

THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE

BY-LAW NO. 2016- 01

Being a By-Law to Permit, Regulate and Prohibit the Operation of All Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles and Recreational Off-Highway Vehicles (Off-Road Vehicles) on the Shoulder of Certain Municipal Highways and in Certain Areas within the Township of Manitouwadge and to repeal by-law 2015-25.

WHEREAS pursuant to Section 11 of the *Municipal Act*, S.O. 2001, a Municipality may pass by-laws with respect to highways, including parking and traffic on highways in their jurisdiction;

AND WHEREAS Section 27(1) of the *Municipal Act*, S.O. 2001, as amended, the Municipality may pass by-laws with respect to highways over which it has jurisdiction;

AND WHEREAS the *Highway Traffic Act*, R.S.O. 1990, c.H.8, Section 191.8 subsection (3), as amended, provides that the council of a municipality may pass by-laws,

- a) 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;
- b) prescribing a lower rate of speed for off-road vehicles with three or more wheels than that prescribed for off-road vehicles by regulation on any highway within the municipality that is under its jurisdiction, or on any part or parts of such highway, including prescribing different rates of speed for different highways or parts of such highways. 1999, c.12, schedule. R.s 17; 2015, c.14, s.53(1).

AND WHEREAS the *Highway Traffic Act* R.S.O. 1990, c.H.8 Section 191.8 subsection (4), as amended, provides a by-law passed under subsection (3) 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. 1999, c. 12, Sched. R, s. 17; 2015, c. 14, s. 53 (2).

AND WHEREAS all and/or any All-Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles and Recreational Off-Highway Vehicles operating on any highway in the Township of Manitouwadge must meet all the rules, regulations, equipment requirements and operation requirements set out under the Ontario Regulation 316/03 of the *Highway Traffic Act*, R.S.O 1990, c. H.8 as amended and set out under the *Off-Roads Vehicles Act*, R.S.O. 1990 c.0.4 as amended;

AND WHEREAS the Council of the Corporation of the Township of Manitouwadge deems it desirable to enact a by-law permitting, regulating and prohibiting the operation of All-Terrain Vehicles, Multi-Purpose Off-Highway Utility Vehicles and Recreational Off-Highway Vehicles on the shoulder of certain highways within the municipality, during specified hours; and to prohibit these off-road vehicles with four or more wheels in certain areas under the jurisdiction of the Township of Manitouwadge and/or on private property or lands when authorized by the occupier of private property or lands;

NOW THEREFORE be it resolved that the Council of the Corporation of the Township of Manitouwadge hereby enacts as follows:

PART 1.0 DEFINITIONS

1.01 In this By-law:

"all-terrain vehicle" means an off-road vehicle that:

- (a) has four wheels, the tires of all of which are 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 passenger that are separate from the foot rests for the driver;

1.02 "council" means the Council of the Corporation of the Township of Manitouwadge;

1.03 "highway" shall mean the same as in the *Highway Traffic Act*, R.S.O. 1990,c.H.8 as amended and includes a common and public highway, street, avenue, parkway, driveway, square, place, 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;

1.04 "Highway Traffic Act" shall mean the *Highway Traffic Act* R.S.O 1990, c.H.8.

1.05 "holder" shall mean the same as in the *Off-Road Vehicles Act* R.S.O 1990,c.0.4 and when used in relation to a permit, means the person in whose name the plate portion of a permit is issued. For the purpose of enforcing this By-law, the words "holder" and "owner" shall have the same meaning;

1.06 "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;

1.07 "Municipal Law Enforcement Officer" shall mean the same as a By-law Enforcement Officer and means an authorized person appointed by the Council of the Township of Manitouwadge for the purpose of enforcing all the provisions of this By-law;

1.08 "municipality" means the same as the "Township of Manitouwadge";

1.09 "O Reg 316/03" means Ontario Regulation 316/03 entitled "Operation of Off-Road Vehicles on Highways" passed under the *Highway Traffic Act* R.S.O. 1990 c.H.8.

