



**Municipality of Middlesex Centre
By-Law 2021-010**

Being a by-law of the Corporation of the Municipality of Middlesex Centre to prohibit and/or otherwise regulation of Off-Road Vehicles (ORVs) on Municipal Roads

WHEREAS The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced, (hereinafter “**Municipal Act, 2001**”), and in particular section 8 thereof, provides that the powers of a municipality under that or any other Act shall be interpreted broadly so as to confirm broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the ability of the municipality to respond to municipal issues;

AND WHEREAS Pursuant to the *Municipal Act, 2001*, and in particular Section 28 thereof, a municipality has jurisdiction over, inter alia, all highways over which it had jurisdiction or joint jurisdiction on December 31, 2002, all highways established by by-law of that municipality as enacted on or after January 1, 2003, and all highways otherwise transferred to that municipality pursuant to the *Public Transportation and Highway Improvement Act* or any other Act;

AND WHEREAS Pursuant to the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended or replaced (hereinafter the “HTA”), and in particular section 191.8 thereof, 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 Pursuant to the HTA, and in particular subsection 191.8 thereof, a municipality is authorized to enact a by-law prohibiting the operation of off-road vehicles on any highway, or any part or parts thereof, within its municipality and under its jurisdiction and/or otherwise permitting and otherwise regulating operation of such off-road vehicles on such highways, or any part or parts thereof;

AND WHEREAS Pursuant to Ontario Regulation 316/03 (*Operation of Off-road Vehicles on Highways*), as amended or replaced (hereinafter “O. Reg 316/03”), and in particular subsection 4.1(1) thereof, an off-road vehicle shall not be driven on a highway or part of a highway that is under the jurisdiction of a municipality unless a by-law permitting the off-road vehicle or particular class of vehicle has been passed by council in accordance with paragraph 1 or 2 of subsection 4.1(1);

AND WHEREAS Pursuant to O. Reg 316/03, and in particular subsection 4.1(2) thereof, notwithstanding subsection 4.1(1) of O. Reg 316/03, if the requirements of Part III of O. Reg 316/03 are met, a vehicle described in paragraph 1 or 2 of subsection 4.1(1) may be driven on a highway or part of a highway that is under the jurisdiction of a local municipality if the name of the municipality appears in the Table to Ontario Regulation 8/03 (*Local Municipalities Where 80 Kilometres Per Hour Speed Limit Applies*);

AND WHEREAS Pursuant to O. Reg 316/03, and in particular subsection 4.1(3) thereof, a local municipality to which subsection 4.1(2) applies, is authorized to enact a by-law prohibiting the operation of off-road vehicles on any highway or part of a highway under its jurisdiction;

AND WHEREAS The Municipality of Middlesex Centre has jurisdiction over the roads included in the Municipality of Middlesex Centre road system as defined in By-law xxx of the Corporation of the Municipality of Middlesex Centre;

AND WHEREAS The Municipality of Middlesex Centre does not appear in the Table to Ontario Regulation 8/03 and as such no off-road vehicle shall be driven on a Municipal Road unless a by-law permitting off-road vehicles to be driven on Municipal Roads has been passed by Council for the Municipality of Middlesex (hereinafter “Council”) in accordance with subsection 4.1(1) of O. Reg 316/03;

AND WHEREAS Council does not wish to pass a by-law under subsection 4.1(1) of O. Reg 316/03 to allow off-road vehicles on Municipal Roads and deems it expedient to pass a by-law confirming that off-road vehicles are prohibited on Municipal Roads, subject to an exception which allows direct crossing of such Municipal Roads by operators of off-road vehicles in accordance with the said Off Road Vehicles Act, R.S.O. 1990, c. O. 4, as amended or replaced;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Municipality of Middlesex Centre enacts as follows:

1. DEFINITIONS

THAT 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,
- (e) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the drive, and
- (f) is equipped with foot rests for the passenger that are separate from the foot rests for the driver;

and in all respects meets the requirements of the Highway Traffic Act and the Off-Road Vehicles Act and any Regulations passed thereunder, as amended and as may be replaced from time to time, and, where thereby applicable, the expression “Off-Road Vehicle” shall have the corresponding meaning.

