

**THE CORPORATION OF THE VILLAGE OF
BURK’S FALLS**

BY-LAW NO. 2007- 11

**Being a By-law to regulate the use of All Terrain
Vehicles within the Village of Burk’s Falls**

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 with three or more wheels and low pressure bearing tires than that prescribed for off-road vehicles by regulation:

- 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.
- c) on any highway or on any part or parts of a highway only during specified months or hours; 1999, c. 12, Sched. R, s. 17.

AND WHEREAS the Highway traffic Act, R. S. O. 1990,c. H8, Ontario Regulation 316/03, defines an “**all terrain vehicle**” and provides the regulations governing the operation of all-terrain vehicles upon highways within municipalities;

AND WHEREAS Section 11. (1), Item 1., 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 on highways;

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 Corporation of the Village of Burk’s Falls deems it necessary to develop detailed off-road vehicle safety regulations that allow off-road vehicles to have increased access to specific highways within the Municipality under safe circumstances;

**NOW THEREFORE THE COUNCIL OF THE VILLAGE OF BURK’S FALLS
HEREBY ENACTS AS FOLLOWS.**

1. Short Title

This by-law may be referred to as “The All Terrain Vehicle By-law”.

2. Definitions

“Act” means the Highway Traffic Act.

“all-terrain vehicle” 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
 - d) is designed to carry a driver only and no passengers.
- Ontario Regulation 316/03, Part 1, Section 1.

“ATV’s” shall mean all-terrain vehicles.

“Highway”

a) **what constitutes a highway-**

The following are highways unless they have been closed:

1. All highways that existed on December 31st, 2002.
2. All highways established by by-law of a municipality on or after January 1st, 2003.
3. All highways transferred to a municipality under the Public Transportation and Highways Improvement Act.
4. All road allowances made by the Crown Surveyors that are located in municipalities.
5. All road allowances, highways, streets and lanes shown on a registered plan of subdivision; and includes,
 - b) a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, 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. “low pressure bearing tire” means a wide, balloon-type tire with a rounded cross section and no distinct shoulder area and that is designed to operate with inflation pressures of no greater than 70 kpa (10 psi).

“Minister” means the Minister of Transportation.

“Ministry” means the Ministry of Transportation.

“Municipality” shall mean the Village of Burk’s Falls.

“occupier” includes,

- i) a person who is in physical possession of the land, or
- ii) a person who has the responsibility for and control over the condition of land or the activities there carried on, or control over persons allowed to enter the land. “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 Municipality.

“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. “street” means a “highway” as defined.

3. Off Road Vehicles Permitted: ATV’s

3.1 Only those “Off Road Vehicles” falling within the definition of an “All Terrain Vehicle (ATV)” in this by-law, may be driven on highways under the jurisdiction of the Village of Burk’s Falls provided that:

- (i) there is only one driver and no passenger on the all terrain vehicle;
- (ii) the all terrain vehicle meets the equipment requirements set out in sections 5 through 13 (inclusive) of this by-law; and
- (iii) the all terrain vehicle is driven in accordance with the operation requirements set out in section 14 through 24 (inclusive) of this by-law.

4. Prohibitions for all terrain vehicles

4.1 The authority to drive an all terrain vehicle on highways under the jurisdiction of the Village of Burk’s Falls does not include:

- (i) any sidewalk, footpath or other area meant solely for pedestrian traffic;
- (ii) any lands within a municipal park or on any municipal walking trail;
- (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 Village of Burk’s Falls 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) vehicles will not be permitted in the Village of Burk's Falls during the hours of 9 pm to 8 am.

Equipment Requirements

5. Weight and dimensions

- 5.1 The all terrain vehicle must weigh 450 kilograms or less.
- 5.2 The all terrain vehicle must have an overall width not greater than 1.35 metres, excluding mirrors.

6. Tires

- 6.1 All tires on the all terrain vehicle must be low pressure bearing tires.

7. Motor Vehicle Safety Standards

- 7.1 The all terrain 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.

8. Equipment configuration and performance requirements

- 8.1 If the all terrain vehicle was manufactured after May, 31st, 1991 and before January 1, 2002, it must meet the equipment configuration and performance requirements set out in the American National Standards Institute/Specialty Vehicle Institute of America publication entitled *Four Wheel All-Terrain Vehicles, ANSI/SVIA-1-1990* or *Four Wheel All-Terrain vehicles - Equipment, Configuration and Performance Requirements ANSI/SVIA-1-2001*.
- 8.2 If the all terrain vehicle was manufactured after December, 31, 2001, it must meet the equipment configuration and performance requirements set out in the American National Standards Institute/Specialty Vehicle Institute of America publication entitled *Four Wheel All-Terrain Vehicles - Equipment, Configuration And Performance Requirements ANSI/SVIA-1-2001*.

9. Equipment must be in operating condition

- 9.1 No person shall operate or permit the operation of an all terrain vehicle when a component, equipment or other feature of the all terrain vehicle that was part of the vehicle when manufactured and that is required by section 7 or 8 is not operating properly or is missing, rendered partly or wholly inoperable or modified so as to reduce its effectiveness.

