

THE CORPORATION OF THE MUNICIPALITY OF BROOKE-ALVINSTON

BY-LAW NUMBER 4 OF 2021

WHEREAS Section 191.8(3) of the Highway Traffic Act, R.S.O. 1990 Chapter H.8, as amended, provides that Council of a municipality may pass a by-law 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 during specified months or hours;

AND WHEREAS under Ontario Regulation 8/03, the Municipality of Brooke-Alvinston is listed, thereby allowing Off-Road Vehicles (ORV's) on municipal roads

AND WHEREAS the Council of the Municipality of Brooke-Alvinston now deems it appropriate to permit the operation of Off-Road Vehicles on specified highways under the jurisdiction of the Municipality of Brooke-Alvinston;

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;

NOW THEREFORE the Municipal Council of the Corporation of the Municipality of Brooke-Alvinston enacts as follows:

1. For the purpose of this by-law

Act means the Highway Traffic Act

All Terrain Vehicle shall have the same meaning as that term under the *Highway Traffic Act*, R.S.O. 1990 Chapter H.8, which is defined as of the date of this bylaws as: 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 are separate from the foot rests for the driver.

Highway shall mean a common and public roadway, street, bridge, 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, but excludes all highways under Provincial jurisdiction.

Multi-purpose Off-highway Utility Vehicle shall have the same meaning as that term under the *Highway Traffic Act*, R.S.O. 1990 Chapter H.8, which is defined as of the date of this By-law as: 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.

Permitted Off-road Vehicle shall mean an all-terrain vehicle, multi-purpose off highway utility vehicle, and recreational off-highway vehicle, as described in this section.

Off-road Vehicle shall have the same meaning as that term under the *Off-Road Vehicles Act*, R.S.O. 1990, c. O.4, which is defined as of the date of this By-law

as: a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,

- (a) on not more than three wheels, or
 - (b) on more than three wheels and being of a prescribed class of vehicle.
- Recreational Off-highway Vehicle** shall have the same meaning as that term under the Highway Traffic Act, R.S.O. 1990 Chapter H.8, which is defined as of the date of this By-law as: 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.

Restricted Highway shall mean:

- (a) those Highways described in Schedule "A" under the heading "Restricted Highways";
 - (b) Highways under the jurisdiction of the Province of Ontario;
2. Permitted Off-road Vehicles shall be permitted on all Highways in the Municipality of Brooke-Alvinston, except for Restricted Highways, from one-half hour after sunrise to one-half hour before sunset. No Off-Road Vehicle shall be permitted on Restricted Highways at any time, save for crossing Restricted Highways as permitted by Ontario Regulation 316/03, Operation of Off-road Vehicles on Highways, under the Highway Traffic Act, R.S.O. 1990 Chapter H.8.

3. PROHIBITIONS FOR OFF-ROAD VEHICLES

- 3.1 The authority to drive an off-road vehicle on highways under the jurisdiction of the Municipality of Brooke-Alvinston does not include:
- (i) any sidewalk, footpath or other area meant solely for pedestrian traffic;
 - (ii) any lands within a municipal park, trail, and cemeteries;
 - (iii) private roads or driveways without the consent of the owner thereof;
 - (iv) any highway falling under the jurisdiction of the Province of Ontario or any other government authority;
 - (v) any highway under the jurisdiction of the Municipality of Brooke-Alvinston where the common law right of passage has been removed or restricted under a by law passed pursuant to Section 35 of the Municipal Act, 2001.
 - (vi) unopened road allowances.
 - (vii) roads designated in the Municipality of Brooke-Alvinston Official Plan as residential, commercial, open space, industrial or mixed commercial/industrial
4. All provisions of Ontario Regulation 316/03, Operation of Off-road Vehicles on Highways, under the Highway Traffic Act, R.S.O. 1990 Chapter H.8, and the Off Road Vehicles Act, R.S.O. 1990, c.O.4, shall apply to this by-law and the operation of Permitted Off-Road Vehicles. Without limiting the generality of the foregoing, an Off Road Vehicle shall not be operated on a Highway unless:

- (a) a permit has been issued under section 5 of the Off Road Vehicles Act, R.S.O. 1990, c.O.4 or section 7 of the Highway Traffic Act, R.S.O. 1990, c. H.8;

