

THE CORPORATION OF THE TOWN OF MARATHON

BY-LAW NO. 1904

Being a by-law to repeal By-Law No. 1899, being a by-law to permit and regulate the operation of Off Road Vehicles on designated highways within the municipal boundaries of The Town of Marathon.

WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

AND WHEREAS Section 10 subsection (1), of the Municipal Act, 2001, S.O. 2001, c.25 provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Section 191.8 subsection (3), of the Highway Traffic Act, 2001, R.S.O. 1990, c.H. 8 provides that the council of a municipality may pass by-laws;

- a) 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
- b) prescribing a lower rate of speed for off-road vehicles than that prescribed for off-road vehicles by regulation;

AND WHEREAS Section 191.8 subsection (4) of the Highway Traffic Act, R.S.O. 1990, c.H. 8 provides that a by-law passed under Section 191.8 subsection (3) permitting the operation of off-road vehicles on municipal highways may limit the operation of off-road vehicles to specified months or hours;

AND WHEREAS Ontario Regulation 316/03 of the Highway Traffic Act, R.S.O. 1990, c.H.8 entitled "Operation of Off-Road Vehicles on Highways" and the Off-Road Vehicle Act R.S.O. 1990, ch. O.4 as amended applies to and regulates the operation and requirements of off-road vehicles on highways;

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

1.0 Short Title

- 1.1 This by-law may be cited as the "Off-Road Vehicles By-Law."

2.0 Interpretation

2.1 In this by-law:

- (a) words importing the singular number only, include more persons, parties or things of the same kind than one and the converse; and
- (b) a word interpreted in the singular number has a corresponding meaning when used in the plural;
- (c) "may" shall be construed as permissive;
- (d) "shall" shall be construed as imperative;

(e) "includes": the words – "include – includes – including and included" are not to be interpreted as restricting or modifying the words or phrases which precede them.

- 2.2 It is declared, if any section, subsection, part or parts thereof be declared by any court of law to be bad, illegal or ultra vires, such section, subsection part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 2.3 Unless specifically modified or changed herein, words or expressions used by this by-law have the same meaning as given or used in the Highway Traffic Act, Chapter H.8 R.S.O. 1990, as amended and the Off Road Vehicles Act R.S.O. 1990, Chapter O.4 as amended.
- 2.4 The schedules referred to in this by-law form an integral part of it. Each entry in a column of a schedule is to be read in conjunction with the entry or entries across from it.
- 2.5 Where the expression of time occurs, the time referred to is intended to be the system of time keeping in force in the municipality at the time of the by-law.
- 2.6 All words and personal pronouns relating to words contained in this by-law include the male and female.
- 2.7 Article, section and paragraph headings are inserted solely for ease of reference.
- 2.8 References within this by-law to the titles of the Corporation's employees are references to the positions that held those titles at the time this by-law was enacted. Where a corporate restructuring has occurred such that there is no longer a person within the organization who holds a referenced title, the reference is to the person who undertakes the duties of the title holder at the time this by-law was enacted. In any case of doubt, the Chief Administrative Officer for the Corporation shall delegate the authority to the appropriate person and direct this by-law be amended to reflect the new title.

3.0 Definitions

For the purpose of this by-law:

All Terrain Vehicle – means an off road vehicle that:

- 1) has four wheels, the tires of which are all in contact with the ground;
- 2) has steering handlebars;
- 3) has a seat that is designed to be straddled by the driver; and
- 4) is designed to carry:
 - a) a driver only and no passengers; or
 - b) 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.

Boulevard – means public property as part of the highway, between the private property line and the edge of the travelled roadway and may or may not contain a sidewalk or driveway.

Corporation – means the Corporation of the Town of Marathon.

Emergency – means a situation that constitutes a danger to life or property.

Highway – means property owned by the Municipality of Marathon and includes a common or public highway, street, avenue, parkway, driveway, square, place, bridge, laneway, 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.

Municipal Law Enforcement Officer - means a duly authorized person appointed by the Council of the Town of Marathon for the purpose of enforcing the provisions of this by-law.

Municipality – means the Corporation of the Town of Marathon.

Municipal Property – means real property owned by the Municipality other than highways and includes recreational centres, arenas, park lots, fire station, work and maintenance yards.

