

# THE CORPORATION OF THE TOWN OF KEARNEY

## BY-LAW NO. 2015 – 32

*Being a By-law to Regulate the use of Off Road Vehicles on Municipal Roads*

**WHEREAS** Subsection 3 of Section 191.8 of the Highway Traffic Act, R. S. O. 1990, c. H8, provides that the council of a municipality may pass by-laws permitting the operation of off-road vehicles:

- a. on any highway within the municipality that is under the jurisdiction of the municipality, or any part or parts of such highway;
- b. prescribing a lower rate of speed on any highway within the municipality that is under its jurisdiction or on any part or parts of such highway, including prescribing different rates of speed for different highways or parts of highways: 1999, c. 12, Sched. R, s. 17, 2015, c.14, s. 53(1)

**AND WHEREAS** the Highway Traffic Act, R. S. O. 1990, c. H8, Ontario Regulation 316/03, defines an "off-road vehicle" and provides the regulations governing the operation of off-road vehicles upon highways;

**AND WHEREAS** Section 27 of the Municipal Act, 2001, S. O. 2001, c. 25 as amended, provides that a single tier municipality may pass by-laws respecting highways, including parking and traffic regarding highways under its jurisdiction;

**AND WHEREAS** Section 425 of the Municipal Act, 2001, S. O. 2001, c. 25 as amended, provides that any person who contravenes any by-law of the municipality, passed under this Act, is guilty of an offence;

**AND WHEREAS** the highways set out in this by-law are under the jurisdiction of the Town of Kearney;

**AND WHEREAS** the Council of the Corporation of the Town of Kearney deems it expedient to regulate and govern the operation of off road vehicles within the Town of Kearney;

**NOW THEREFORE THE COUNCIL OF THE TOWN OF KEARNEY HEREIN ENACT AS FOLLOWS.**

### 1. Short Title

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

### 2. Definitions

"Act" means the Highway Traffic Act.

"All-Terrain Vehicle" or "ATV" means an "off road vehicle" that,

- a. has four wheels, the tires of all of 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
  - a. a driver and only one passenger, if the vehicle
    - i. has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
    - ii. is equipped with foot rests for the passenger that are separate from the foot rests for the driver.

"Highway" means a common and public highway includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway, (Municipal Act, 2001, S.O., 2001, ch. 25, s. 1(1))

"Minister" means the Minister of Transportation. "Ministry" means the Ministry of Transportation.

**"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 a minimum cargo capacity of 159 kilograms.

**"Off Road Vehicle"** means an off-road vehicle within the meaning of the Off-Road Vehicles Act, 1999, c.12, Sched. R, s. 17, 2002, c. 17 Sched. F, Table.

**"Peace Officer"** for the purposes of this by-law includes:

- a. a police constable appointed under the Ontario Police Act,
- b. a conservation officer under the Fish and Wildlife Conservation Act,
- c. a park warden appointed under the Provincial Parks Act, and
- d. a by-law enforcement officer appointed by the Town.

**"Permit"** means a permit issued under Section 5, of the Off Road Vehicles Act, R. S. O. 1990, c. 0.4, consisting of a vehicle portion and a plate portion.

**"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;

Ontario Regulation 316/03, Part 1, Section 1

**"Town"** shall mean the Corporation of the Town of Kearney.

### **3. Off-Road Vehicles Permitted:**

- 3.1 a. Only "Off Road Vehicles", as defined in the Highway Traffic Act, O. Reg. 316/03, Section 1 and included in this By-law shall be permitted to be driven on highways under the jurisdiction of the Town of Kearney. This includes:
  - i. "All-Terrain Vehicle" or "ATV"
  - ii. "Multi-purpose off-highway utility vehicle"
  - iii. "Recreational off-highway vehicle"Ontario Regulation 316/03, Part 1, Section 1.
- b. the Off Road Vehicle meets the equipment requirements as set out in sections 7 through 15 of Ontario Regulation 316/03 regarding the operation of Off Road Vehicles on highways;
- c. the Off Road Vehicle is driven in accordance with the operation requirements set out in sections 16 through 24 of the Ontario Regulation 316/03 regarding the operation of Off-Road Vehicles on highways.

### **4. Idem**

- 4.1 The permission to drive an Off-Road Vehicle on the highways under the jurisdiction of the Town of Kearney granted in section 3.1 herein does not include:
  - a. Any sidewalk, footpath or other area solely meant for pedestrian traffic,
  - b. Any lands within a municipal park or on a municipal beach;
  - c. Private roads or driveways without the consent of the owner thereof,
  - d. Any highway falling under the jurisdiction of the Province of Ontario or any other government authority which does not permit such travel;
  - e. Any highway under the jurisdiction of the Town of Kearney where the common-in-law right of passage has been removed or restricted under a By-law passed pursuant to Section 35 of the Municipal Act, 2001.

### **5. Exemptions**

- 5.1 The Exemptions set out in Sections 25 through 28 of Ontario Regulation 316/03 under

the Highway Traffic Act regarding the operation of Off-Road Vehicles on highways shall apply to this By-law and the permissions granted thereunder.

**6. Enforcement**

- 6.1 A peace officer may stop any person driving an off-road vehicle.
- 6.2 Every person who has been signaled to stop by a person authorized to do so under subsections 6.1 shall stop forthwith.
- 6.3 Every person stopped under this Section or subsection 7.1, shall do so when so requested, identify himself or herself by giving his or her name to the person who stopped him or her.

**7. Duty to Stop for a Red Flashing Light**

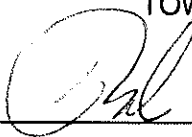
- 7.1 Every driver of an off-road vehicle shall stop his or her vehicle when approached by another vehicle with a flashing red light.
- 7.2. No person except a peace officer shall operate an off-road vehicle that is equipped with a red lamp that produces flashes of red light.
- 7.3 Subsection 7.2 does not apply to prohibit the use of vehicle hazard warning lights commonly known as four way flashers.


**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 for in the Provincial Offences Act.
- 8.2 All such penalties shall be recovered under the Provincial Offences Act.

READ A FIRST AND SECOND TIME, THIS 17<sup>th</sup> DAY OF JULY, 2015.

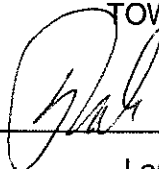
THE CORPORATION OF THE  
TOWN OF KEARNEY

  
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c/s  
Lance Thrale, Mayor

  
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Brenda J. Fraser, Clerk Administrator

READ A THIRD TIME AND FINALLY PASSED THIS 17<sup>TH</sup> DAY OF JULY, 2015

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