

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW NUMBER #11-2018

A BY-LAW TO REGULATE THE USE OF OFF-ROAD VEHICLES ON MUNICIPAL ROADWAYS WITHIN THE TOWN OF SHELBURNE

WHEREAS subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the “Municipal Act”) provides that a lower-tier municipality may pass by-laws respecting highways, including parking and traffic on highways, and subsection 8(3) provides that a by-law made under this section may regulate or prohibit respecting the matter; and

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

WHEREAS subsection 191.8 (3) of the *Highway Traffic Act* provides that the council of a municipality may pass by-laws permitting the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality and subsection 191.8 (4) provides that such a by-law may permit the operation of off-road vehicles on any highway or on any part or parts of a highway only during specified months or hours; and

WHEREAS subsection 216 of the *Highway Traffic Act* provides that a police officer, in the lawful execution of his or her duties and responsibilities, may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signaled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF SHELBURNE HEREBY ENACTS AS FOLLOWS:

Part I. Short Title, Purpose and Scope

Short Title

1. This by-law shall be known as the “Off-Road Vehicles By-law”.

Purpose

2. This by-law has been enacted to permit the use of Off-Road Vehicles on Town Roadways and to regulate the operation of Off-Road Vehicles to:
 - a. support public health, safety and well-being; and
 - b. protect public assets of the municipality.

Scope

3. This by-law shall apply to the operation of all Off-Road Vehicles on Roadways under the jurisdiction of the Town.

Part II. Interpretation

Headings

4. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

References to Applicable Law

5. All references to applicable law are ambulatory and apply as amended from time to time.

Definitions

6. For the purposes of this by-law:

“By-Law Enforcement Officer” means a By-Law Enforcement Officer appointed by Council to carry out the administration and enforcement of this By-Law;

“County” means The Corporation of the County of Dufferin and a reference to the County is a reference to the geographical area of the County of Dufferin;

“Highway” includes a common and public highway, street, avenue, parkway, lane, driveway, square, place, bridge, viaduct or 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;

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c H.8;

“Local Board” means any local board of a municipality and includes a school board and a conservation authority;

“Municipal Act” means the *Municipal Act, 2001*, S.O. 2001, c 25;

“Off-Road Vehicle” means an off-road vehicle within the meaning of the *Off- Road Vehicles Act*, R.S.O. 1990, c. O.4;

“Police Officer” means a police officer as defined in the *Police Services Act*, R.S.O. 1990, c P.15;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c P.33;

“Roadway” means the part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a Highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively;

“Sunset” and “Sunrise” mean the times calculated by the National Research Council of Canada as “Sunset” and “Sunrise.”;

“Town” means The Corporation of the Town of Shelburne and a reference to the Town is a reference to the geographical area of the Town of Shelburne or to The Corporation of the Town of Shelburne as the context requires;

Part III. Off-Road Vehicles

Limited and Conditional Permission

7. Off-Road Vehicles are permitted on Roadways under the jurisdiction of the Town, subject to sections 8 and 9 of this by-law.

Restrictions and Operating Requirements

8. No person shall operate an Off-Road Vehicle:
 - a. on a prohibited Roadway as set out in Schedule ‘A’ to this by-law;
 - b. on any Town property which is a park, sports field, playground, trail, cemetery, sidewalk or boulevard;
 - c. on any property of the Town, County or a Local Board without the consent of the Town, County or the Local Board, save and except:
 - i. in good standing members of the Dufferin Grey ATV club & Ontario Federation of All Terrain Vehicle club shall access the Dufferin County Rail Trail,
 - d. in such a way which causes or is likely to cause the destruction or reckless endangerment of any person or property;
 - e. on any private property without permission.

9. No person shall operate an Off-Road Vehicle on a Town Roadway:
- a. between Sunset and Sunrise;
 - b. between November 1 to March 31 of any year;
 - c. without a good standing membership with the Dufferin Grey ATV club & Ontario Federation of All Terrain Vehicle club;
 - d. except to gain access to the Dufferin County Rail trail or refueling;
 - e. in excess of the speed limit set out in section 22 of Ontario Regulation 316/03 made under the Highway Traffic Act; and
 - f. contrary to any safety, equipment or operating requirement set out in Ontario Regulation 316/03 made under the Highway Traffic Act.

Part IV. Enforcement and Penalty

Enforcement

10. Any Police Officer and any By-law Enforcement Officer appointed by the Town may enforce the provisions of this by-law.

Penalty

11. Any person, organization or business who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to the penalty set out in the *Provincial Offences Act*.

Part V. Conflict and Transition

Conflict

12. In the event the provisions of this by-law are inconsistent with the provisions of the Municipal Act, the Highway Traffic Act or any other Act and the Regulations thereunder, the provisions of the Act or Regulation shall prevail.

Terms Severable

13. The terms and provisions of this by-law shall be severable, and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

Enactment

14. This by-law shall come into full force and effect on the day it is passed.

**THIS BY-LAW READ A FIRST AND SECOND TIME THIS THE 12th DAY OF
FEBRUARY 2018.**

**READ A THIRD TIME AND ENACTED THIS _____ DAY OF _____,
2018.**

Mayor

Clerk

Schedule A - Roadways where Off-Road Vehicles Are Prohibited

1. Off-Road Vehicles are prohibited on the Roadways or sections of Roadways set out in Column A from the area set out in Column B to the area set out in Column C in the table below:

	Column A – Roadway	Column B – From	Column C - To
1.	Main Street (HWY 10/89)	Any Point	Any Point
2.	Owen Sound Street	Any Point	Any Point
3.			
4.			
5.			
9.			