10. Braking System

- 10.1 The all terrain vehicle must be equipped with a service brake, parking brake and parking mechanism that comply with section 4 of the American National Standards Institute/Specialty Vehicle Institute of

America publication entitled *Four Wheel All-Terrain Vehicles - Equipment, Configuration and Performance Requirements ANSI/SVIA-1-2001*.

11. Lamps

- 11.1 Despite subsection 62 (1) of the Act, the all terrain 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.
- 11.2 The lamps required by section 11.1 must be lit at all times the all terrain vehicle is operated on the highway.
- 11.3 The subsection of section 62 of the Act that refer to lamps required under Subsection (1), (2) or (3) of that section shall be read as if referring to the lamps required under subsection 11.1 of this section.
- 11.4 The lamps required on the front of an all terrain vehicle by section (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, at a distance of 7.6 metres ahead of the lamp when the vehicle is not loaded.
- 11.5 If the all terrain vehicle was manufactured after January, 1, 1998, it must be equipped with a stop lamp or lamps on the rear of the vehicle that emit a red light when any brake is applied.
- 11.6 A stop lamp required under subsection 11.5 may be incorporated with a rear lamp or may be a separate.
- 11.7 The all terrain vehicle must be equipped with,
- (i) one yellow reflex reflector on each side of the vehicle at the front;
 - (ii) one red reflex reflector on each side at the rear; and
 - (iii) one or two red reflex reflectors on the rear.
- 11.8 The reflex reflectors required by subsection 11.7 must comply with the requirements of the *Motor Vehicle Safety Regulations* made under the *Motor Vehicle Safety Act (Canada)* applicable when the vehicle was manufactured.

12. Windshield

- 12.1 The all terrain vehicle need not be equipped with a windshield but if it is, the windshield must satisfy the requirements prescribed for a motorcycle windshield under subsection 1 (10) of Schedule 6 to Regulation 611 of the revised regulations of Ontario.

13. No obstruction of view

- 13.1 There must not be any object or non-transparent material placed on or attached to the all terrain vehicle that obstructs the driver's view of traffic approaching from any direction at an intersection, or of traffic approaching from the rear of the vehicle.
- 13.2 If the all terrain vehicle is towing a trailer, the trailer or load must not obstruct the driver's view of traffic approaching from any direction at an intersection, or of traffic approaching from the rear of the vehicle.

Operation Requirements

14. Permit

- 14.1 The all terrain vehicle shall be operated under the authority of a permit issued under section 5 of the *Off-Road Vehicles Act* and a number plate showing the number of the permit shall be displayed on the vehicle as required under that Act.
- 14.2 Subsection (1) does not apply to an all terrain vehicle operated under the authority of a permit issued under section 7 of the *Highway Traffic Act*, as provided by section 7 of the *Off-Road Vehicles Act*.

15. Insurance

- 15.1 The all terrain vehicle shall be insured in accordance with section 2 of the *Compulsory Automobile Insurance Act* and section 15 of the *Off-Road Vehicles Act*.

16. Driver's licence

- 16.1 The driver of the all terrain vehicle shall hold a valid Class A,B,C,D,E, F,G, GS, 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.

7. Helmet

- 17.1 The driver of the all terrain vehicle shall wear a helmet that complies with section 19 of the *Off-Road Vehicles Act*.

18. Application of *Highway Traffic Act*

- 18.1 Except as otherwise provided in the Regulation, the provisions of the Act and its regulations applicable to motor vehicles apply with necessary modifications to the operation of an all terrain vehicle on a highway.
- 18.2 Subsection 62 (19), sections 64 and 66 and subsection 76 (1) of the Act do not apply to the operation of an all terrain vehicle on a highway.

19. Application of *Off-Road Vehicles Act*

19.1 The *Off-Road Vehicles Act* and the regulations made under that Act that apply to the operation of off-road vehicles off the highway apply with necessary modifications to the operation of an all terrain vehicle on a highway.

20. Maximum speed

20.1 The all terrain vehicle shall not be driven at a rate of speed greater than,

- (i) 20 kilometres per hour, if the speed limit established under the Act for that part of the highway is not greater than 50 kilometres per hour; or

21 Environmental protection

21.1 The all terrain vehicle shall not be operated in such a manner as to,

- (i) discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment that may have an adverse effect on the Environment or impair the quality of any waters; or
- (ii) contravene any conditions, restrictions and prohibitions imposed by any legislation and related regulations enacted to protect the environment.

21.2 The all terrain vehicle shall not be operated in such a manner that it causes or is likely to cause,

- (i) a risk to the safety of any person;
- (ii) harm or material discomfort to any person from dust, emissions or noise;
- (iii) harm, injury or damage, either directly or indirectly, to any property, flora or fauna; or
- (iv) alteration, disruption or destruction to the natural environment, including erosion damage or degradation of the right of way.

21.3 The all terrain vehicle shall not be driven in or through a river, stream or other watercourse on a highway if doing so would or would be likely to alter, disrupt or destroy any fish habitat.

