

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2019-103

A By-law to permit All-Terrain, Multi-Purpose Off-Highway Utility and Recreational Off-Highway Vehicles (Off-Road Vehicles) on the shoulder of all Municipal Roads

WHEREAS the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Section 191.8(1), provides that no person shall drive an off-road vehicle on a highway except in accordance with the Highway Traffic Act regulations and any applicable Municipal By-law;

AND WHEREAS the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Section 191.8(3), provides that a municipality may pass By-laws permitting certain off-road vehicles on highways under the jurisdiction of the municipality and providing speed limits for such vehicles;

AND WHEREAS the operation of off-road vehicles on highways is a privilege and not a right;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 11.(3), provides that a municipality may pass By-laws with respect to municipality owned roads, including parking and traffic on such highways;

AND WHEREAS requests have been received to permit off-road vehicles on certain municipality owned highways within the boundary of the Town of Wasaga Beach;

AND WHEREAS Council deems it necessary to enact a by-law to permit the use of off-road vehicles on certain Municipal Highways.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF WASAGA BEACH HEREBY ENACTS AS FOLLOWS:

I. DEFINITIONS:

In this by-law,

“Off-Road Vehicle” shall mean an off-road vehicle intended for off-road and within the meaning of the *Off-Road Vehicles Act*, and as defined by the *Highway Traffic Act* and or the regulations thereto and includes off-road vehicles as defined as follows:

“all-terrain vehicle” means an off-road 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 only 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 is separate from the foot rests for the driver;

“multi-purpose off-highway utility vehicle” means an off-road 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;

“recreational off-highway vehicle” means an off-road 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;

“seat belt assembly” means a device or assembly composed of a strap or straps, webbing or similar material that restrains the movement of a person in order to prevent or mitigate injury to the person.

“Town of Wasaga Beach Highway” shall mean any and all public highways assumed and maintained under the jurisdiction and ownership of the Town of Wasaga Beach.

“Highway” includes a common and public highway, street avenue, parkway, driveway, square, place, 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.

“Recognized Agency” shall be the Ontario Federation of All-Terrain Vehicle Clubs and the Central Ontario ATV Club.

“Core Services” shall mean accessing lodging or accommodations, food or fuel within the urban areas of the Town of Wasaga Beach.

“Boulevard” shall mean that part of the highway situated between the curb line and the property line of the lot abutting the highway, but does not include a sidewalk or shoulder.

II. REGULATION OF OFF-ROAD VEHICLES ON HIGHWAYS:

1. Off-road vehicles shall be permitted upon the highways under the jurisdiction of the Town of Wasaga Beach under and in accordance with Ontario Regulation 316/03 of the *Highway Traffic Act*, as amended, and the *Off Roads Vehicle Act*, as amended.

2. Unless such lands form part of a trail route approved and maintained by a Recognized Agency, no person shall operate an off-road vehicle over or upon the following areas:
 - a) Any Community Centre under the jurisdiction of the Municipality;
 - b) Any park, sports field, playground, trail, sand dune or beach area under the jurisdiction of the Municipality;
 - c) Beyond the north and or northwesterly limit of any shoreline road allowance under the jurisdiction of the Municipality;
 - d) Any cemetery under the jurisdiction of the Municipality;
 - e) Any municipal public property in the Municipality without the consent of the Municipality;
 - f) Any unopened road allowance unless such vehicle is required for emergency response purposes or unless prior permission has been obtained from the Town
 - g) Upon any sidewalk or boulevard within the Municipality;
 - h) In any settlement area except as a means of direct access to the trail routes or to obtain core services.

3. An off-highway vehicle shall not be operated on highways unless it meets the equipment requirements of Section 7 to 15 of O. Reg. 316/03, as amended, and it is operated in accordance with Sections 16 to 24 of O. Reg. 316/03, as amended.

4. The off-highway vehicle shall not be driven at a rate of speed greater than:
 - a) 20 kilometres per hour, if the speed limit established under the Highway Traffic Act or by Municipal By-law 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 Highway Traffic Act or by Municipal By-law for that part of the highway is greater than 50 kilometres per hour, or

5. That no person shall operate an off-road vehicle in such a way as to disrupt or destroy the natural environment, create a nuisance by method or frequency of operation on any municipal property or upon any highway within the municipality.

6. That no person shall park an off-road vehicle within the municipal road allowance unless it is within designated parking lot spaces and or designated on-street parking spaces or where otherwise authorized signage is displayed indicating that off-road vehicle parking is permitted.

7. That in the event that the drawing of a trailer by an off-road vehicle on highways is permitted by the Highway Traffic Act, including any regulations thereto, the following requirements shall apply:

- a. Any and all provisions of the Highway Traffic Act and regulations thereto applicable to trailers generally shall apply to trailers drawn by off-road vehicles.
- b. The maximum width of the trailer shall be equal to the lesser of the width of the off-road vehicle which is drawing the trailer;
- c. Every trailer shall be supplied with mudguards, fenders and other devices adequate to reduce effectively the water spray or splash of water unless adequate protection is afforded by the body of the trailer; and
- d. The trailer shall not obstruct the view of any rear and/or brake lighting required unless equivalent lighting is affixed to the rear of the trailer and clearly visible to approaching traffic.

III. ENFORCEMENT:

1. Where applicable, the provisions of this by-law shall be enforceable by a Police Officer, Municipal Law Enforcement Officer, or other such persons appointed by the Municipality.
2. No person shall obstruct, hinder, or otherwise interfere with a Police Officer, Municipal Law Enforcement Officer or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.
3. Failure to stop when directed by a police officer or Municipal Law Enforcement Officer shall be an offence of obstruction.
4. Every person who contravenes any Provision of this By-law is guilty of an offence and shall be liable to a fine pursuant to the Municipal Act, as amended every such fine is recoverable under the Provincial Offences Act, as amended.

IV. GENERAL:

1. That in the event that any provisions of this By-law are found by a Court of competent jurisdiction to be without effect under Section 14.(1) of the *Municipal Act*, S.O. 2001, as amended, such provisions shall be deemed to be severed and the remainder of this By-law shall remain in full force and effect.
2. This By-law shall apply in addition to the provisions of any other Town By-law and the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended, provided that in the event of conflict, the provisions of any other Town By-law or the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended, shall not be paramount over this By-law, provided such provisions are not contrary to law.

3. That without limiting the powers of the Town of Wasaga Beach Council to amend, alter or revoke this By-law at any time, it is hereby recognized that this By-law may be revoked and repealed at any time.
4. Nothing in this By-law shall limit any other statutory or common law rights or powers of the municipality or any Officer to enter on Land.
5. That this By-Law shall come into force and effect on the final passage thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF OCTOBER, 2019.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Nina Bifulchi, Mayor

Dina Lundy, Director, Legislative Services & Clerk