1.10 "occupier" means the same as in the *Off-Roads Vehicle Act*, R.S.O. 1990 c.0.4;

1.11 "off-road vehicle" shall mean the same as an off-road vehicle within the meaning of the *Off-Road Vehicle Act* R.S.O.1990, C.0.4, as amended; and means a vehicle propelled or driven otherwise than a 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;

- 1.12 “Off-Road Vehicle Act” means the *Off-Road Vehicle Act* R.S.O.1990, c.0.4;
- 1.13 “owner” in this By-law shall mean the same as “holder”;
- 1.14 “park” or “parking” in this By-law means the act of leaving an off-road vehicle standing, whether occupied or not;
- 1.15 “designated parking area” shall mean a signed parking area designated and intended for the parking of off-road vehicles; as listed in Schedule “C” and shown in Schedule “B”- Map;
- 1.16 “peace officer” includes a police officer, conservation officer, by-law enforcement officer or other person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out the provisions of the *Off-Road Vehicles Act* R.S.O. 1990,c.0.4.
- 1.17 “penalty” means the same as a “fine” imposed for contravention of this By-law as provided for under the *Provincial Offences Act* R.S.O. 1990, Chapter P.33 as amended from time to time;
- 1.18 “prohibited area” means an area, under the jurisdiction of the Municipality that is listed in Schedule “A” and shown in Schedule “B”-Map as being a prohibited area for use by off-road vehicles.
- 1.19 “prohibited highway” means a highway, under the jurisdiction of the Municipality that is listed in Schedule “A” and shown in Schedule “B”-Map as being a prohibited highway for use by off-road vehicles.
- 1.20 “permit” unless otherwise indicated, means a permit issued under Section 5 of the *Off Roads Vehicle Act* R.S.O. 1990, c.0.4, consisting of a vehicle portion and a plate portion;
- 1.21 “roadway”, shall mean the same as in the *Highway Traffic Act*, R.S.O 1990,c.0.4 and means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively;
- 1.22 "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 centimeters;

PART 2.0 INTERPRETATION

- 2.00 In this By-law:
- 2.01 Unless specifically modified or changed herein, words or expressions used by this By-law have the same meaning as given or used in the *Highway Traffic Act*, Chapter H.8 R.S.O. 1990 and the *Off-Road Vehicle Act*, R.S.O. 1990,c 0.4 as amended;

- 2.02 “may” shall be construed as permissive;
- 2.03 “shall” shall be construed as imperative;
- 2.04 “includes”: the words – “include – includes – including and included” are not to be interpreted as restricting or modifying the words or phrases which precede them.
- 2.05 Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- 2.06 References to items in the plural include the singular, as applicable.
- 2.07 Headings are inserted for ease of reference only and are not to be used as interpretation aids.
- 2.08 Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario at the time the By-law was enacted, as they are amended or replaced from time to time.
- 2.09 Whenever certain hours are specified in this By-law or its Schedules, they shall mean Standard Time or Daylight Saving Time, whichever is then in effect at the time in the Municipality of Manitouwadge.

PART 3.0 SEVERABILITY/CONFLICT

- 3.01 If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or beyond ones legal authority, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 3.02 Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the Municipality.
- 3.03 Where a provision of this By-law conflicts with the provisions of another By-law in force in the Municipality or any Provincial or Federal Legislation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

PART 4.0 GENERAL PROVISIONS, REGULATIONS AND PROHIBITIONS FOR OPERATING OFF-ROAD VEHICLES ON THE SHOULDER OF HIGHWAYS AND IN OTHER AREAS.

- 4.1 **Rules of the Road:** An off-road vehicle shall be driven on the shoulder of the permitted highway in the same direction as the traffic using the same side of the highway, as set out under the *Highway Traffic Act* Reg. 316/03, s. 24.
- 4.2 **Requirements for the Operation of Off-Road Vehicles on Highways**
No person shall operate or permit the operation of an on any off-road vehicle highway unless it meets the requirements of sections 7 to 15 and it is operated in accordance with sections 16 to 24. of O. Reg. 316/03, as amended from time to time.
- 4.3 **Highways Which Permit the Operation of Off-Road Vehicles**

A person shall operate an off-road vehicle on the shoulder of a highway under the jurisdiction of the Municipality except those highways listed as prohibited in Schedule "A" attached to this By-law.