(b) the Off-road Vehicle is insured in accordance with section 2 of the Compulsory Automobile Insurance Act, R.S.O. 1990, c.C.25 and section 15 of the Off Road Vehicles Act, R.S.O. 1990, c.O.4;

(c) the driver of the Off-road vehicle holds a valid driver's licence pursuant to the Highway Traffic Act, R.S.O. 1990, c. H.8 and regulations;

(d) All equipment requirements and operational requirements for Off-road Vehicles under Ontario Regulation 316/03, Operation of Off-road Vehicles on Highways, under the Highway Traffic Act, R.S.O. 1990 Chapter H.8, are met.

5.

MOTOR VEHICLE SAFETY STANDARDS

5.1 The off-road vehicle must meet the motor vehicle safety standards prescribed for restricted use motorcycles in the Motor Vehicle Safety Regulations made under the Motor Vehicle Safety Act (Canada) applicable when the vehicle was manufactured. O. Reg. 135/15, s.3.

5.2 Safety equipment for multi-purpose off-highway utility vehicles and recreational off-highway vehicles

(i) If the off-road vehicle is a multi-purpose off-highway utility vehicle, it must be equipped with an occupant protective structure and comply with subsection (3). O. Reg. 135/15, s.3.

(ii) If the off-road vehicle is a recreational off-highway vehicle, it must be equipped with a roll-over protective structure and comply with subsection (3). O. Reg. 135/15, s.3.

(iii) A multi-purpose off-highway utility vehicle or a recreational off-highway vehicle must be equipped,

a. with a handle or device that may be grasped by an occupant to provide support and to assist the occupant in keeping his or her arms and hands within the vehicle;

b. for each seating position, with a seat belt assembly that is in good working order and that includes a strap or straps sufficient to restrain both the pelvis and the torso; and

c. with a rear view mirror. O. Reg. 135/15, s.3.

6. LAMPS

6.1 Despite subsection 62 (1) of the Act, the off-road vehicle must be equipped with one or two lamps that emit a white light on the front of the vehicle and one or two lamps that emit a red light at the rear of the vehicle.

6.2 The lamps required by section 6.1 must be lit at all times the off road vehicle is operated on the highway.

6.3 The lamps required on the front of an off-road vehicle by section (6.1) must be aimed such that the intensity portion of the beam is directed below the horizontal line through the centre of the lamp from which it comes

7. PERMIT

7.1 The off road vehicle shall not be operated on a highway unless a permit under section 5 of the Off Road Vehicles Act has been issued in respect of that vehicle and a number plate showing the number of the permit shall be displayed on the vehicle as required under the Act, O.Reg. 135/15, s.5

8. **INSURANCE**

The off-road vehicle shall be insured in accordance with section 2 of the Compulsory Automobile Insurance Act and section 15 of the Off Road Vehicles Act. O. Reg. 316/03, s.17.

9. **DRIVER'S LICENCE CONDITIONS**

9.1 The driver of the off-road vehicle shall hold a valid Class A, B, C, D, E, F, G, G2, M or M2 driver's LICENCE issued under the Act unless he or she is exempt, under section 34 of the Act, from the application of section 32 of the Act. O. Reg. 135/15, s.6.

9.2 The age distinctions in this section apply despite the Human Rights Code. O. Reg. 135/15, s.6.s.19.

10. **HELMET**

The driver of the off-road vehicle and every passenger on the vehicle shall wear a helmet that complies with section 19 of the Off-Road Vehicles Act. O. Reg. 135/15, s.16

No person shall drive an off-road vehicle on a highway with a passenger on the vehicle unless the passenger is wearing a helmet as required by subsection (1). O. Reg. 135/15, s.6.

11. **SEATBELTS**

Seat belts on multi-purpose off-highway utility vehicles or recreational off highway vehicles

11.1 Every passenger on a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway shall,

- a) occupy a seating position for which a seat belt assembly has been provided; and
- b) wear the complete seat belt assembly as required by subsection (4). O. Reg. 135/15, s.6.

11.2. No person shall drive a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway unless he or she is wearing a complete seat belt assembly as required by subsection (4). O. Reg. 135/15, s.6.

