

The Corporation of the City of Sault Ste. Marie

By-Law 2023-69

OFF-ROAD VEHICLES (ORV): A by-law to restrict and permit the operation of off-road vehicles prescribed herein on designated highways within the City of Sault Ste. Marie.

Whereas section 9 of the *Municipal Act, 2001*, SO 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that Act or any other Act;

And whereas section 10(1) of the *Municipal Act, 2001* provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

And whereas section 35 of the *Municipal Act, 2001* allows a municipality to restrict the common law right of passage by the public on a highway with its jurisdiction;

And whereas section 191.8(3) of the *Highway Traffic Act*, RSO 1990, c. H.8 provides that the council of a municipality may pass by-laws (a) permitting 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 highway; and (b) prescribing a lower rate of speed for off-road vehicles than that prescribed for off-road vehicles by regulation;

And whereas s. 191.8(4) of the *Highway Traffic Act* provides that a by-law passed under section 191.8(3) permitting the operation of off-road vehicles on municipal highways may limit the operation of off-road vehicles to specified months or hours;

And whereas section 4.1 of Ontario Regulation 316/03 entitled "Operation of Off-Road Vehicles on Highways", and passed under the *Highway Traffic Act*, in its effect limits the municipality's power to permitting the operation of off-road vehicles only of prescribed classes on its highways;

And whereas Ontario Regulation 316/03 applies to and regulates the operation and requirements of off-road vehicles on highways;

And whereas the Council of The Corporation of the City of Sault Ste. Marie deems it desirable to enact a by-law permitting, restricting, and regulating the operation of off-road vehicles on designated highways within the municipality during specified hours and months;

Now therefore the Council of The Corporation of the City of Sault Ste. Marie hereby enacts as follows:

Part 1 – Interpretation

1.1 Short Title

This By-Law may be cited as the “ORV on Highways By-Law”.

1.2 Schedules

Schedule “A” attached and referred to in this By-Law forms an integral part of the By-Law.

1.3 Reference Aids

The table of contents and headings and subheadings used in this By-Law are inserted for convenience of reference only and do not form part of the By-Law, and shall not affect in any way the meaning or interpretation of the provisions of this By-Law.

1.4 Severability

If any provision or part of a provision of this By-Law is declared by a court of competent jurisdiction to be illegal or inoperative in whole or in part, or inoperative in particular circumstances, such provision or part of the provision shall be deemed to be severable, and the balance of the By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

1.5 Definitions

In this By-Law, the following definitions shall apply:

“**All-Terrain Vehicle**” means an off-road vehicle that:

- (1) has four wheels, the tires of which are all in contact with the ground;
- (2) has steering handlebars;
- (3) has a seat that is designed to be straddled by the driver; and
- (4) is designed to carry:
 - (a) a driver only and no passengers; or
 - (b) a driver and only one passenger, if the vehicle:
 - (i) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver; and
 - (ii) is equipped with foot rests for the passenger that are separate from the foot rests for the driver.

“**City**” means the City of Sault Ste. Marie and lands within its jurisdictional boundary.

“**Designated Highway**” means a highway or part thereof, under the jurisdiction of the City, that is shown on Schedule “A” as not being restricted and therefore permitting the

use by ORVs. Where a boundary line uses a municipal road, this is designated a prohibited highway under this By-law.

“Extreme terrain vehicle” means an off-road vehicle that,

- (1) has six or eight wheels, the tires of which are all in contact with the ground,
- (2) has no tracks that are in contact with the ground,
- (3) has seats that are not designed to be straddled, and
- (4) has a minimum cargo capacity of 159 kilograms.

“Highway” means a highway that is within the City and under the jurisdiction of the City, and includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

“Multi-Purpose Off-Highway Utility Vehicle” means an off-road vehicle that:

- (1) has four or more wheels, the tires of which are all in contact with the ground;
- (2) has a steering wheel for steering control;
- (3) has seats that are not designed to be straddled;
- (4) has a minimum cargo capacity of 159 kilograms;
- (5) does not weigh more than 1,814 kilograms; and
- (6) has an overall width not greater than 2.03 metres, excluding mirrors.

