

THE CORPORATION OF THE VILLAGE OF CASSELMAN

BY-LAW NO. 2012-143

BEING A BY-LAW TO REGULATE AND CONTROL THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE VILLAGE OF CASSELMAN

WHEREAS the Council of the Corporation of the Village of Casselman deems it necessary and expedient to pass a By-law to regulate all terrain vehicles within the Village of Casselman;

AND WHEREAS under *Section 8 of Municipal Act, 2001, S.O.2001, c.25, as amended*, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS under *section 9 of the Municipal Act, 2001, S.O. 2001,c.25, as amended*, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any Act;

AND WHEREAS under *Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended*, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS *Section 27 of the Municipal Act, 2001, S.O. 2001, c.25 as amended*, provides that a municipality may pass by-laws with respect to highways over which it has jurisdiction;

AND WHEREAS *Section 425(1) of the Municipal Act, S.O. 2001, c.25 as amended* provides that a municipality may pass by-laws providing that the person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS *Section 429(1) of the Municipal Act, S.O. 2001, c.25 as amended*, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act;

AND WHEREAS *Section 191.8(3)(a) of the Highway Traffic Act R.S.O. 1990, c.H.8, as amended*, provides that a municipality may pass by-laws, permitting the operation of all-terrain vehicles on any highway within municipality or on any part or parts of such highways;

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AND WHEREAS *Section 191.8(3) (b) of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended*, provides that a municipality may pass by-laws, prescribing a lower rate of speed for all-terrain vehicles than that prescribed for all terrains vehicles by regulation on any highway within municipality or on any part or parts of such highways;

NOW THEREFORE the Council of the Corporation of the Village of Casselman hereby enacts as follows:

1. That Council adopts a by-law to regulate and control the operation of all-terrain vehicles within the Village of Casselman identified as Schedule "A", attached hereto and forming part of this by-law;
2. That By-law No. 2005-145 being a by-law to regulate, govern and control all-terrain vehicles within the Village of Casselman is hereby repealed.
3. That the Clerk of the Corporation of The Village of Casselman is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-Law and Schedule, after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-law.
4. That this by-law shall come into force and take effect on the date of its final passing.

Read a FIRST and SECOND time THIRD time and finally passed this 10th day of January 2012.



Claude Levac, Mayor



Brian, J Carré, Chief Administrative Officer / Clerk

January 25, 2012

I, Gilles Lortie, Deputy Clerk for the Corporation of the Village of Casselman does hereby certified that this document is a true certified copy of by-law 2012-143 passed and adopted in open Council on January 24, 2012.

Gilles Lortie, A.M.C.T.
Deputy Clerk

THE CORPORATION OF THE VILLAGE OF CASSELMAN

SCHEDULE "A" TO by-law No. 2012-143

BEING A BY-LAW TO REGULATE AND CONTROL THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE VILLAGE OF CASSELMAN

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PART 1

GENERAL PROVISIONS

SECTION

1.1 Short Title

This By-Law shall be cited as the "ATV By-Law".

1.2 Scope

The provisions of this By-law shall apply to all property within the geographic limits of the Village, except where otherwise provided.

1.3 Enforcement

This By-law shall be enforced by a By-Law Enforcement Officer or/and a Police Officer.

1.4 Conflicts with other by-law

Where a provision of this By-law conflict with a provision of another by-law in force in the Village, the provisions that establishes the higher standards in terms of protecting the health, safety and welfare of the general public and the environmental well being of the municipality, shall prevails to the extent of the conflict.

PART 2

DEFINITIONS

Definition of words, phrases and terms used in this By-law that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

SECTION

- 2.1 "All-Terrain Vehicles"** means *an off-road vehicle* that,
- 2.1.1** Have four wheels, the tires of all of which are in contact with the ground;
 - 2.1.2** Has steering handlebars;
 - 2.1.3** has a seat that is design to be straddled by the driver; and
 - 2.1.4** is designed to carry a driver only and no passengers,
- 2.2 "By-Law Enforcement Officer"** means the person or persons duly appointed by Council as Municipal Law Enforcement Officers for the purpose of enforcing regulatory by-laws of the Corporation.
- 2.3 "Corporation"** means the Corporation of The Village of Casselman.
- 2.4 "Corporation Property"** means any land situated within the Village which is owned by the Village or controlled by the Village by lease or otherwise, but does not includes a *highway*.
- 2.5 "Council "** means the Municipal Council of the Corporation of The Village of Casselman.
- 2.6 "Highway"** means a common and public highway, street, roadway, crescent, avenue, Boulevard, parkway, driveway, square, place, bridge, viaduct, trestle or other such place designed and intended for, or used by the general public for passage or parking of vehicles and includes the area of land between the lateral property lines thereof.
- 2.7 Highway Traffic Act."** means Highway Traffic Act, R.S.O. 1990, c. H8 as amended.
- 2.8 Low pressure Bearing Tires "** means a wide, balloon-type tire with a rounded cross-section and no distinct shoulder area and that is designed to operate with inflation pressure of no greater than 70 kpa (10 psi).
- 2.9 "Off-Road Vehicle"** means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,
- 2.9.1** On not more than three wheels; or
 - 2.9.2** On more than three wheels and being of a prescribed class of vehicles.
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- 2.10 "Off-Road Vehicle Act"** means the Off-Road Vehicle Act, R.S.O. 1990, c.0.4, as amended.
- 2.11 "Person"** means an individual, firm or corporation.
- 2.12 "Police Officer"** means a member of the Ontario Provincial Police.
- 2.13 "Prescribed"** means prescribed by the *Off-Road Vehicle Act*- R.R.O. 1990, Reg. 863.
- 2.14 "Provincial Offences Act"** means the Provincial Offences Act, R.S.O. 1990, c P.33, as amended.
- 2.15 "Residence"** means a person's dwelling unit and shall include a temporary unit such as a hotel or motel.
- 2.16 "School Site"** means land or premises or an interest in land or premises required by a board for a school, school playground, school garden, school parking areas or for any other school purpose.
- 2.17 "Trail"** means the whole or any trail established, maintained and approved by the ATV Club of Eastern Ontario.
- 2.18 "Village"** means the Corporation of The Village of Casselman.

