OFFICE CONSOLIDATION
FOR INFORMATION PURPOSES ONLY

THE CORPORATION OF THE TOWN OF GANANOQUE
BY-LAW NO. 2016-061
Last Amended by By-law No. 2019-092, September 3, 2019

BEING A BY-LAW TO REGULATE THE OPERATION OF ALL-TERRAIN VEHICLES ON ROADWAYS WITHIN THE TOWN OF GANANOQUE

WHEREAS the Section 191.8 of *Highway Traffic Act* authorizes a municipality to pass by-laws permitting and regulating the operation of off-road vehicles with three or more wheels and low pressure bearing tires on any highway or part of a highway under the jurisdiction of the municipality and further, to prescribe the rate of speed for such off-road vehicles as well as the specific months or hours during which they can be operated on a municipal highway or part of a highway;

AND WHEREAS Ontario Regulation 316/03, as amended, passed under the *Highway Traffic Act*, regulates the operation and requirements of All-Terrain Vehicles, which are class of off-road vehicles;

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 Committee of the Whole considered Report COW-CD-2018-08, and concurs with the staff recommendation to amend By-law No. 2016-061 (June 5, 2018).

AND WHEREAS the Committee of the Whole considered COW Report RDS-2019-05, and concurred with the staff recommendation to amend By-law No. 2016-061 to allow the Thousand Island ATV Club (TIATVC) access through the Town of Gananoque;

AND WHEREAS on September 3, 2019, the Council of the Town of Gananoque passed Motion #19-186, authorizing an amendment to By-law No. 2016-061, to allow the Thousand Island ATV Club (TIATVC) access through the Town of Gananoque;

AND WHEREAS the Council of the Town of Gananoque, received Council Report RDS-2019-04, and; subsequently, passed Motion #19-190, authorizing a further amendment to By-law No. 2016-061, approving a one (1) year trial period and this By-law shall include all legal operators of an ATV.

AND WHEREAS Council deems it in the public interest to permit and regulate the operation of All-Terrain Vehicles on certain designated highways and specific public property for a temporary period and on a non-exclusive basis, for the purposes of evaluation.

NOW THEREFORE the Council of the Corporation of the Town of Gananoque enacts as follows:

1. **DEFINITIONS**
   - 1.1. **ALL-TERRAIN VEHICLE**
     - 1.1.1. has four 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" and Schedule "B".

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. ***Off-Road Vehicles Act*** means the *Off-Road Vehicles Act*, R.S.O. 1990, c. 0.4, as amended.

1.8. **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*.

1.9. ***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. ALL-TERRAIN VEHICLES ON PUBLIC ROADWAYS AND TOWN PROPERTY

3.1. No person shall operate an All-Terrain Vehicle on any Roadway or part of a Roadway under the jurisdiction of the Town of Gananoque.

4. GENERAL

4.1. No person shall operate an All-Terrain Vehicle on a Roadway at any time earlier than 08:00 am and no later than 30 minutes after sunset.

4.2. No personal shall operate an All-Terrain Vehicle 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.

4.3. No person shall operate an All-Terrain Vehicle 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.

4.4. No person shall operate an All-Terrain Vehicle on sidewalks or other Town property unless it is on the designated route as identified in Schedule 'A' and Schedule 'B'.

5. **SPEED LIMIT AND CONDUCT – ALL-TERRAIN VEHICLES**
   5.1. 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;
   5.2. 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.

6. **NON-EXCLUSIVE USE**
   6.1. 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 shall have due regard for other users and shall use caution when passing other users.

7. **COMPLIANCE WITH APPLICABLE LAWS**
   7.1. Any person operating an All-Terrain Vehicle 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.
   7.2. Permission to operate an All-Terrain Vehicle 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.

8. **EXEMPTION**
   8.1. In cases of emergency, parades and other special events, the Town may authorize or permit the use of ATV's on specific roads during specific times.
   8.2. The regulations prescribed in this By-law do not apply to an ATV operated by a police officer, by-law officer, conservation officer while on duty or any other appointed employee of the Town.

9. **ENFORCEMENT, OFFENCES, FINES & PENALTIES**
   9.1. This By-law may be enforced by a police officer or a municipal law enforcement officer.
   9.2. Any person who contravenes any of the provisions of this By-law is guilty of an offence.
   9.3. 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*.
   9.4. When a person has been convicted of an offence under this By-law:
      9.4.1. the Ontario Court of Justice, or;
      9.4.2. 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.