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

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

“O Reg 316/03” means Ontario Regulation 316/03 entitled “Operation of Off-Road Vehicles on Highways”, passed under the *Highway Traffic Act*.

“Police Officer” means the Chief of Police and any other sworn police officer of the Sault Ste. Marie Police Service.

“Recreational Off-Highway Vehicle” means an off-road vehicle that:

- (1) has four or more wheels, the tires of which are all in contact with the ground;
- (2) has a steering wheel for steering control;
- (3) has seats that are not designed to be straddled;
- (4) has an engine displacement equal to or less than 1,000 cubic centimetres;
- (5) does not weigh more than 1,700 kilograms; and
- (6) has an overall width not greater than 2.03 metres, excluding mirrors.

“Off-Road Vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel on four or more wheels, and which is one of the following classes of vehicles as defined in this By-Law:

- (1) an all-terrain vehicle;
- (2) a multi-purpose off-highway utility vehicle; or
- (3) a recreational off-highway vehicle; and

“ORV” shall have the same meaning;

“Roadway” means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder.

“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.

Part 2 – General Provisions

2.1 Limited Permission to Operate on Designated Highways

- (1) The operation of ORVs are permitted:
 - (a) only on designated highways, as shown on Schedule “A” and as described therein;
 - (b) only between the hours of 8:00 a.m. and 11:00 p.m.;
- (2) No person shall operate an ORV on a highway that is not a designated highway;

- (3) No person shall operate an ORV on a highway between the hours of 11:00 p.m. and 8:00 a.m.;
- (4) No person shall operate an ORV on a highway between the 1st of December and March 31st of any year;
- (5) No person shall operate an ORV which does not meet the definition of an ORV as defined in this By-Law. An Extreme off-road vehicle and Off-road motorcycle are prohibited from use on all highways within the City.

2.2 Exemptions

- (1) The exemptions governing crossing a highway at a 90° angle, farmers and trappers, emergency services, and public work functions as set out in sections 25 to 28 of O Reg 316/03 apply, with the necessary modifications, to the provisions of this By-Law.
- (2) An ORV may be on a non-designated highway for the purpose of being loaded onto a trailer or into a vehicle.
- (3) An ORV may be on a designated or non-designated highway within the months of December 1st to March 31st of any year if actively engaged in snow removal and equipped with plow or blower type equipment and an amber light.

Part 3 – Equipment Requirements

3.1 Equipment Requirements – General

- (1) In addition to any other provision of this By-Law, the equipment requirements in sections 7 to 15 of O. Reg 316/03 apply to ORVs operated on a highway pursuant to this By-Law.
- (2) No person shall operate an ORV on a highway unless the ORV meets all of the equipment requirements in section 3.1(1) above.
- (3) It remains the sole responsibility of the person operating an ORV on a highway to be familiar and comply with all applicable legislation and requirements. The prohibitions set out below in sections 3.2 and 3.3 shall in no way be construed so as to limit the generality of subsections (1) and (2) and shall in no way be construed as diminishing the driver's responsibility for knowing and complying with that legislation.

3.2 Mufflers

- (1) No person shall operate an ORV on a highway unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or excessive smoke.
- (2) No person shall operate an off-road vehicle on a highway if the vehicle is equipped with a muffler that has been modified so as to reduce its effectiveness.
- (3) Without limiting the generality of subsections (1) and (2), no person shall operate an ORV on a highway if the vehicle is equipped with a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device.

3.3 Wheels and Tires – Attachments and Studs

- (1) No person shall operate an ORV on a highway if there is any flange, rib, clamp or other device attached to its wheels or made a part thereof, which will injure the highway.
- (2) No person shall operate an ORV on a highway with studded tires unless in compliance with section 9 of Ontario Regulation 625 and, without limiting the generality of the foregoing, unless the studs conform to restrictions on studs as set out in section 9(1)(5) of Ontario Regulation 625.