“**extreme terrain vehicle**” means an off-road vehicle that:

- (a) has six or eight wheels, the tires of which are all in contact with the ground,
- (b) has no tracks that are in contact with the ground,
- (c) has seats that are not designed to be straddled, and
- (d) has a minimum cargo capacity of 159 kilograms;

and in all respects meets the requirements of the Highway Traffic Act and the Off- Road Vehicles Act and any Regulations passed thereunder, as amended and as may be replaced from time to time, and, where thereby applicable, the expression “Off-Road Vehicle” shall have the corresponding meaning.

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, drive, 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 and which is under the jurisdiction of the Municipality of Middlesex Centre pursuant to the Municipal Act, 2001;

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

“**Municipality**” means the Corporation of the Municipality of Middlesex Centre;

“**Motor Vehicle**” includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Highway Traffic Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry, or a road- building machine;

“**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;

and in all respects meets the requirements of the Highway Traffic Act and the Off- Road Vehicles Act and any Regulations passed thereunder, as amended and as may be replaced from time to time, and, where thereby applicable, the expression “Off-Road Vehicle” shall have the corresponding meaning.

“**municipal law enforcement officer**” means a by-law enforcement officer appointed by the Municipality.

“**off-road motorcycle**” means an off-road vehicle, designed primarily for recreational use, that,

- (a) has steering handlebars,
- (b) has two wheels, the tires of which are all in contact with the ground,
- (c) has a minimum wheel rim diameter of 250 millimetres,
- (d) has a minimum wheelbase of 1,016 millimetres,
- (e) has a seat that is designed to be straddled by the driver,
- (f) is designed to carry a driver only and no passengers, and
- (g) does not have a sidecar;

and in all respects meets the requirements of the Highway Traffic Act and the Off- Road Vehicles Act and any Regulations passed thereunder, as amended

and as may be replaced from time to time, and, where thereby applicable, the expression “Off-Road Vehicle” shall have the corresponding meaning.

“off-road vehicle” has the same meaning as in the Off-Road Vehicles Act and includes but is not limited to an all-terrain vehicle, extreme terrain vehicle, multi- purpose off- highway utility vehicle, off-road motorcycle, and recreational off- highway vehicle;

“Off-Road Vehicle Act” means the Off-Road Vehicles Act, R.S.O. 1990, c. O. 4, as amended or replaced;

“police officer” means an officer of the Ontario Provincial Police or other police service having jurisdiction in the Municipality, who are duly appointed under the Police Services Act;

“Provincial Offences Act” means the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended or replaced;

“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;

and in all respects meets the requirements of the Highway Traffic Act and the Off- Road Vehicles Act and any Regulations passed thereunder, as amended and as may be replaced from time to time, and, where thereby applicable, the expression “Off-Road Vehicle” shall have the corresponding meaning.

“seat belt assembly” means a device or assembly composed of a strap or straps, webbing or similar material that restrains the movement of a person in order to prevent or mitigate injury to the person; and

“unopened road allowance” means a highway under the jurisdiction of the Municipality that has neither been opened for public travel nor assumed for maintenance purposes by the Municipality.

2. INTERPRETATION

- (1) The headings and subheadings used in this by-law are inserted for convenience of reference only, form no part of this by-law, and shall not affect in any way the meaning or interpretation of the provisions in this by- law.
- (2) Unless the context requires otherwise, references to items in the plural include the singular unless used with a number modifying the term, and words importing the masculine gender shall include the feminine.

