

The Corporation of the City of Kenora

By-law Number 166 - 2015

Being a By-law to control the use of Off-road Vehicles including All-terrain Vehicles, in the City of Kenora

Whereas Section 191.8(3) of the Highway Traffic Act, R.S.O. 1990, Chapter H8, as amended, (the "HTA"), provides that the council of a City of Kenora may pass by-laws permitting the operation of certain off-road vehicles on any Highway within the City of Kenora that is under the jurisdiction of the City of Kenora, or any part or parts of such highway;

Whereas Ontario Regulation 316/03, as amended, made under the authority of the HTA, a City of Kenora may only authorize the operation of all-terrain vehicles, multi-purpose off-highway utility vehicles and recreational off-highway vehicles on municipal highways; and

Whereas the Council of The Corporation of the City of Kenora deems it necessary to adopt a By-law that permits and regulate the operation of all-terrain vehicles, multi-purpose off-highway utility vehicles upon certain of its highways; and

Whereas the Council of The Corporation of the City of Kenora wishes to prohibit ORVs on Municipal property;

Now Therefore the Council of The Corporation of the City of Kenora Enacts as Follows:

1.0 Definitions

For the purposes of this By-law the words or terms defined in this Section are to be read with the meanings set out in the definitions.

#	Word/Term	Definition
1.1	All-terrain Vehicle or ATV	as defined in Ontario Regulation 316/03, Part 1, Sec. 1 of the Highway Traffic Act means an Off-Road Vehicle (defined below) which: (a) has four wheels, the tires of which are all in contact with the ground; (b) has a steering wheel or handlebars; (c) has a seat designed to be straddled by the driver; and (d) i) is designed to carry 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 of the driver;

1.2	By-law	Means this By-law, and the term includes its recitals and any schedules, which are considered to be integral parts of it.
1.3	HTA	Means the Highway Traffic Act, R.S.O. 1990, Chapter H.8, as amended, together with any regulations passed under the authority of that legislation.
1.4	Highway	Means land under the jurisdiction of the City of Kenora which is set aside for the passing of motor vehicles. The term includes all of the property, including the travelled roadway portion, shoulders, boulevards, medians, ditches, and all infrastructure on the Highway.
1.5	Multi-purpose off-highway utility vehicle (MPOHUV)	Means an off-road vehicle that, 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;
1.6	City of Kenora or Corporation	means The Corporation of the City of Kenora
1.7	ORVA	means the Off-Road Vehicles Act, R.S.O. 1990, c.O.4, as amended, together with any regulations passed under the authority of that legislation.
1.8	Off-road Vehicle or ORV	As defined in the Off-Road Vehicles Act, R.S.O.1990, Chapter 0.4, as amended Part 1, Section 1, and includes any ATV, MPOHUV or ROHV as defined in Ontario Regulation 316/03 which means 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 class of vehicle prescribed by the Province in legislation or regulation. As of the date of passage of this By-law, vehicles defined in this By-law as ATVs are a prescribed class of ORV.
1.9	Recreational off-highway vehicle (ROHV)	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 centimetres
1.10	Sidewalk	means that part of the Highway that is set aside, designed and intended for use by the general public for pedestrian travel. The term also includes any property of the City of Kenora that is physically set apart or made available and intended for pedestrian use.

1.11	Kenora	means the geographic area under the jurisdiction of the City of Kenora
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2.0 Interpretation

2.1 This By-law may be cited as the "Off-road Vehicle (ORV) By-law."

2.2 All reference made to the male gender shall include the female gender and all reference made to the singular shall include reference to the plural where applicable in this By-law.

2.3 Whenever any activity is prohibited in this By-law, the prohibition is against any person undertaking the activity personally, and also against any person directing, authorizing, permitting or allowing another person to undertake that activity.

3.0 General Rules

3.1 Where this By-law permits any type of ORV to be driven on a Highway in Kenora, the rules in this Section 3.0 apply.

3.2 Any type of ORV must meet the requirements, as defined in this By-law and applicable Provincial legislation when driving on a Highway.

3.3. (1) Any type of ORV must be driven in accordance with this By-law, together with all provincial legislation and regulations that govern the operation of such vehicles when driving on a Highway.

(2) Applicable legislation includes the HTA and the ORVA, but there may be other statutes or regulations that also apply. Applicable legislation also includes other By-laws of the City of Kenora of general application, including noise by-laws, speed limit by-laws, parking by-laws, and others.