22. Rules of the road

22.1 The all terrain vehicle shall be driven on the shoulder of the highway in the same direction as the traffic using the same side of the highway.

- 22.2 Despite subsection 22.1, the all terrain vehicle may be driven on the roadway in the same direction as the traffic using the same side of the highway if,
- (i) there is no shoulder; or
 - (ii) the shoulder of the highway is obstructed and cannot be used by the off-road vehicle.
- 22.3 Despite subsection 22.1, the all terrain vehicle shall not be driven on the shoulder but shall be driven on the roadway in the same direction as the traffic using the same side of the highway if it is being driven across a level railway crossing.
- 22.4 When driven on the shoulder of the highway, the all terrain vehicle shall be driven as close to and parallel with the right edge of the shoulder as can be done practicably and safely.
- 22.5 When driven on the roadway pursuant to subsection 22.2, the all terrain vehicle shall be driven as close to and parallel with the right edge of the roadway as can be done practicably and safely.
- 22.6 When entering the shoulder or the roadway, the all terrain vehicle shall yield the right of way to vehicles already using the shoulder or the roadway, as the case may be, and shall enter the shoulder or roadway only when it is safe to do so.
- 22.7 The all terrain vehicle shall not be driven in the median strip of the highway.
- 22.8 The all terrain vehicle shall not be driven on any part of the highway that is designated as a construction zone under subsection 128 (8) of the Act or on any other part of the highway where construction work or highway maintenance is being carried out, unless the all terrain vehicle is operating as a vehicle described in subsection 128 (13) of the Act or as a road service vehicle.
- 22.9 If part or all of the highway is closed under subsection 134 (2) of the Act, the all terrain vehicle shall not be driven on any adjacent part of the highway that may be open, unless the all terrain vehicle is operating as a vehicle described in subsection 128 (13) of the Act or as a road service vehicle.
- 22.10 The all terrain vehicle shall not overtake and pass any moving motor vehicle or motorized snow vehicle at any time when both the all terrain vehicle and the other vehicle are travelling on the same shoulder or roadway of the highway.
- 22.11 Despite subsection 22.10, an all terrain vehicle may overtake and pass another all terrain vehicle when both are travelling on the shoulder if the movement can be made in safety while remaining on the shoulder and to the left of the off-road vehicle being overtaken and passed.
- 22.12 Despite clause 142(4) (b) of the Act, a person driving an all terrain vehicle on the highway may indicate the intention to turn right by extending the right hand and arm horizontally beyond the right side of the vehicle.

22.13 Before commencing a left turn in the manner required by subsection 141(5), (6) or (7) of the Act, the all terrain vehicle shall, without interfering with the movement of traffic travelling in the same direction as the all terrain vehicle, move away from the shoulder or from the right edge of the roadway, as the case may be, and be positioned on the roadway in the position from which the left turn is to be made.

22.14 Upon completing a left turn, the all terrain vehicle shall, without interfering with the movement of traffic travelling in the same direction as the all terrain vehicle, move back to the right edge of the roadway or shoulder, as the case may be.

23. Exemptions

23.1 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.

24. Towing with an All Terrain Vehicle

24.1 The operator of an all terrain vehicle shall ensure:

a) that when towing a trailing device, that the said trailing device shall be equipped with a rigid hitch and shall be fastened securely to the all terrain vehicle;

b) that all trailing devices shall meet all requirements in accordance with the Highway Traffic Act;

c) that no person or passengers are on or within the trailing device while it is being drawn by the off-road vehicle.

25. Parking

25.1 All terrain vehicles shall be subject to all regulations and by-laws governing the parking of vehicles within the Municipality.

26. Enforcement

26.1 A peace officer may stop any person driving an all terrain vehicle.

26.2 Every person who has been signalled to stop by a person authorized to do so under subsections 26.1 shall stop forthwith.

26.3 Every person stopped under this Section or subsection 27.1, shall when so requested, identify himself or herself by giving his or her name to the person who stopped him or her.

27. Duty to stop for red flashing light

27.1 Every driver of an all terrain vehicle shall stop his or her vehicle when approached by another vehicle with a flashing red light.

27.2 No person except a peace officer shall operate an all terrain vehicle that is equipped with a red lamp that produces flashes of red light.

27.3 Subsection 27.2 does not apply to prohibit the use of vehicle hazard warning lights commonly known as four way flashers.

28. Severability

28.1 If a court of competent jurisdiction should declare any section or part of any section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced council to pass the remainder of the by-law and it is hereby declared the remainder of the by-law shall be valid and remain in force.

29. Penalty

29.1 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.

29.2 All such penalties shall be recovered under the Provincial Offences Act.

READ A FIRST TIME THIS 22nd, DAY OF MAY 2007

READ A SECOND TIME THIS 22ND DAY OF MAY 2007

READ A THIRD TIME AND FINALLY PASSED ON THIS 22ND DAY OF MAY 2007.

Seal

Reeve, Cathy Still

**Clerk/Treasurer
Jarvis W. Osborne**