PART 3

REGULATIONS

SECTION

3.1 General Provisions

- 3.1.1** No person shall operate an all-terrain vehicle on a highway except for the purpose of commuting:
- 3.1.1.1** from residence to the trail;
 - 3.1.1.2** from residence to a gas, service station or restaurant;

- 3.1.1.3** from trail to residence;
- 3.1.1.4** from trail to a gas, service station or restaurant;
- 3.1.1.5** from a gas, service station or restaurant to residence;
- 3.1.1.6** From a gas, service station or restaurant to trail.

3.1.2 No person shall operate an all-terrain vehicle on a highway without being a member in good standing of the ATV Club of Eastern Ontario for the current year.

3.1.3 No one shall operate an all-terrain vehicle on a highway without having the current year membership tag affixed to the vehicle.

3.1.4 No one shall operate an all-terrain vehicle on a highway without having a valid G2/M2 or greater driver's license.

3.1.5 No one shall operate an all-terrain vehicle on a highway without having a valid insurance and registration certificate.

3.1.6 No one shall operate an all-terrain vehicle on a highway if he/she is not meeting all the requirements of the Ontario Highway Traffic Act & the Ontario Off-Road Vehicle Act.

3.1.7 No one shall obstruct or interfere with an Officer carrying his/her duties in enforcing this by-law.

3.2 Corporation Property

3.2.1 No Person shall operate all-terrain vehicle upon city property without having first obtained a written permission from the Council.

3.3 School Site

3.3.1 No person shall operate an all terrain vehicle on any school site or upon any portion of a highway located within 100 meters of any school site.

- 3.3.2** Notwithstanding Section 3.3.1 where a person's residence is located within 100 meters of a school site, such person may operate an all-terrain vehicle to gain direct access to or from their residence.

PART 4

EXEMPTIONS

4.1 While performing their lawful duties, this by-law shall not apply to:

- 4.1.1** Any employee of the Corporation of the Village of Casselman;
- 4.1.2** Any member of the local Fire Department;
- 4.1.3** Any member of the local medical rescue/paramedic personnel;
- 4.1.4** Any police officer;
- 4.1.5** Any Public utility worker;
- 4.1.6** Any employee of the Ministry of Natural Resources, Ministry of Environment or Ministry of agriculture;
- 4.1.7** Any employee of the South Nation Conservation Authority;
- 4.1.8** Any employee of the United Counties of Prescott & Russell.

PART 5

PENALTIES

SECTION

5.1 General Penalties

- 5.1.1** Any person, who contravenes, suffers or permits any act or thing to be done in Contravention of or neglects to do or refrains from doing anything required to be done pursuant to any provision of this By-law or any permit or order issued pursuant there to, commits an offence and except where specifically provided in Appendix "2", shall

be liable to a fine of not less than \$75.00, but not exceeding \$5,000.00.

- 5.1.2 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

PART 6

VALIDITY

SECTION

6.1 Validity of By-law

If any section, clause, or provision of this By-law is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses, or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

THE CORPORATION OF THE VILLAGE OF CASSELMAN

Part I – Provincial Offences Act

BY-LAW: 2012-143 A by-law to regulate and control de operation of Off-Road Vehicles within the Village of Casselman

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	Short Form Wording	Provision creating or defining Offence	Set Fine
1.	Operate an off-road vehicle on a highway for purposes other than commuting to places listed in section 3.1.1	3.1.1	\$100.00
2.	Operate an off-road vehicle on a highway without a valid membership of the ATV Club of Eastern Ontario	3.1.2	\$100.00
3.	Operate an off-road vehicle on a highway – No valid membership tag affixed to the vehicle	3.1.3	\$75.00
4.	Obstruct / Interfere Officer while carrying his/her duties	3.1.7	\$175.00
5.	Operate an off-road vehicle on municipal property without written permission from Council	3.2.1	\$100.00
6.	Operate an off-road vehicle on a school site or on a highway located within 100 meters of a school site	3.3.1	\$100.00

NOTE: The general penalty provision for the offences listed above is section 5 of By-law 2012-143. A certified copy of which has been filed.