

THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

BY-LAW NO. 2015-22

BEING A BY-LAW TO PERMIT THE OPERATION OF OFF-ROAD VEHICLES ON ANY HIGHWAY WITHIN THE MUNICIPALITY THAT IS UNDER THE JURISDICTION OF THE MUNICIPALITY, OR ON ANY PART OR PARTS OF SUCH HIGHWAYS

WHEREAS the Highway Traffic Act, R.S.O. 1990, Section 191.8 (1) Chapter H.8 as amended, states 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 Section 191.8 (3) (a) of the Highway Traffic Act R.S.O. 1990 Chapter H.8 as amended, states that the Council of a municipality may pass by-laws permitting the operation of off-road vehicles with three or more wheels on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway;

AND WHEREAS Section 4 (2) of Ontario Regulation 316/03 states that all-terrain vehicles, multi-purpose off-highway utility vehicles and recreational off-highway vehicles may be driven on a highway if the requirements of Part III are met;

NOW THEREFORE the Council of the Corporation of the Municipality of Killarney enacts as follows:

PART I – SHORT TITLE

1. This By-Law may be cited as the “Off-Road Vehicle By-Law”

PART II – DEFINITIONS AND INTERPRETATION

2. In this By-Law:

“**Municipality**” means the Corporation of The Municipality of Killarney;

“**Council**” means the elected Council for the Municipality;

“**All-terrain 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 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 passengers 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.

“Off-road vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel:

- (a) on not more than three wheels; or
- (b) on more than three wheels and being of a prescribed class of vehicle.

“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.

PART III – GENERAL PROVISIONS

- 3.1 For the purpose of this By-Law, off-road vehicles shall mean all-terrain vehicles, multi-purpose off-highway utility vehicles and recreational off-highway vehicles as per the following definition and are the only types of off-road vehicles permitted on Municipal highways and roads.

PART IV – OPERATION OF OFF-ROAD VEHICLE/MAXIMUM SPEED

- 4.1 Every person operating an off-road vehicle within the Municipality of Killarney shall comply with the provisions prescribed by the Ontario Regulation 316/03: Operation of Off-Road Vehicles on Highways and the Highway Traffic Act, R.S.O. 1990, c. H.8.
- 4.2 The off-road vehicle shall not be driven at a rate of speed greater than:
- (a) 20 kilometres per hour, if the speed limit established under the Act for that part of the highway is not greater than 50 kilometres per hour, or
 - (b) 50 kilometres per hour, if the speed limit established under the Act for that part of the highway is greater than 50 kilometres per hour, O. Reg. 316/03, s.22.

PART V – EXCEPTIONS

- 5.1 No person shall operate an off-road vehicle over or upon the following areas listed in Schedule “A” attached hereto and forming part of this By-Law.

PART VI – ENFORCEMENT

- 6.1 Any person who contravenes any provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for under the Highway Traffic Act and the Compulsory Automobile Insurance Act.

PART VII – SEVERABILITY

7.1 Should a court of competent jurisdiction declare a part or whole of any provision of this By-Law to be invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

PART VIII – SCHEDULES

8.1 Schedule “A” shall be deemed to form part of this By-Law.

PART IX – AUTHORITY

9.1 By-Law 2004-11 and 2012-10 are hereby repealed.

9.2 This By-Law shall come into force and take effect on the day it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY
PASSED IN OPEN COUNCIL THIS OF 12th DAY OF AUGUST, 2015.**

ORIGINAL DOCUMENT SIGNED

Virginia Rook, Mayor

ORIGINAL DOCUMENT SIGNED

Candy K. Beauvais, Clerk

**SCHEDULE “A”
To By-Law 2015-22**

| ITEM | PROHIBITED AREAS OF OPERATION AT ALL TIMES | DESCRIPTION/ LOCATION |
|-------------|--|--|
| 1. | On any sidewalk within the jurisdiction of the Municipality of Killarney; | Sidewalks found within the Village of Killarney. |
| 2. | On and/or around the property lines of the Killarney Community Centre; | 58A Charles Street, Killarney, Ontario POM 2A0 |
| 3. | On and/or around the property lines of the Veteran’s Memorial Hall; | 58B Charles Street, Killarney, Ontario POM 2A0 |
| 4. | On and/or around the property lines of St. Joseph Cemetery; | 41 Commissioner Street, Killarney, Ontario POM 2A0 |
| 5. | On and/or around the property lines of All Saints Cemetery; | 1003 Highway 637, Killarney, Ontario POM 2A0 |
| 6. | On and/or around the property lines of Bigwood Cemetery; | East End of Hartley Bay Road, Killarney, Ontario POM 2A0 |
| 7. | On and/or around the property lines of the Killarney Municipal Building Grounds (including the Water Treatment Plant); | 32 Commissioner Street, Killarney, Ontario POM 2A0 |
| 8. | On and/or around the property lines of the Killarney Municipal Beach; | 322 Perry Avenue, Killarney, Ontario POM 2A0 |
| 9. | On and/or around the property lines of the Nancy Pitfield Memorial Park; | 27 Channel Street, Killarney, Ontario POM 2A0 |
| 10. | On and/or around the property lines of the Killarney Landfill Site (with the exception of the landfill roadway <u>only</u> for the purpose of disposing refuse in the site); | 111 Highway 637, Killarney, Ontario POM 2A0 |
| 11. | On and/or around the property lines of the Hartley Bay Landfill Site (with the exception of the landfill roadway <u>only</u> for the purpose of disposing refuse in the site); | 988 Hartley Bay Road, Killarney, Ontario POM 2A0 |
| 12. | On and/or around the property lines of the Key River Landfill Site (with the exception of the landfill roadway <u>only</u> for tpurpose of disposing refuse in the site); | 2780 Highway 69 South, (Key River) Killarney, Ontario POM 2A0 |
| 13. | On and/or around the property lines of the Killarney Municipal Airport; | 100 Ontario Street, Killarney, Ontario POM 2A0 |