10. **REVOCATION**
   10.1. The Town may repeal this "Temporary All-Terrain Vehicles & Other Vehicles By-law", or any amending By-law, prior to the one (1) year, if any provision of this By-law, any other by-law within the Town of Gananoque or any federal or provincial statute, is contravened.
   10.2. The Town may repeal this By-law, or any amending By-law, prior to the one (1) year, should concerns and issues arise in regards to the health and safety of the residents of Gananoque.
   10.3. Should the Town repeal this By-law, or any amending By-law under Section 10.1 and 10.2, the Town will provide sixty (60) days written notice to vacate.

11. **MUNICIPAL PROPERTY**
   11.1. Should a violation to vacate under Section 10, be enacted, the municipal lands and roadways upon which the trail is occupied shall be reinstated to a satisfactory condition.

12. **SHORT TITLE**
    12.1. This By-law may be referred to as the “Temporary All-Terrain Vehicles & Other Vehicles By-law”.

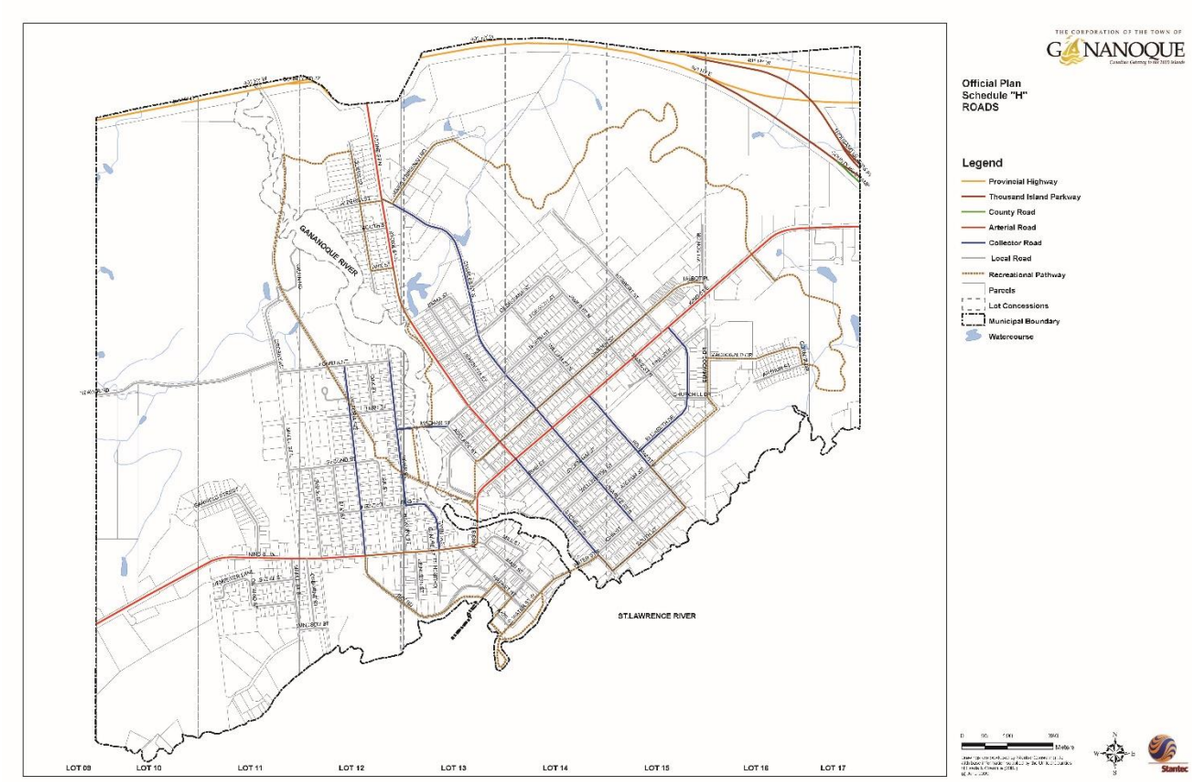
13. **SCHEDULE(S)**
    13.1. Designated Highways, marked as Schedule ‘A’, be removed and replaced with the attached Schedule ‘A’.
    13.2. Designated Route, marked as Schedule ‘B’, be removed and replaced with the attached Schedule ‘B’.

14. **EFFECTIVE DATE & REPEAL**
    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 and remain in effect for a period of one (1) year.
    14.2. All-Terrain Vehicles and references thereof in this By-law on public Roadways and Town property is repealed as of September 3, 2020.

SCHEDULE "A"
DESIGNATED HIGHWAYS

ALL TERRAIN VEHICLES

This By-law applies to all municipally owned roadways within the boundaries of the Town of Gananoque.

SCHEDULE "B"
DESIGNATED ROUTE
Municipally Owned Roadways

ALL TERRAIN VEHICLES – ONLY