

THE DISTRICT MUNICIPALITY OF MUSKOKA

BY-LAW 2018-3

Being a by-law to provide for permission for limited use of All-Terrain and Off-Road Vehicles on all Muskoka Roads on a conditional basis in the Township of Lake of Bays

WHEREAS pursuant to section 191.8 (1) of the Highway Traffic Act, R.S.O. 1990, c. H.8 ("the Highway Traffic Act"), 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 pursuant to section 191.8 (4) of the Highway Traffic Act, the council of a municipality may pass by-laws that permit the operation of certain off-road vehicles on highways under the jurisdiction of the municipality only during specified months or hours;

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

AND WHEREAS pursuant to section 11 (3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, ("the Municipal Act"), the Council of The District Municipality of Muskoka may pass by-laws with respect to Muskoka Roads including parking and traffic on such highways;

AND WHEREAS pursuant to section 8 (3) of the Municipal Act, 2001, a by-law passed under section 11 of the Municipal Act, 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 of the Municipal Act, municipal by-laws are without effect only to the extent of conflict with federal or provincial legislation;

AND WHEREAS a request has been received from the Township of Lake of Bays to permit off-road vehicles on all Muskoka Roads within the boundary of the Township of Lake of Bays;

AND WHEREAS it has been determined to grant the request on a limited and conditional basis;

THEREFORE, pursuant to section 11 (3) of the Municipal Act, and section 191.8 (3) of the Highway Traffic Act, the Council of The District Municipality of Muskoka, ENACTS AS FOLLOWS:

A. Definitions

1. In this by-law:

"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 rests for the driver;

"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;

"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 centimetres

"Muskoka Road" means any and all public highways that are under the jurisdiction of The District Municipality of Muskoka.

"off-road vehicle" means an off-road vehicle as defined in the *Off-Road Vehicles Act* R.S.O. 1990 c. O. 4.

B. Limited and Conditional Privilege

2. No person shall operate an all-terrain/multi/recreational/off-road vehicle on a Muskoka Road except in accordance with, and subject to this by-law.
3. A conditional permission shall be and is hereby granted to persons to operate all-terrain vehicles, in accordance with this by-law, on all Muskoka Roads, at any time from one half hour after sunrise to one half hour before sunset during the months of May to December only.
4. The following criteria must be met both prior to and during the operation of an all-terrain vehicle as a condition to the permission referenced in section 3 to be valid:
 - (i) the individual is operating an all-terrain/multi/recreational/off-road vehicle as defined in this by-law; and
 - (ii) all of the applicable provisions of this by-law and O. Reg. 316/03, as amended from time to time, and any other provincial legislation governing the use of all-terrain/multi/recreational/off-road vehicles must be complied with at all times; and
 - (iii) the all-terrain/multi/recreational/off-road vehicle may be operated on all Muskoka Roads within the Township of Lake of Bays; and
 - (iv) individuals operating all-terrain/multi/recreational/off-road vehicles shall have obtained and maintained adequate insurance coverage.
5. In the event that the drawing of a trailer by an all-terrain/multi/recreational/off-road vehicle on highways is permitted by the Highway Traffic Act and any regulations thereto, the following requirements shall apply:
 - (a) any and all provisions of the Highway Traffic Act and regulations thereto shall apply; and
 - (b) no driver of an all-terrain/multi/recreational/off-road vehicle to which a trailer is attached shall operate the all-terrain/multi/recreational/off-road vehicle/trailer combination on a Muskoka Road if the trailer is occupied by any person; and
 - (c) the maximum width of the trailer shall be equal to the lesser of the width of the all-terrain/multi/recreational/off-road vehicle which is drawing the trailer, or 1.35 metres; and
 - (d) every trailer shall be equipped with mudguards, fenders or other devices adequate to reduce effectively the water spray or splash of water; and

(e) 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 visible to approaching traffic.

C. Enforcement

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

D. Offences

7. Except as expressly permitted by a Provincial or Federal Legislation or Regulation, every person operating, riding on or being a passenger on an all-terrain/multi/recreational/off-road vehicle on a Muskoka Road is guilty of an offence and, on conviction, is liable to a fine not exceeding \$2,000.00.

E. General

8. In the event that any of the provisions in this by-law are determined by a Court of competent jurisdiction to be without force and effect such provisions shall be deemed to be severed and the remainder of this by-law shall remain in full force and effect.

9. The Commissioner of Engineering and Public Works, or designate, 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.


10. This by-law shall come into force and take effect on the date it receives third reading.

READ A FIRST AND SECOND TIME:

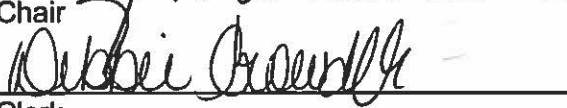
January 15, 2018

THE DISTRICT MUNICIPALITY OF MUSKOKA

Per:



Chair



Clerk

READ A THIRD TIME AND FINALLY PASSED:

January 15, 2018

THE DISTRICT MUNICIPALITY OF MUSKOKA

Per:



Chair



Clerk