Part 4 – Operation Requirements

4.1 Operation Requirements – General

- (1) In addition to any other provision of this By-Law, the operation requirements in sections 16 to 24 of O Reg 316/03 apply to ORVs operated on a highway pursuant to this By-Law.
- (2) No person shall operate an ORV on a highway in contravention of the operation requirements of sections 16 to 24 of O Reg 316/03.
- (3) In addition to subsections (2) and (3) above, every person operating an ORV on a highway shall comply with all relevant legislation, including but not limited to the provisions of:
 - (a) the *Highway Traffic Act*, as amended;
 - (b) the Traffic By-Law (70-200), as amended;
 - (c) the Parks By-law (80-128), as amended;
 - (d) the Hub Trail By-law (2018-13), as amended.

- (4) It remains the sole responsibility of the person operating an ORV on a highway to be familiar and comply with all applicable legislation and requirements. The prohibitions set out below in sections 4.2 to 4.12 shall in no way be construed so as to limit the generality of subsections (1),(2) and (3) above and shall in no way be construed as diminishing the driver's responsibility for knowing and complying with that legislation.

4.2 Permit and Plate

- (1) No person shall operate an ORV on a highway unless a permit under section 5 of the ORVA has been issued in respect of that vehicle and a number plate showing the number of the permit is displayed on the vehicle as required under that Act.
- (2) Every driver of an ORV on a highway shall carry the permit for it, or a true copy thereof, with them at all times while in charge of the ORV, and shall surrender the permit or copy for inspection upon the demand of a police officer.

4.3 Insurance

- (1) No owner or lessee of an ORV shall operate the ORV, or cause or permit the operation of the ORV, on a highway unless the vehicle is insured in accordance with section 2 of the *Compulsory Automobile Insurance Act*, RSO 1990, c. C.25 and section 15 of the ORVA.
- (2) An operator of an ORV on a highway shall carry the current valid insurance card for the ORV, or a true copy thereof, with them at all times while in charge of the ORV, and shall surrender the insurance card or copy for inspection upon the demand of a police officer.

4.4 Driver's Licence

- (1) No person shall operate an ORV on a highway unless the person holds a valid Class A, B, C, D, E, F, G, G2, M or M2 driver's licence issued under the *Highway Traffic Act*.
- (2) Every driver of an ORV on a highway shall carry their driver's licence with them at all times while in charge of the ORV and shall surrender the driver's licence for inspection upon the demand of a police officer.
- (3) Every person who is unable or refuses to surrender their driver's licence in accordance with subsection (2) shall, when requested by a police officer, give reasonable identification of themselves and, for the purposes of this subsection, the correct name and address of the person shall be deemed to be reasonable identification.

- (4) Subsection (1) does not apply if the person is exempt under section 34 of the *Highway Traffic Act* from the application of section 32 of that Act.

4.5 Helmets

- (1) The driver of an ORV and every passenger on the vehicle shall wear a helmet that complies with section 19 of the ORVA.

4.6 Seat Belts

- (1) The provisions of this section apply to multi-purpose off-highway utility vehicles and recreational off-highway vehicles, but not to all-terrain vehicles.
- (2) No person shall drive a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway unless the person is wearing a complete seat belt assembly as required by subsection (5).
- (3) Every passenger on a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway shall occupy a seating position for which a seat belt assembly has been provided and shall wear the complete seat belt assembly as required by subsection (5).
- (4) No person shall drive a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle on a highway with a passenger on the vehicle unless the passenger is occupying a seating position for which a seat belt assembly has been provided and is wearing the complete seat belt assembly as required by subsection (5).
- (5) Every driver and passenger on a multi-purpose off-highway utility vehicle or a recreational off-highway vehicle being operated on a highway shall wear a seat belt assembly so that:
 - (a) the strap of each restraint is securely fastened and worn firmly against the body in the intended position; and
 - (b) no more than one person is wearing any strap of the seat belt assembly at any one time.

4.7 Passenger Restrictions

- (1) No person shall drive an ORV on a highway with a passenger on the vehicle who is under the age of eight years.
- (2) No person shall drive an all-terrain vehicle on a highway with a passenger on the vehicle unless:
 - (a) the vehicle is designed to carry both a driver and a passenger; and

- (b) the passenger is straddling the passenger seat behind the driver while facing forward with his or her feet securely on the separate foot rests intended for the passenger.
- (3) No person shall drive an ORV on a highway while it is towing a trailer or any other attachment if there is a passenger on the trailer or other attachment.
- (4) No person shall exceed the manufacture limit of people while operating an ORV on a highway.