(3) The onus is on the operator of any type of ORV to know and understand all of the rules that apply to the operation of his or her vehicle.

4.0 Permitted Highways for All-terrain Vehicles

4.1 Notwithstanding Section 1 of Schedule C of Ontario Regulation 316/03 under the HTA, and as per Section 191.8(3) of the Act, any type of ORV may be driven on any Municipal Highway in Kenora, provided that the ORV is operated in accordance with the HTA, the ORVA, this By-law and all other applicable law.

5.0 Prohibitions

5.1 No person shall operate any type of ORV, at any time at any of the locations set out in Schedule A to this By-law.

5.2 No person shall operate any type of ORV on any private property without the prior consent by the person who owns the property or the person that resides on the property.

5.3 No person shall park any type of ORV at any time at any of the locations set out in Schedule A to this By-law, except in designated parking lots or parking areas.

5.4 No person shall interfere with, obstruct or impede a Peace Officer who is in the process of enforcing the provisions of this By-law.

6.0 Exception

The prohibitions in Section 5.0 of this By-law do not apply to restrict the operation of any type of ORV by those persons, or under those circumstances, that are listed in Schedule B.

7.0 Enforcement

7.1 Any Peace Officer may enforce the provisions of this By-law. He or she must identify him or herself as such, and provide any relevant information relating to his or her authority to persons making enquiries at the time of inspection or enforcement.

7.2 A Peace Officer, in the course of his or her duties in enforcing this By-law, may direct or signal any person operating any type of ORV to stop the vehicle so that he or she may approach it safely.

8.0 Penalty

Every person who contravenes any provision in this By-law is guilty of an offence and, if convicted, is liable to a fine as provided for in the Provincial Offences Act.

9.0 Severability

If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law or its application in any other circumstances, shall not be affected and shall continue to be in full force and effect.

10.0 Effective Date

This By-law shall come into force and effect on the date it is enacted by Council.

11.0 Repeal

That bylaw number 157-2008 and 140-2015 be hereby repealed.

By-law read a First and Second Time this 17th day of November, 2015

By-law read a Third and Final Time this 17th day of November, 2015

The Corporation of the City of Kenora:-

David S. Canfield, Mayor

Heather Kasprick, City Clerk

**“Schedule A”
to
By-law Number 166 - 2015**

Restricted Areas for any type of ORV (also refer to Section 5 of the By-law)

All sidewalks;

All recreational trails owned by the City of Kenora;

Lands within a park or beach owned or operated by the City of Kenora;

All municipal cemeteries;

All Municipal property, except as allowed in this By-law;

**“Schedule B”
to
By-law Number 166-2015**

Persons Exempt from By-law Number 166-2015

Any Peace Officer, while acting in the course of his or her duties as a Peace Officer;

The Fire Chief/Emergency Services Manager/By-law Enforcement Manager and fire department and By-law Enforcement personnel, while acting in the course of their duties;

Any Hydro One employee, Kenora Hydro employee, and their contractors, while acting in the course of their duties;

Any City of Kenora employee, while acting in the course of his or her duties; and

Any person or group that has authorization, in writing, in advance from the City of Kenora to operate ATVs in prohibited or restricted areas, provided he, she, it or they operate the ATV in accordance with any conditions imposed by the City of Kenora. Failing to operate in accordance with the conditions is operation without permission or authorization.

The Corporation of the City of Kenora

**Part I of the Provincial Offences Act
Pursuant to
By-Law Number 166 - 2015
Use of Off Road Vehicles**

Item No .	Column 1 - Short Form Wording	Column 2 -- Provision Creating or Defining Offence	Column 3 - Set Fine
1	Operating an ORV, including an ATV, in a prohibited area	5.1 and Schedule A	\$150. 00
2	Operating an ORV, including an ATV, on private property without prior consent by the owner/occupier	5.2	\$150.00
3	Parking an ATV in a prohibited area	5.3 and Schedule A	\$150.00
4	Parking an ATV on private property without prior consent by the owner/occupier	5.4	\$150.00
5	Failure to stop when signaled by a Peace Officer	5.5	\$200.00
6	Interference or obstruction of a Peace Officer when performing his/her duties	5.6	\$200.00

Note: The penalty provision for the offences indicated above is Section 8.0 of By-law Number 166-2015, a certified copy of which has been filed.