

# The Corporation of the Municipality of Brockton

## By-Law 2015-077

**Being a By-Law to Regulate and Control the Movement and Time of Movement of Off Road Vehicles Also Known as ORV's on Any Highways or Road Allowances Under the Control of the Municipality of Brockton.**

**Whereas** section 27 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

**And Whereas** the *Highway Traffic Act*, R.S.O. 1990, c. H.8, clause 191.8(3)(a) provides that 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 any part or parts of such highway;

**And Whereas** the *Highway Traffic Act*, R.S.O. 1990, c. H.8, subsection 191.8(4) provides that a municipality may pass by-laws that may permit the operation of off-road vehicles with three or more wheels on any highway or on any part or parts of a highway only during specified months or hours;

**And Whereas** the Council of the Corporation of the Municipality of Brockton deems it expedient to regulate and control the movement and time of movement of off-road vehicles on all highways under the jurisdiction of the Municipality of Brockton.

**Now Therefore** the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

### 1. Definitions

- 1.1 **“Highway”** shall include a common and public highway, street, avenue, parkway, 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.

Highways will include both open and unopened roads, and maintained and unmaintained road allowances.

- 1.2 **“Off-Road Vehicle” or “ORV”**, for the purpose of this by-law means:

- 1.2.1 An 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, and
  - (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.

- 1.2.2 A multi-purpose off-highway utility 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.

- 1.2.3 A recreational off-highway 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 centimeters.
- 1.3 “**Park**” shall mean any property maintained for the purpose of recreation and so designated as a park by the Municipality of Brockton.
- 1.4 “**Urban Area**” means any area in the Municipality of Brockton where the highway speed limit is 50 Km/h or less.

## 2. General Provisions

- 2.1 The operation of an ORV shall be permitted upon a highway under the jurisdiction of the Municipality of Brockton and in accordance with Ontario Regulation 316/03 of the *Highway Traffic Act*, as amended, the *Off-Roads Vehicles Act*, as amended, and in accordance with the provisions of this by-law.
- 2.2 Except as otherwise provided in this by-law, no person shall operate an ORV:
  - 2.2.1 At any time in any park which is under the jurisdiction of the Municipality of Brockton.
  - 2.2.2 On a Highway unless it meets the requirements of Sections 7 to 15 of Ontario Regulation 316/03 of the *Highway Traffic Act*, as amended, and is operated in accordance with Sections 16 to 24 of Ontario Regulation 316/03 of the *Highway Traffic Act*, as amended.
  - 2.2.3 On any highway except during the hours of 6:00 a.m. to 10:00 p.m. on any day.

## 3. Exemptions

- 3.1 Subject to the provisions contained within this by-law, the following persons are exempt from any provision of this by-law:
  - 3.1.1 All employees of the Municipality of Brockton while in the performance of their duties.
  - 3.1.2 All police officers and by-law enforcement officers while in the performance of their duties.
  - 3.1.3 All fire department personnel while in the performance of their duties.
  - 3.1.4 All medical rescue personnel while in the performance of their duties.
  - 3.1.5 All public utility and/or utility personnel while in the performance of their duties.
  - 3.1.6 All Ontario or Canada ministry personnel while in the performance of their duties.
  - 3.1.7 All farmers and trappers while in the performance of their farming/agricultural purposes and trapping operations, as defined by subsection 2(2) of the *Off-Road Vehicles Act*, R.S.O. 1990, c. O.4
  - 3.1.8 All employees of the County of Bruce while in the performance of their duties.
- 3.2 Persons listed in sections 3.1.1 to 3.1.8 are exempt from the provisions of this by-law but shall not be exempt from any requirement to comply with the *Highway Traffic Act*, as amended, Bruce County by-laws, other municipal by-laws and any other Act or legislation, which may be amended from time to time.
- 3.3 Regardless of sections 3.1.1 to 3.1.8, no person shall be exempt from the requirement to wear personal protective equipment, including but not limited to a helmet.

#### **4. Enforcement and Penalty Provisions**

- 4.1 This by-law shall be enforced by an officer or officers appointed or authorized by the Municipality of Brockton. An officer shall include any police officer peace officer or By-Law Officer authorized to enforce this by-law.
- 4.2 No person shall interfere with an officer carrying out his/her duties while enforcing this by-law.
- 4.3 Every person(s) who violates a provision of this by-law is guilty of an offence and, upon conviction, is liable to the penalty as provided in section 61 of the *Provincial Offences Act*, R.S.O. 1990, Chapter 33, as amended.

#### **5. Severability, Force and Effect**

- 5.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, the remainder of the by-law shall be valid and shall remain in full force and effect.
- 5.2 This by-law shall come into full force and effect upon the final passing thereof.
- 5.3 By-Law 2007-28 and any by-law which is inconsistent with this by-law is hereby repealed.

**Read, Enacted, Signed and Sealed this 14<sup>th</sup> Day of December, 2015.**

Original Signed by  
Mayor – David Inglis

Clerk – Debra Roth

**ONTARIO COURT OF JUSTICE**

**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2015-077, of the Municipality of Brockton, attached hereto are the set fines for those offences. This Order is to take effect February 22, 2016.

Dated at London this 22<sup>nd</sup> day of February 2016.



Stephen J. Fuerth  
Regional Senior Justice  
West Region

**The Corporation of the Municipality of Brockton**  
**Schedule A to By-Law 2015-077 – Regulate Off Road Vehicles**

**Part 1 Provincial Offences Act**

**Set Fine Schedule**

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Operate ORV in Park	Section 2.2.1	\$100.00
2	Operate ORV on Municipal Highway Where Travel Prohibited	Section 2.2.2	\$85.00
3	Operate ORV during prohibited hours	Section 2.2.3	\$100.00
4	Interfere with Officer While Carrying Out Their Duties to Enforce This By-Law	Section 4.2	\$200.00

Note: The penalty provisions for the offences indicated above is Section 4.3 of By-Law 2015-077, a certified copy of which has been filed.