Multi-Purpose Off – Highway Utility Vehicle (UTV) 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;
- d) has a minimum cargo capacity of 159 kilograms;
- e) does not weigh more than 1,814 kilograms;
- f) has an overall width not greater than 2.03 meters, excluding mirrors; and
- g) an all terrain vehicle (ATV);

Off Road Vehicle (ORV) – means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel on four or more wheels, and which is one of the following classes of vehicles as defined by this by-law:

- 1) an all terrain vehicle (ATV);
- 2) a multi-purpose off-highway utility vehicle (UTV); or

3) a recreational off-highway vehicle (ROHY).

Operator – means the person having care and control of an off road vehicle. "Operate" and "Operating" shall have the same meaning.

O Reg 316/03 – means Ontario Regulation 316/03 entitled "Operation of Off-Road Vehicles on Highways" passed under the Highway Traffic Act, RSO 1990, c.H.8.

Park or Parking – means the act of leaving an off-road vehicle standing, whether occupied or not, except when stopped or standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Peace Officer - means a person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out the provisions of this by-law.

Police Officer – means a person so appointed by the Government of Ontario as a uniformed member of the Ontario Provincial Police.

Recognized Traditional Trail – means a groomed or ungroomed trail historically used, during the snow months, by motorized snow vehicle operators and throughout the remainder of the year by all terrain vehicle operators.

Recreational Off-Highway Vehicle (ROHV) – means an off-road vehicle that:

- 1) has four or more wheels, the tires of which are all in contact with the ground;
- 2) has a steering wheel for steering control;
- 3) has seats that are not designed to be straddled;
- 4) has an engine displacement equal to or less than 1,000 cubic centimetres;
- 5) does not weigh more than 1,700 kilograms; and
- 6) has an overall width not greater than 2.03 metres, excluding mirrors.

Road Service Vehicle – means an off-road vehicle while it is being used for highway maintenance purposes by or on behalf of the Municipality or other authority with jurisdiction and control of the highway.

Roadway – means a part of a highway, a private road, a lane or a driveway that is improved, designated or ordinarily used for vehicular traffic, but does not include the shoulder. Where a highway includes two or more separate roadways, the term refers to any one roadway separately and not all the roadways collectively.

Shoulder – means the portion of a highway between the outer edge of the roadway and the curb, or point of intersection of the slope lines at the outer edge of the roadway and the fill, ditch, or median slope, for the accommodation of stopped vehicles, for emergency use and for lateral support.

Sidewalk – means that portion of a highway between the curb lines and the property line of the lot abutting the highway, adjacent to the travelled roadway which has been improved for the use of pedestrians.

Townsite – means the built up area of the Corporation of the Town of Marathon.

4.0 Operation of Off-Road Vehicles on Highways

- 4.1 The operation of off-road vehicles, within the Town of Marathon, is permitted on any highway or serviced roadway or any part thereof within the Municipality of Marathon, except those highways listed in Schedule B, as a means of direct access from the operator's point of origin to the nearest recognized traditional trail, shown in Schedule A and as a means of direct access from the nearest recognized trail to the operator's point of destination.
- 4.2 No person shall operate an off road vehicle in prohibited areas shown on Schedule B.
- 4.3 No person shall operate an off-road vehicle on a recognized traditional trail, shown in Schedule A except as a means of direct access from the operator's point of origin to the operator's point of destination.
- 4.4 No person shall operate an off-road vehicle on a highway within the Municipality of Marathon between the hours of 12:00 midnight and 7:00 a.m.
- 4.5 Despite any section in this by-law, no person shall operate an off-road vehicle as that term is defined in the Off-Road Vehicles Act, R.S.O. 1990, c.O.4, which does not meet the definition of an off-road vehicle as defined in this by-law, on a highway.
- 4.6 Despite any section in this by-law, no person shall operate an off-road vehicle on a highway in contravention of Ontario Regulation 316/03, made under the Highway Traffic Act as amended or the Off-Road Vehicle Act R.S.O. 1990, Chapter O.4 as amended.

5.0 Prohibitions for Off-Road Vehicles

- 5.1 No person shall operate an off-road vehicle within the jurisdiction of the Town of Marathon on:
- a) any sidewalk, footpath or other area meant solely for pedestrian traffic;
 - b) any lands within a municipal park, a municipal beach or cemetery or other municipal property listed in Schedule B;
 - c) private roads, driveways or lands without the consent of the owner thereof;
 - d) any lands designated for the Marathon Municipal Airport;
 - e) any highway falling under the jurisdiction of the Province of Ontario, and
 - f) on any part of a highway that is designated as a construction zone.

g) any highway listed in Schedule B.

