-law are inserted for convenience of reference only, form no part of this By-law, and shall not affect in any way the meaning or interpretation of the provisions of this By-law.
- 2.3. Unless the context requires otherwise, references to items in the plural include the singular unless used with a number modifying the term, and words imparting the masculine gender shall include the feminine.
- 2.4. It is declared that if any section, subsection, paragraph or part thereof is declared by any Court to be bad, illegal, or ultra vires, such section, subsection, paragraph part or parts shall be deemed to be severable and all other parts of this By-law are declared to be separate and independent, and enacted as such.

**3. GENERAL**

- 3.1. No person shall operate an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on a Roadway at any time earlier than 08:00 am and no later than 30 minutes after sunset.
- 3.2. No person shall operate an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on a Roadway when signs posted on site during spring thaw or at any other time of year, as required by the Town, prohibit the operation of vehicles.
- 3.3. No person shall operate an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on a Roadway if the exhaust system of the vehicle installed by the manufacturer has been modified, or if the vehicle has a two-stroke engine.
- 3.4. No person shall operate an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on sidewalks or other Town property unless it is specifically identified as permitted in Schedule 'A'.

**4. SPEED LIMIT AND CONDUCT: ALL-TERRAIN VEHICLE, EXTREME TERRAIN VEHICLE, MULTI-PURPOSE OFF-HIGHWAY UTILITY VEHICLE, AND; OFF-ROAD MOTORCYCLE**

- 4.1. The speed limit shall be 20 kilometres per hour, if the speed limit under the *Highway Traffic Act* for that part of the Roadway is not greater than 50 kilometres per hour, and;
- 4.2. The speed limit shall be 50 kilometres per hour, if the speed limited under the *Highway Traffic Act* for that part of the Roadway is 80 kilometres per hour.

**5. NON-EXCLUSIVE USE**

- 5.1. It is declared that any permitted use under this By-law of a Roadway and/or Town property is non-exclusive and any person operating an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle shall have due regard for other users and shall use caution when passing other users.

**6. COMPLIANCE WITH APPLICABLE LAWS**

- 6.1. Any person operating an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle under this By-law shall comply with *Highway Traffic Act*, the *Off-Road Vehicles Act*, and all other Federal or Provincial laws and municipal by-laws, as applicable, or any regulations made under them as amended or replaced from time-to-time.
- 6.2. Permission to operate an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on a Roadway under this By-law does not constitute permission to travel upon or to operate such vehicles on any other private or public property without the consent of the property owner.

**7. EXEMPTION**

- 7.1. In cases of emergency, parades and other special events, the Town may authorize or permit the use of All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle on specific roads during specific times.
- 7.2. The regulations prescribed in this By-law do not apply to an All-Terrain Vehicle, Extreme Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or; Off-Road Motorcycle operated by a police officer, by-law officer, conservation officer while on duty or any other appointed employee of the Town.

**8. ENFORCEMENT, OFFENCES, FINES & PENALTIES**

- 8.1. This By-law may be enforced by a police officer or a municipal law enforcement officer.
- 8.2. Any person who contravenes any of the provisions of this By-law is guilty of an offence.
- 8.3. Every person who is convicted of an offence under this By-law is liable to a fine as provided for in the *Provincial Offences Act*.
- 8.4. When a person has been convicted of an offence under this By-law:
- 8.4.1. the Ontario Court of Justice, or;
- 8.4.2. any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

**9. REVOCATION**

- 9.1. The Town may repeal this By-law, or any amending By-law, if any provision of this By-law, any other by-law within the Town of Gananoque or any federal or provincial statute, is contravened.
- 9.2. The Town may repeal this By-law, or any amending By-law, should concerns and issues arise in regards to the health and safety of the residents of Gananoque.

**10. MUNICIPAL PROPERTY**

- 10.1. Should a violation under Section 9, be enacted, the municipal lands and roadways upon which the trail is occupied shall be reinstated to a satisfactory condition.



**11. SHORT TITLE**

11.1. This By-law may be referred to as the "Off-Road Vehicle By-law".

**12. SCHEDULE(S)**

12.1. Attached hereto and forming part of this By-law is the Designated Highways, marked as Schedule 'A'.

**13. REPEAL**

13.1. That By-law Nos., 2016-061, 2018-048 and; 2019-092, are hereby repealed in their entirety.

13.2. That any By-law inconsistent with this By-law is hereby repealed.

**14. EFFECTIVE DATE**

14.1. This By-law shall come into full force and effect on the date it is passed by the Council of the Town of Gananoque.

Read a first, second and third time and finally passed this 6<sup>th</sup> day of October 2020.

  
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Ted Lojko, Mayor

  
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Penny Kelly, Clerk

(Seal)

## SCHEDULE 'A' DESIGNATED HIGHWAYS

### OFF ROAD VEHICLES

This By-law applies to all municipally owned roadways within the boundaries of the Town of Gananoque. It excludes sidewalks or other Town property.