If any section, subsection, paragraph or part thereof is declared by any Court to be illegal or ultra vires such section, subsection, paragraph, or part or parts shall be deemed to be severable and all other parts of this by-law are declared to be separate and independent, and enacted as such

3. PROHIBITIONS

- (1) Except as contemplated and provided for in section 2(2) of the *Off-Road Vehicles Act*, no person shall operate an off-road vehicle upon a highway, or part thereof, under the jurisdiction of the Municipality, provided that, for purposes of crossing a highway pursuant to section 2(2)(a) of that Act, the off-road vehicle shall be operated at all times so as to travel perpendicular to the lateral property lines forming the limits of such highway.
- (2) No person shall operate an off-road vehicle on an unopened road allowance or part of an unopened road allowance under the jurisdiction of the Municipality.
- (3) Following enactment of this by-law, the prohibitions and exception set forth in sections 3(1) and 3(2) above shall remain in effect for each and every calendar day commencing at 12:00:01 a.m. of each such day and ending at 12:00:00 on that same day.

4. EXEMPTIONS

- (1) The prohibitions set forth in sections 3(1) and 3(2) above do not apply to those exemptions provided for in section 27(1) and 28 of O. Reg. 316/03, as amended, relating to the operation of Off-Road Vehicles on Highways as enacted pursuant to the *Off-Road Vehicles Act*, as amended.

5. PERMITTED CROSSING OF A HIGHWAY

- (1) When crossing a highway as permitted, by exception, pursuant to section 3(1) above and unless inconsistent with any other provision of this by-law, the person so operating any off-road vehicle and any passenger thereon shall comply with all provisions of the *Highway Traffic Act*, the *Off-Road Vehicles Act*, and all other federal and provincial laws and municipal by-laws, as applicable, or any Regulations made thereunder, as amended or replaced from time to time, including but not limited to the provisions of Part III of O. Reg 316/03, as amended, relating to the Operation of Off-Road Vehicles on Highways as enacted pursuant to the *Highway Traffic Act*, as amended, save and except that set forth in sections 22 and 24 of the said O. Reg 316/03.
- (2) When crossing a highway as permitted, by exception, pursuant to section 3(1) above, the off-road vehicle shall not be operated at a rate of speed greater than 20 kilometers per hour.

6. LIMITATIONS ON EXCEPTION

- (1) When crossing a highway as permitted, by exception, pursuant to section 3(1) above, the person so operating any off-road vehicle and any passenger thereon shall do so at his, her, or their own risk.
- (2) When crossing a highway as permitted, by exception, pursuant to section 3(1) above, the person so operating any off-road vehicle and any passenger thereon shall, at all times, exercise due care and attention, and otherwise act with due regard to other users of the highway.
- (3) Permission, by exception, to cross a highway pursuant to section 3(1) above does not constitute permission to operate an off-road vehicle on any other public or private property without the consent of the owner thereof.

7. ENFORCEMENT

- (1) This by-law may be enforced by a police officer or a municipal law enforcement officer.

8. OFFENCES, FINES AND PENALTIES

- (1) No person shall hinder, obstruct, or interfere with a police officer or a municipal law enforcement officer in the lawful execution of his or her duties under this by-law.
- (2) No person operating an off-road vehicle as contemplated by this by-law shall fail to stop that off-road vehicle when directed to do so by a police officer or a municipal law enforcement officer while executing his or her duties under this by-law.
- (3) No person operating an off-road vehicle or any passenger thereon shall fail to identify himself or herself when demanded to do so by a police officer or a municipal law enforcement officer while executing his or her duties under this by-law.
- (4) Any person who contravenes any provision of this by-law is guilty of an offence and is subject to any penalty as provided for in the *Provincial Offences Act*.
- (5) Without limiting the generality of that set forth in subsection (4) immediately above, when a person has been convicted of an offence under this by-law, then the court entering that conviction or thereafter any court of competent jurisdiction may, in addition to any other penalty imposed upon such person convicted, make an order prohibiting the continuation or repetition of the said offence by the person so convicted.

9. SHORT TITLE

This by-law may be referred to as the “Off-Road Vehicle By-Law”.

10. FINAL PASSING

THAT this by-law shall come into force when it is passed and enacted by Council.

PASSED AND ENACTED this 3rd day of February, 2021.

Aina DeViet, Mayor

James Hutson, Municipal Clerk