4.8 Maximum Speed

No person shall drive an ORV on a highway at a rate of speed greater than 20 km/h in a 50 km/h zone, or 50km/h in a speed zone greater than 50km/h.

4.9 Requirement to Drive on Shoulder

- (1) The driver of an ORV on a highway shall drive:
 - (a) on the shoulder of the highway in the same direction as the traffic using the same side of the highway; and
 - (b) as close to and parallel with the right edge of the shoulder as can be done practicably and safely.
- (2) Notwithstanding subsection (1), the driver of an ORV on a highway may drive on the roadway in the following limited circumstances, provided that they drive as close to and parallel with the right edge of the roadway as can be done practicably and safely:
 - (a) where there is no shoulder;
 - (b) where the shoulder of the highway is obstructed and cannot be used by the ORV; or
 - (c) where the shoulder is not wide enough to allow the ORV to be driven with all of it remaining completely off the roadway.
- (3) Where the driver of an ORV on a highway is crossing a level railway crossing, subsection (1) does not apply and the driver shall not drive on the shoulder but shall drive on the roadway in the same direction as the traffic using the same side of the highway.

4.10 Construction Zones

- (1) No person shall drive an ORV on any part of a highway that is designated as a construction zone under subsection 128(8) of the *Highway Traffic Act* or on any other part of a highway where construction work or highway maintenance is being carried out.

- (2) Subsection (1) does not apply to a person who is operating an ORV as a vehicle described in subsection 128(13) of the *Highway Traffic Act* or as a road service vehicle as defined by section 1(1) of the *Highway Traffic Act*.

4.11 Yielding

When entering the shoulder of a highway or the roadway, the driver of an ORV shall yield the right of way to vehicles and pedestrians already using the shoulder or the roadway, as the case may be, and shall enter the shoulder or roadway only when it is safe to do so.

4.12 Risk to Safety

No person shall operate an ORV on a highway in such a manner that it causes or is likely to cause a risk to the safety of any person.

Part 5 – Enforcement

5.1 Authority to Enforce

- (1) This By-Law may be enforced by a police officer.
- (2) The powers of a police officer as set out in the *Highway Traffic Act* apply with the necessary modifications to this By-Law.
- (3) Without limiting the generality of subsection (2), a police officer, in the lawful execution of their duties and responsibilities, may require the driver of an ORV, Extreme off-road vehicle, or Off-road motorcycle, to stop and the driver, when signaled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop.

5.2 Obstruction

No person shall hinder or obstruct, or attempt to hinder or obstruct, any police officer exercising a power under this By-Law.

5.3 Offences and Penalty

- (1) Subject to subsections (2) and (3), every person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act*, RSO 1990, c.P.33.
- (2) Notwithstanding subsection (1), every person who contravenes section 4.3(1) of this By-Law is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, and on a subsequent conviction to a fine of not more than \$50,000.

- (3) Notwithstanding subsection (1), every person who contravenes section 5.1(3) of this By-Law is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.
- (4) If any provision of this By-Law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-Law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Part 6 – Coming Into Force