11.3 No person shall drive a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway with a passenger on the vehicle, unless the passenger is,

- a) occupying a seating position for which a seat belt assembly has been provided; and
- b) wearing the complete seat belt assembly as required by subsection (4). O. Reg. 135/15, s.6.

11.4 A seat belt assembly shall be worn so that,

- a) the strap of each restraint is securely fastened and worn firmly against the body in the intended position; and
- b) no more than one person is wearing any strap of the seat belt assembly at any one time. O. Reg. 135/15, s.6.

12. **PASSENGERS ON ALL TERRAIN VEHICLES**

No person shall drive an all-terrain vehicle on a highway with a passenger on the vehicle unless,

- a) the vehicle is designed to carry both a driver and a passenger; and
- b) the passenger is straddling the passenger seat behind the driver while facing forward with his or her feet securely on the separate footrests intended for the passenger. O. Reg. 135/15, s.6.

12.1 No passengers under the age of eight

No person shall drive an off-road vehicle on a highway with a passenger on the vehicle who is under the age of eight. O. Reg. 135/15, s.6.

12.2 No riding on a trailer

No person shall drive an off-road vehicle on a highway while it is towing a trailer or any other attachment if there is a passenger on the trailer or other attachment. O. Reg. 135/15, s.6.

13. RULES OF THE ROAD

13.1 The off-road vehicle shall be driven on the shoulder of the highway in the same direction as the traffic using the same side of the highway. O. Reg. 316/03, s.24 (1).

13.2 Despite subsection 13.1, the off-road vehicle may be driven on the roadway in the same direction as the traffic using the same side of the highway if,

- a) there is no shoulder;
- b) the shoulder of the highway is obstructed and cannot be used by the off road vehicle; or
- c) The shoulder is not wide enough to allow the off-road vehicle to be driven with all of its tires remaining completely off of the roadway. O. Reg. 135/15, s.7.

13.3 When driven on the shoulder of the highway, the off-road vehicle shall be driven as close to and parallel with the right edge of the shoulder as can be done practicably and safely.

13.4 When driven on the roadway pursuant to subsection 13.2, the off-road vehicle shall be driven as close to and parallel with the right edge of the roadway as can be done practicably and safely.

13.5 The off-road vehicle shall not be driven in the median strip of the highway.

13.6 The off-road vehicle shall not be driven on any part of the highway that is designated as a construction zone

14. EXEMPTIONS

14.1 The exemptions governing crossing a highway, farmers and trappers and public work functions as set out in Section 25, 26, 27 and 28, of Ontario Regulation 316/03 shall apply to this by law.

14.2 Where any legislative reference is made in this By-law it shall be deemed to include that legislation, any regulations thereunder, any amendments thereto and any successor legislation or section.

14.3 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid the remainder of the By-law shall be valid and shall remain in force. Where a provision of this By-law conflicts with the provision of another by-law, the provisions that establish the

higher standards to protect the health, safety and welfare of the general public shall prevail.

14.4 Every person who contravenes any of the provisions of this By-law is guilty of an offence and shall, upon conviction thereof, pay a penalty established under the Off Road Vehicles Act, R.S.O. 1990, c.O.4 or the Highway Traffic Act, R.S.O. 1990, c. H.8, as applicable, and where such a penalty is not established under those Acts shall pay a penalty not exceeding the maximum fine permitted under the Provincial Offences Act, R.S.O. 1990, c. P.33.

14.5 This By-law may be enforced by any police officer, as defined in the Provincial Offences Act, R.S.O. 1990, c. P.33.

This By-law shall be in effect from the date of passing.

Read a first, second and third time and finally passed this 14 day of January 2021.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 14th DAY OF JANUARY, 2021.



David Ferguson, Mayor



Janet Denkers, Clerk Administrator

Schedule "A" to By-law Number 4-2021

A By-law to Permit and Regulate the use of Off-road Vehicles on highways in the Municipality of Brooke-Alvinston Restricted Highways

Restricted Highways

Those highways specified in the Municipal Official Plan that are located in the following areas are restricted from Off Road Vehicles:

- Residential
- Commercial
- Open Space
- Industrial
- Mixed Industrial / Commercial

