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Consolidated Version

Revised and Verified June 14, 2016

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2016-087 (Original)	June 13, 2016

Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

The Corporation of the City of Owen Sound

By-law No. 2016-087

A By-law to regulate the use Off-Road Vehicles on Municipal Roadways within the City of Owen Sound

WHEREAS subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the "Municipal Act") provides that a lower-tier municipality may pass by-laws respecting highways, including parking and traffic on highways, and subsection 8(3) provides that a by-law made under this section may regulate or prohibit respecting the matter; and

WHEREAS subsection 191.8 (1) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (the "Highway Traffic Act") provides that no person shall drive an off-road vehicle on a highway except in accordance with the regulations and any applicable municipal by-laws; and

WHEREAS subsection 191.8 (3) of the Highway Traffic Act provides that the council of a municipality may pass by-laws permitting the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality and subsection 191.8 (4) provides that such a by-law may permit the operation of off-road vehicles on any highway or on any part or parts of a highway only during specified months or hours; and

WHEREAS subsection 216 of the Highway Traffic Act provides that a police officer, in the lawful execution of his or her duties and responsibilities, may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signalled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop; and

WHEREAS on March 21, 2016, the Council of The Corporation of the City of Owen Sound (the "City") passed Resolution No. R-160321-018 to permit ATVs (or Off-Road Vehicles) on all City Streets except specific streets subject to several conditions and on May 16, 2016 City Council passed Resolution No. R-160516-012 to pass the subject by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Short Title, Purpose and Scope

Short Title

1. This by-law shall be known as the "Off-Road Vehicles By-law".

Purpose

2. This by-law has been enacted to permit the use of Off-Road Vehicles on City Roadways and to regulate the operation of Off-Road Vehicles to:
 - a. support public health, safety and well-being; and
 - b. protect public assets of the municipality.

Scope

3. This by-law shall apply to the operation of all Off-Road Vehicles on Roadways under the jurisdiction of the City.
4. This by-law shall not apply to Roadways under the jurisdiction of the County.

Part II. Interpretation

Headings

5. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

References to Applicable Law

6. All references to applicable law are ambulatory and apply as amended from time to time.

Definitions

7. For the purposes of this by-law:

"City" means The Corporation of the City of Owen Sound and a reference to the City is a reference to the geographical area of the City of Owen Sound or to The Corporation of the City of Owen Sound as the context requires;

"County" means The Corporation of the County of Grey and a reference to the County is a reference to the geographical area of the County of Grey or to The Corporation of the County of Grey as the context requires;

"Highway" includes a common and public highway, street, avenue, parkway, lane, 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;

"Highway Traffic Act" means the *Highway Traffic Act*, R.S.O. 1990, c H.8;

"Local Board" means any local board of a municipality and includes a school board and a conservation authority;

"Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, c 25;

"Off-Road Vehicle" means an off-road vehicle within the meaning of the *Off-Road Vehicles Act*, R.S.O. 1990, c. O.4;

"Police Officer" means a police officer as defined in the *Police Services Act*, R.S.O. 1990, c P.15;

"Provincial Offences Act" means the *Provincial Offences Act*, R.S.O. 1990, c P.33;

"Roadway" means the part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a Highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively; and

"Sunset" and "Sunrise" mean the times calculated by the National Research Council of Canada as "Sunset" and "Sunrise."

Part III. Off-Road Vehicles

Limited and Conditional Permission

8. Off-Road Vehicles are permitted on Roadways under the jurisdiction of the City, subject to sections 9 and 10 of this by-law.

Restrictions and Operating Requirements

9. No person shall operate an Off-Road Vehicle:
- a. on a prohibited Roadway as set out in Schedule 'A' to this by-law;
 - b. on any City property which is a park, sports field, playground, trail, cemetery, sidewalk or boulevard, save and except:
 - i. a designated parking lot in accordance with parking regulations; and
 - ii. the Georgian Bay Trail from the City limits to 3rd Avenue West;
 - c. on any property of the City, County or a Local Board without the consent of the City, County or the Local Board; or
 - d. in such a way which causes or is likely to cause the destruction or reckless endangerment of any person or property.

10. No person shall operate an Off-Road Vehicle on a City Roadway:
 - a. between Sunset and Sunrise;
 - b. between November 1 to March 31 of any year;
 - c. in excess of the speed limit set out in section 22 of Ontario Regulation 316/03 made under the Highway Traffic Act; and
 - d. contrary to any safety, equipment or operating requirement set out in Ontario Regulation 316/03 made under the Highway Traffic Act.

Part IV. Enforcement and Penalty

Enforcement

11. Any Police Officer and any By-law Enforcement Officer appointed by the City may enforce the provisions of this by-law.

Penalty

12. Any person, organization or business who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to the penalty set out in the *Provincial Offences Act*.

Part V. Conflict and Transition

Review

13. This by-law shall be reviewed no later than January 31, 2017.

Conflict

14. In the event the provisions of this by-law are inconsistent with the provisions of the Municipal Act, the Highway Traffic Act or any other Act and the Regulations thereunder, the provisions of the Act or Regulation shall prevail.

Terms Severable

15. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

By-law No. 1992-014

16. By-law No. 1992-014, being "A By-law to Regulate and Control the Management of all Existing Parks Belonging to The Corporation of the City of Owen Sound" is amended by adding the following subsections:
 - "1.7.1 "Off-Road Vehicle" means an off-road vehicle within the meaning of the Off-Road Vehicles Act, R.S.O. 1990, c. O.4."
 - "3.14 Drive or operate any Off-Road Vehicle in any park or in any area of any park, save and except the Georgian Bay Trail from the City limits to 3rd Avenue West as set out in Schedule 'C', attached to this by-law."
17. By-law No. 1992-014 is amended by adding Schedule 'C' as set out in Schedule 'B' attached to this by-law.

Enactment

18. This by-law shall come into full force and effect on the day it is passed.

FINALLY PASSED AND ENACTED this 13th day of June, 2016.

Signature on file

Mayor Ian C. Boddy

Signature on file

Carolyn P. Stobo, Deputy Clerk

Schedule A - Roadways where Off-Road Vehicles Prohibited

1. Off-Road Vehicles are prohibited on the Roadways or sections of Roadways set out in Column A from the area set out in Column B to the area set out in Column C in the table below:

	Column A – Roadway	Column B – From	Column C - To
1.	1 st Street East	2 nd Avenue East	The entrance to Harrison Park
2.	9 th Street East	1 st Avenue West	3 rd Avenue East
3.	10 th Street West	Westerly City limit	9 th Avenue East
4.	16 th Street East	9 th Avenue East	Easterly City limit
5.	1 st Avenue West	8 th Street West	10 th Street West
6.	1 st Avenue East	8 th Street East	10 th Street East
7.	2 nd Avenue East	8 th Street East	10 th Street East
8.	9 th Avenue East	Southerly City limit	16 th Street East
9.	Moores Hill	4 th Avenue West	The intersection with 2 nd Avenue West

Schedule B - Schedule 'C' to By-law No. 1992-014 – Georgian Bay Trail

