

**Town of Kensington
Off-Highway Vehicle Bylaw
Bylaw No.**

This Bylaw is made under the authority of the Municipalities Act, R.S.P.E.I. and the Off-Highway Vehicle Act, R.E.P.E.I.

WHEREAS, the Council deems it necessary, for the protection of Town owned lands as a resource for the benefit of all Town residents, and based upon Council's concern for public safety, protection of Town properties and the Town's own legal liability, to minimize and control all, except where Council deems it necessary on a case by case basis, off-highway vehicle use on lands owned by the Town of Kensington.

BE IT ENACTED by the Council of the Town of Kensington as follows:

1.0 TITLE

This Bylaw shall be known as and may be cited as the **Off-Highway Vehicle Bylaw**.

2.0 SCOPE

2.1 This Bylaw applies to all property within the boundaries of the Town of Kensington.

2.2 This Bylaw is intended to add to, and not conflict with or subtract from, the requirements contained in valid provincial statutes and regulations in force from time to time concerning the ownership, possession, registration or use of off-highway vehicles and shall be interpreted accordingly.

2.3 This Bylaw does not apply to:

- i. Emergency response personnel engaged in the execution of their emergency response duties; or
- ii. Persons acting at the request of emergency response personnel during an actual or apparent emergency condition.

3.0 DEFINITIONS

“Enforcement Officer” means a person(s) duly authorized to act on behalf of the Town of Kensington as a member of the Kensington Police Department, and the Royal Canadian Mounted Police.

“Highway” means a highway as defined in the Highway Traffic Act.

“Off-Highway Vehicle” means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain and, without limiting the generality of the forgoing, includes, when designed for such travel,

- i. Four-wheel drive or low pressure tire vehicles,
- ii. Power motor cycles and related two-wheel vehicles,
- iii. Amphipious vehicles,

- iv. All terrain vehicles,
- v. Snow vehicles,
- vi. Minibikes,

“Operator” means a person who drives or is in actual physical control of a vehicle;

“Owner” includes a person renting an off-highway vehicle, or having the exclusive use thereof under a lease or otherwise for a period of more than thirty (30) days.

“Roadway” means a roadway as defined in the Highway Traffic Act.

“Town” means any area contained within the boundaries of the Town of Kensington.

4.0 GENERAL PROVISIONS

- 4.1 No person under the age of fourteen (14) years of age shall, within the Town, operate an off-highway vehicle in a public place unless accompanied by an adult person in possession of a valid drivers licence, such person shall be seated next to him/her on the off-highway vehicle, or otherwise in close proximity, while giving instructions, if that is not given on a highway.
- 4.2 No person shall, within the Town, operate an off-highway vehicle without displaying a valid registration for that off-highway vehicle.
- 4.3 No person shall, within the Town of Kensington, operate an off-highway vehicle at a speed greater than twenty (20) kilometres per hour.
- 4.4 Section 4.4 shall not apply to an enforcement officer while engaged in the enforcement of this bylaw.
- 4.5 No person shall, within the Town, operate an off-highway vehicle without the use of a CSA approved safety helmet.
- 4.6 No person shall, within the Town, operate an off-highway vehicle on private property other than their own without the expressed or written permission of the owner of that property.
- 4.7 No person shall operate an off-highway vehicle on any park or playfield or other prohibited areas within the Town.
- 4.8 No person shall operate an off-highway vehicle within one-hundred (100) meters of a Senior Citizens Complex within the Town.
- 4.9 No person shall operate an off-highway vehicle on any highway, road or sidewalk within the Town without the expressed or written permission of the Town Council or:
 - (a) An off-highway vehicle may cross any highway, roadway, lane or sidewalk portion thereof if;
 - (i) The operator stops the off-highway vehicle before entering onto the highway or portion thereof to be crossed;
 - (ii) The operator yields the right of way to all other vehicles and person(s) on the highway; and
 - (iii) The operator crosses at a right angle to the portion of highway to be crossed.

- 4.10 No person shall, within the Town of Kensington operate an off-highway vehicle without due care and attention; or without reasonable consideration for other persons or property.
- 4.11 No person shall operate an off-highway vehicle without a valid drivers licence unless on the owners property.
- 4.12 The onus will be on the operator of the off-highway vehicle to prove he/she is on their own property.

5.0 INTERPRETATION

- 5.1 In this Bylaw words purporting the singular shall include the plural and words purporting the masculine gender shall include the female gender and vice versa.

6.0 SEVERABILITY

- 6.1 It is the intention of the Town Council that each separate provision of this Bylaw shall be deemed independent from all other provisions of this Bylaw, such that, if any provision of this Bylaw is declared invalid, all other provisions of this Bylaw shall remain valid and enforceable.

7.0 PENALTY

- 7.1 Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction;
 - (a) For a first offence, to a fine of not less than Fifty (50) dollars, and not more than One-hundred (100) dollars; and
 - (b) On a second or subsequent offence, to a fine not less than One-hundred (\$100.00), and not more than Two-hundred (\$200.00) dollars.

8.0 REPEAL

- 8.1 All previous Bylaws of the Town of Kensington pertaining to Off-Highway Vehicles are hereby repealed.