

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 2019-06

Being a By-law to regulate the use of "Off Road Vehicles" within the Village of Burk's Falls

WHEREAS The Highway Traffic Act, R.S.O 1990, Chapter H.8 Section 191.8, as amended, authorizes the Council of a municipality to pass by-laws 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 highways; and

WHEREAS, The Highway Traffic Act, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways, as amended, defines All-Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles and Recreational Off-Highway Vehicles as classes of Off-Road Vehicles and provides regulations governing the specification and operation of All-Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles and Recreational Off-Highway Vehicles upon highways; 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 Council deems it is advisable to regulate the operation of Off-Road Vehicles on certain highways and trails within the jurisdiction of the Village of Burk's Falls, or on any part or parts of such highways.

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 "Off Road Vehicles By-law".

2. Definitions

2.1 "Act" means the Highway Traffic Act.

2.2 "all-terrain vehicle" means 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 rest for the driver.

2.3 "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 seats that are not designed to be straddled, and
- d) has a minimum cargo capacity of 159 kilograms;

2.4 “off-road vehicle” has the same meaning as in the *Off-Road Vehicles Act*. For the purpose of this by-law, it shall also include all-terrain vehicles, multi-purpose off-highway vehicles and recreation off-highway vehicles;

2.5 “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 centimeters;

2.6 “Highway” the following are highways unless they have been closed:

- a) All highways that existed on December 31st, 2002.
- b) All highways established by by-law of a municipality on or after January 1st, 2003.
- c) All highways transferred to a municipality under the Public Transportation and Highways Improvement Act.
- d) All road allowances made by the Crown Surveyors that are located in municipality.
- e) All road allowances, highways, streets and lanes shown on a registered plan of subdivision; and includes,
- f) 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.

2.7 “Minister” means the Minister of Transportation.

2.8 “Ministry” means the Ministry of Transportation.

2.9 “Municipality” means the Village of Burk’s Falls

3. Where Permitted

Off-road vehicles are permitted to be operated on all municipally owned and maintained highways, streets and roads that are within the Village of Burk’s Falls and under the jurisdiction of the Village of Burk’s Falls.

4. Where Prohibited

The authority to drive off-road vehicles on highways under the jurisdiction of the Village of Burk’s Falls does not include:

- a) Any sidewalk, footpath or other area meant solely for pedestrian traffic;
- b) Any lands within a municipal park or on any municipal walking trail;
- 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;
- e) 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.
- f) Unopened road allowances.

5. Regulations and Rules

- a) Off-road vehicles shall only be operated on municipal Highways as permitted by this By-law and provided it meets the requirements and is operated in accordance with the Highway Traffic Act, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03, and the Off-Road Vehicles Act, R.S.O. 1990 c. 04 as amended; and
- b) Off-road vehicles shall not be driven on a highway at a rate of speed greater than 20 kilometers per hour within the Village of Burk's Falls; and
- c) That no person shall park an off-road vehicle on municipal highways or property unless it is within a designated on-street parking space or a municipally owned and signed parking lot.

6. Enforcement

- a) Any person operating an off-road vehicle in contravention of this By-law, the Highway Traffic Act, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03, and the Off-Road Vehicles Act, R.S.O. 1990 c. 04 as amended shall be guilty of an offence and subject to the penalties provided by law; and
- b) Where applicable, the provisions of this By-law shall be enforceable by the Ontario Provincial Police, a Municipal By-law Enforcement Officer or other such person appointed by the Village of Burk's Fall.

7. Severability

- a) If a court of competent jurisdiction should declare any section of 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.


8. Repeal

The Bylaw 2007-11 hereby be repealed.

Considered read a first, second, third and final time in open session this 23rd day of April 2019.

Seal


Mayor, Cathy Still


Clerk Administrator
Nicky Kunkel