

**THE CORPORATION OF THE  
TOWNSHIP OF GEORGIAN BAY**

BY-LAW NO. 2007- 31

Being A By-Law To Permit The Use Of All Terrain Vehicles On Certain Municipal Highways.

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

AND WHEREAS pursuant to section 191.8 (3) of the *Highway Traffic Act*, the council of a municipality may pass by-laws permitting certain off-road vehicles on highways under the jurisdiction of the municipality and prescribing speed limits for such vehicles;

AND WHEREAS the operation of off-road vehicles on highways is a privilege and not a right;

AND WHEREAS pursuant to section 11 (3) 1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, the Council of The Corporation of the Township of Georgian Bay may pass by-laws with respect to municipally owned roads including parking and traffic on such highways;

AND WHEREAS pursuant to section 8 (1) of the *Municipal Act, 2001* S.O. 2001, c.25, a by-law passed under section 11 of the *Municipal Act, 2001*, may regulate the matter and, as part of any regulations respecting the matter, require persons to do things respecting the matter;

AND WHEREAS pursuant to section 14 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25 S.O. 2001, c.25, municipal by-laws are without effect only to the extent of conflict with federal or provincial legislation;

AND WHEREAS requests have been received to permit off-road vehicles on certain municipally owned roads within the boundary of the Township of Georgian Bay;

NOW THEREFORE, pursuant to section 11 (3) 1 of the *Municipal Act, 2001*, S.O. 2001, c.25 and section 191.8 (3) of the *Highway Traffic Act*, the Council of The Corporation of the Township of Georgian Bay, enacts as follows:

1. Definitions

1.1 (1) In this by-law,

(a) "all terrain vehicle" means an off-road vehicle that:

- (i) has four wheels, the tires of all of which are in contact with the ground; and
- (ii) has steering handlebars; and
- (iii) has a seat designed to be straddled by the driver; and
- (iv) is designed to carry a driver only and no passengers; and
- (v) has not been modified in any way from its manufactured design either by the addition of passenger seats, or otherwise or the removal of equipment such as mufflers; and
- (vi) is being operated, driven or used as designed by the manufacturer.

(b) "Township of Georgian Bay Road" means any and all public highways that are under the jurisdiction and ownership of The Corporation of the Township of Georgian Bay.

(c) "off-road vehicle" means an off-road vehicle as defined by the *Highway Traffic Act* and/or the regulations thereto and includes an all terrain vehicle as defined in section 1.1(1)(a).

(2) Compliance with all of the criteria in section 1.1(1)(a) is mandatory. Any vehicle not meeting all the criteria in section 1.1(1)(a) does not qualify as an all terrain vehicle under this by-law.

2. Limited and Conditional Privilege

- 2.1 No person shall operate an all terrain vehicle on a Township of Georgian Bay Road except in accordance with, and subject to, the conditional and limited permission granted in sections 2.2 and 2.3 in this by-law.
- 2.2 A limited and revocable conditional permission shall be and is hereby granted to persons to operate all terrain vehicles as defined in section 1.1(1)(a) of this by-law on Township of Georgian Bay Roads, if the conditions set out in section 2.3 are met, at any time from one half hour after sunrise to one half hour before sunset.
- 2.3 The following conditions must be met both prior to and during the operation of an all terrain vehicle for the permission in section 2.2 to be valid:
- (a) the all terrain vehicle must qualify as an all terrain vehicle as defined in section 1.1(1)(a) of this by-law;
  - (b) all of the terms and conditions of this by-law must be complied with at all times, including acceptance of the waiver in section 4.2 of this by-law; and
  - (c) all of the provisions of O. Reg. 316/03, as amended from time to time, and any other legislation governing the use of all terrain vehicles must be complied with at all times.
- 2.4 The permission in section 2.2 includes the road allowances associated therewith, where the Township of Georgian Bay has full and complete jurisdiction. Without limiting the foregoing, the permission in section 2.2 herein does not apply to overpasses or underpasses over or under King's Highway 400, sidewalks, municipally owned parks, or unopened road allowances.
- 2.5 Without limiting the generality of section 2.3, persons purporting to operate all terrain vehicles under the permission in section 2.2 are required to have adequate insurance at all times. In the event that such insurance is inadequate in terms of deductibles, terminated or limited coverage or otherwise, any and all losses and costs the Township of Georgian Bay may incur as a result of such inadequate insurance coverage are a debt due the Township of Georgian Bay, which the person shall pay on demand forthwith.
- 2.6 In the event that the drawing of a trailer by an all terrain vehicle on highways is permitted by the *Highway Traffic Act*, including any regulations thereto, the following requirements shall apply:
- (a) any and all provisions of the *Highway Traffic Act* and regulations thereto applicable to trailers generally, shall apply to trailers drawn by all terrain vehicles; and
  - (b) the following special provisions shall apply:
    - (i) no driver of an all terrain vehicle to which a trailer is attached shall operate the all terrain vehicle/trailer combination on a Township of Georgian Bay Road if the trailer is occupied by any person; and
    - (ii) the maximum width of the trailer shall be equal to the lesser of the width of the all terrain vehicle which is drawing the trailer or 1.35 metres; and
    - (iii) every trailer shall be equipped with mudguards, fenders or other devices adequate to reduce effectively the water spray or splash of water unless adequate protection is afforded by the body of the trailer; and
    - (iv) the trailer shall not obstruct the view of any rear and/or brake lighting required by section 13 of O. Reg. 316/03 unless equivalent lighting is affixed to the rear of the trailer and clearly visible to approaching traffic.