5.2 Section 5.1 subsection (F) does not apply to a person operating an off-road vehicle as a road service vehicle.

6.0 Maximum Speed

6.1 No person shall drive an off-road vehicle on a highway at a rate of speed greater than 20 kilometres per hour.

6.2 An off-road vehicle shall not be driven at a rate of speed greater than 50 kilometres per hour if the speed limit established for that part of the highway is greater than 50 kilometres per hour.

7.0 Yielding

7.1 When entering the shoulder of a highway or the roadway, the operator of an off-road vehicle shall yield the right-of-way to vehicles and pedestrians already using the shoulder or roadway, as the case may be and shall enter the shoulder or roadway only when it is safe to do so.

8.0 Mufflers

8.1 No person shall operate an off-road vehicle on a highway unless the off-vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or excessive smoke.

8.2 No person shall operate an off-road vehicle on a highway if the off-road vehicle is equipped with a muffler that has been modified so as to reduce its effectiveness.

8.3 Without limiting the generality of Subsections 1 and 2, no person shall operate an off-road vehicle on a highway if the off-road vehicle is equipped with a muffler cut-out, straight exhaust, gutted muffler, Hollywood muffler, by-pass or similar device.

9.0 Wheels and Tires

9.1 No person shall operate an off-road vehicle on a highway if there is any flange, rib, clamps or other device attached to its wheels or made a part thereof, which will damage the highway.

9.2 No person shall operate an off-road vehicle on a highway with studded tires unless in compliance with Section 9 of Ontario Regulation 625 of the Highway Traffic Act, R.S.O. 1990, c.H8 and the studs conform to Section 9 subsection 1 subsection 5 of Ontario Regulation 625 of the Highway Traffic Act, R.S.O. 1990, c.H8, as amended.

10.0 Risk to Safety

10.1 No person shall operate an off-road vehicle on a highway in such a manner that it causes or is likely to cause a risk to the safety of any person.

11.0 Parking

11.1 Off-road vehicles shall be subject to all regulations and by-laws governing the parking of vehicles within the Municipality.

12.0 Exemptions

- 12.1 The prohibitions set out in Sections 4.0, 5.0 and 6.0 of this by-law do not apply to restrict the operation of any type of off-road vehicle to the following persons or under the circumstances of an emergency;
- a) a police officer, conservation officer or other person appointed for the preservation and maintenance of the public peace in the course of his or her duties as a peace officer;
 - b) members of the Town of Marathon Emergency Services while acting in the course of their duties;
 - c) Superior North Emergency Services personnel while acting in the course of their duties;
 - d) any Corporation of the Town of Marathon employee including by-law enforcement personnel, while acting in the course of their duties;
 - e) any Hydro One or Bell Canada employee and their contractors in the course of their duties; and
 - f) any person or group having authorization, in writing, from the Corporation of the Town of Marathon to operate off-road vehicles in prohibited or restricted areas, provided s/he or they operate the off-road vehicle in accordance with any conditions imposed by the Town of Marathon. Failing to operate in accordance with the conditions will be deemed operation without authorization.

13.0 Enforcement

- 13.1 This by-law may be enforced by a police officer or a municipal by-law enforcement officer.
- 13.2 A peace officer, in the lawful execution of his or her duties, may require the driver of an off-road vehicle to stop, and the driver of the off-road vehicle, when signalled or requested to stop by a peace officer who is readily identifiable as such, shall immediately come to a safe stop.
- 13.3 Every person stopped under Section 13 subsection 2 shall when requested, identify himself or herself by giving his or her name, date of birth and home address to the peace officer who stopped him or her.
- 13.4 No person shall hinder or obstruct, or attempt to hinder or obstruct any police officer or municipal by-law enforcement officer in the lawful execution of his or her duties.

14.0 Penalties

- 14.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine and any other penalties as provided for in the Provincial Offences Act, R.S.O. 1990, c.P. 33, the Ontario Highway Traffic Act, R.S.O. 1990, c.H.8 and the Off-Road Vehicles Act, R.S.O. 1990, Chapter O.4.

15.0 Repeals

Be it further enacted that the following by-law hereinafter set forth is hereby repealed: By-Law No. 1899.

THAT this by-law shall come into force on the date of its final passing.

READ A FIRST AND SECOND TIME THIS 23rd DAY OF MAY, A.D., 2017.

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Mayor

(SEAL)

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Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 23rd DAY OF MAY, 2017, A.D.

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Mayor

(SEAL)

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Clerk