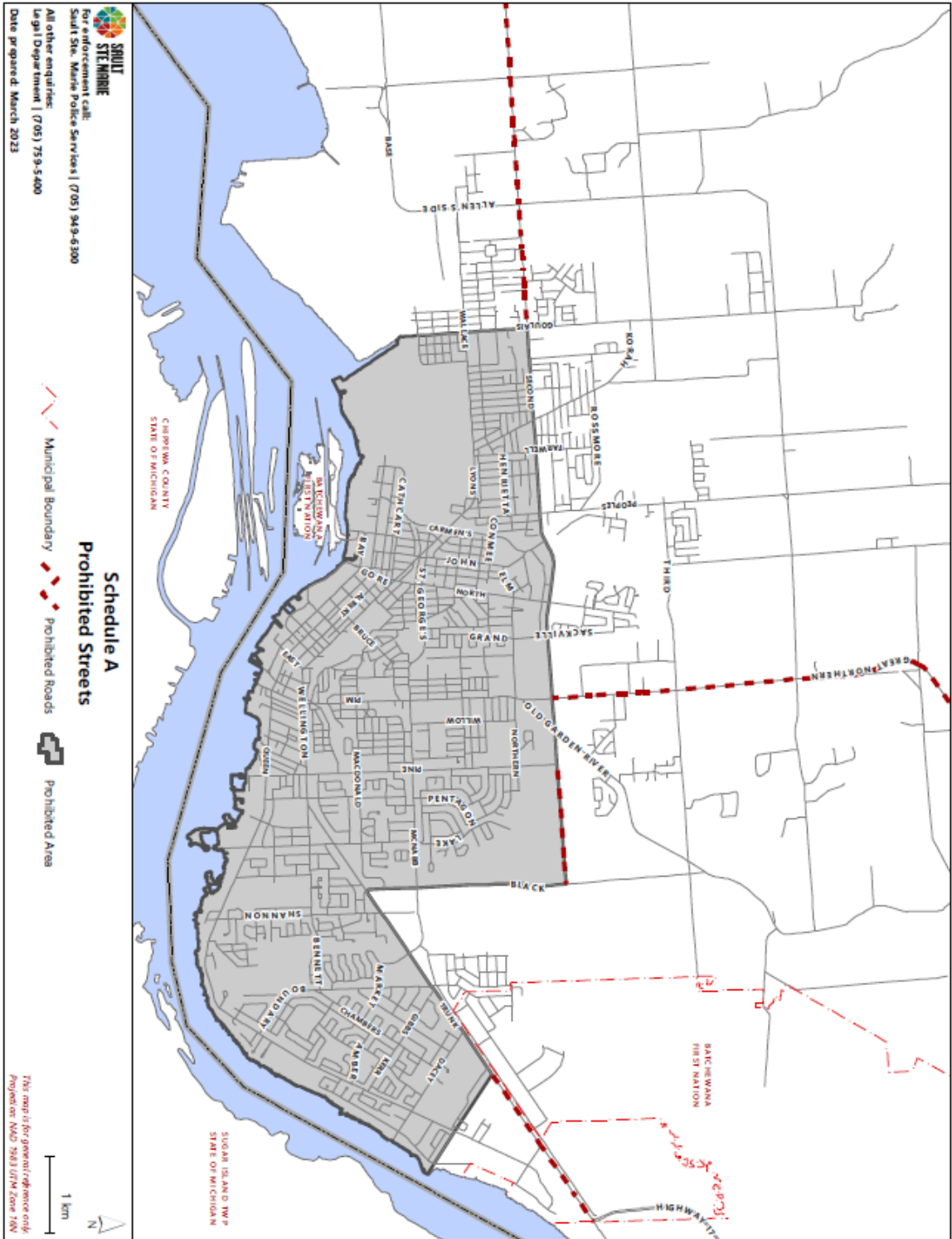
6.1 Coming Into Force

This By-Law shall come into force and effect upon its passing being May 1, 2023.

Mayor – Matthew Shoemaker

Deputy City Clerk – Madison
Zuppa

Schedule "A" to By-law 2023-69



Named streets in support of map as depicted (“Prohibited Zone”):

Except for when crossing at a 90° angle, no ORV is permitted on Great Northern Rd., Second Line East, Second Line West, Trunk Rd.

Further, and except for when crossing at a 90° angle, no ORV shall operate on a highway within the below described boundary and depicted in grey in the Schedule “A”:

From the most southern part of Goulais Ave. to where it intersect with Second Line West, along Second Line West onto Second Line East to where it intersect with Black Rd., on Black Rd. to where it intersects with Trunk Rd, on Trunk Rd. to where it intersects with Queensgate Blvd., on Queensgate Blvd. to where it intersects with Queen St. East, on Queen St. East to where it intersects with Falldien Rd., and Falldien Rd. to the intersection with River Rd. and all road geographically found between Goulais Ave. and the intersection Falldien Rd. to the intersection with River Rd by reference to the City southern boundary limit.

With the exception of crossing at a 90° angle or loading the ORV, all roads within the listed boundary are prohibited for use by ORV.