### 3. Enforcement

- 3.1 Members of Ontario Provincial Police and the Township of Georgian Bay By-law Enforcement Officers shall be and are hereby authorized and empowered to enforce this by-law.



3.2 In any court proceeding of any kind whatsoever, in which the presence of an all terrain vehicle on a Township of Georgian Bay Road is in issue, the provisions of this by-law are not a defence unless the person claiming the benefits of this by-law establishes that he was in fact in compliance with the requirements herein at the time the defence is put forward. Any person who is unable or unwilling to provide such evidence shall be deemed to be trespassing on the Township of Georgian Bay Road.

4. Warranty and Indemnity

4.1 In recognition that the permission granted in section 2.2 is a privilege, every person purporting to exercise the permission shall be deemed to have agreed to all of the terms and conditions in this by-law.

4.2 Each person exercising the permission granted in section 2.2 acknowledges and accepts that the Township of Georgian Bay does not, in any way, shape or form, warrant, represent or undertake that the public highways to which the permission applies are suitable for or maintained to permit use by all terrain vehicles. Each such person shall not, at any time, under any circumstances, claim or attempt to claim, at any time, in any proceedings whatsoever that the public highway was not suitable for all terrain vehicle use or not maintained properly.

4.3 Where the Township of Georgian Bay incurs any loss, costs or damages as a result of any person exercising the permission in section 2.2, each such person shall, upon request, reimburse the Township of Georgian Bay for all such loss, costs and damages. In addition to any remedies otherwise available at law, section 2.2 shall not apply to any person who has failed to comply with this section.

5. Offences

5.1 Except as expressly permitted by a Provincial or Federal Act or Regulation, every person operating, riding on or being a passenger on an off-road vehicle on a Township of Georgian Bay Road is guilty of an offence and, on conviction, is liable to a fine not exceeding \$2,000.00.

5.2 Section 5.1 does not apply if a person can establish that he was the driver of and operating an all terrain vehicle in accordance with sections 2.2 and 2.3 of this by-law.

6. General

6.1 This by-law comes into force and takes effect on the date it receives final reading.

6.2 In the event that any of the provisions hereof are found by a Court of competent jurisdiction to be without effect under section 14 (1) of the *Municipal Act, 2001* S.O. 2001, c.25, such provisions shall be deemed to be severed and the remainder of this by-law shall remain in full force and effect.

6.3 Without limiting the powers of the Township of Georgian Bay Council to amend, alter or revoke this by-law at any time, it is hereby recognized that this by-law may be revoked at any time.

6.5 The Director of Community Services shall be and is hereby authorized, directed and empowered to obtain, install, and maintain such signage as may be necessary to implement the terms of this by-law.

READ and finally passed this 23rd day of April 2007.

JIM WALDEN, MAYOR

SUSAN BOONSTRA, CLERK