4.4 Prohibited Areas

No person shall operate or permit the operation of an off-road vehicle so as to contravene any of the prohibited areas listed in Schedule "A" attached to this By-law.

4.5 Time Of Operation: Despite any section in this By-law, no person shall operate or permit the operation of an off-road vehicle upon or across any highway under the jurisdiction of the Municipality, between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day.

4.6 Maximum Speed Limit: An off-road vehicle shall not be driven on any highway under the jurisdiction of the Municipality at a rate of speed greater than twenty (20) kilometers per hour.

4.7 Owner May Be Charge and Convicted

The owner of an off-road vehicle may be charged with and convicted of an offence under the *Off-Road Vehicle Act*, the regulations or any municipal by-law regulating, governing or prohibiting the operation of off-road vehicles, for which the driver of the Off-Road Vehicle is subject to be charged and on conviction, the owner is liable to the penalty prescribed for the offence. R.S.O. 1990, c. 0.4, s. 14(1),

4.8 Operation of Off-Road Vehicle Must Comply With Noise By-Law

No person shall operate or permit the operation of an off-road vehicle on any highway within the Municipality which contravenes any part or section of the Township of Manitouwadge Noise By-Law.

5.0 PARKING

5.1 Parking

Off-road vehicles shall be subject to all provincial regulations and municipal By-laws governing the parking of vehicles within the Municipality.

5.2 Designated Signed Parking for Off-Road Vehicles

Any off-road vehicle may park in any designated Off-Road Vehicle signed parking areas illustrated in Schedule "B".

6.0 EXEMPTIONS

6.1 This By-Law does not apply to police, conservation officers, fire, ambulance, search and rescue, other emergency vehicles, a municipal employee or hired contractor authorized to operate off-road vehicles during the course of their work duties, utility companies or when authorized by the municipality for special public community activities and/or private events for off-road vehicles.

PART 7.0 SCHEDULES

7.01 The following Schedule(s) are hereby incorporated into and form a part of this By-law.

7.02 Schedule "A": List of Highways and Other Areas Prohibited from the operation of Off-Road Vehicles, as amended from time to time;

7.03 Schedule "B": A Map illustrating the List of Highways and Other Areas Prohibited from the operation of Off-Road Vehicles in Schedule "A", as amended from time to time;

7.04 Schedule "C": List of Designated Parking Area(s), as amended from time to time.

8.0 ENFORCEMENT/OFFENCES

8.1 This By-Law shall be enforced by the Municipal Law Enforcement Officer and may be enforced by a Police Officer, a Conservation Officer or a Peace Officer.

8.2 No person shall hinder or obstruct, or attempt to obstruct any person exercising a power or performing a duty under this By-Law.

9.0 PENALTY

9.1 Every person who contravenes any provisions of this By-law is guilty of an offence and is liable upon conviction, to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33 as amended from time to time.

9.2 All such penalties shall be recovered under the *Provincial Offences Act* R.S.O. 1990, Chapter P.33.

10.0 SHORT TITLE-OFF ROADS VEHICLE BY-LAW

10.1 This By-law shall be known and may be cited as "THE OFF-ROAD VEHICLES BY-LAW"

11.0 REPEAL BY-LAW NO. 2005-011

11.1 By-Law No. 2005-011 and all amendments to By-Law No. 2005-011 are hereby repealed.

12.0 BY-LAW NO. 2015-_____ EFFECTIVE

12.1 This By-Law shall come into force and is effective upon passage

READ A 1ST AND 2ND TIME this 13th day of JANUARY, 2016 and READ A THIRD TIME AND FINALLY enacted this 13th day of JANUARY, 2016.


Mayor Andy Major

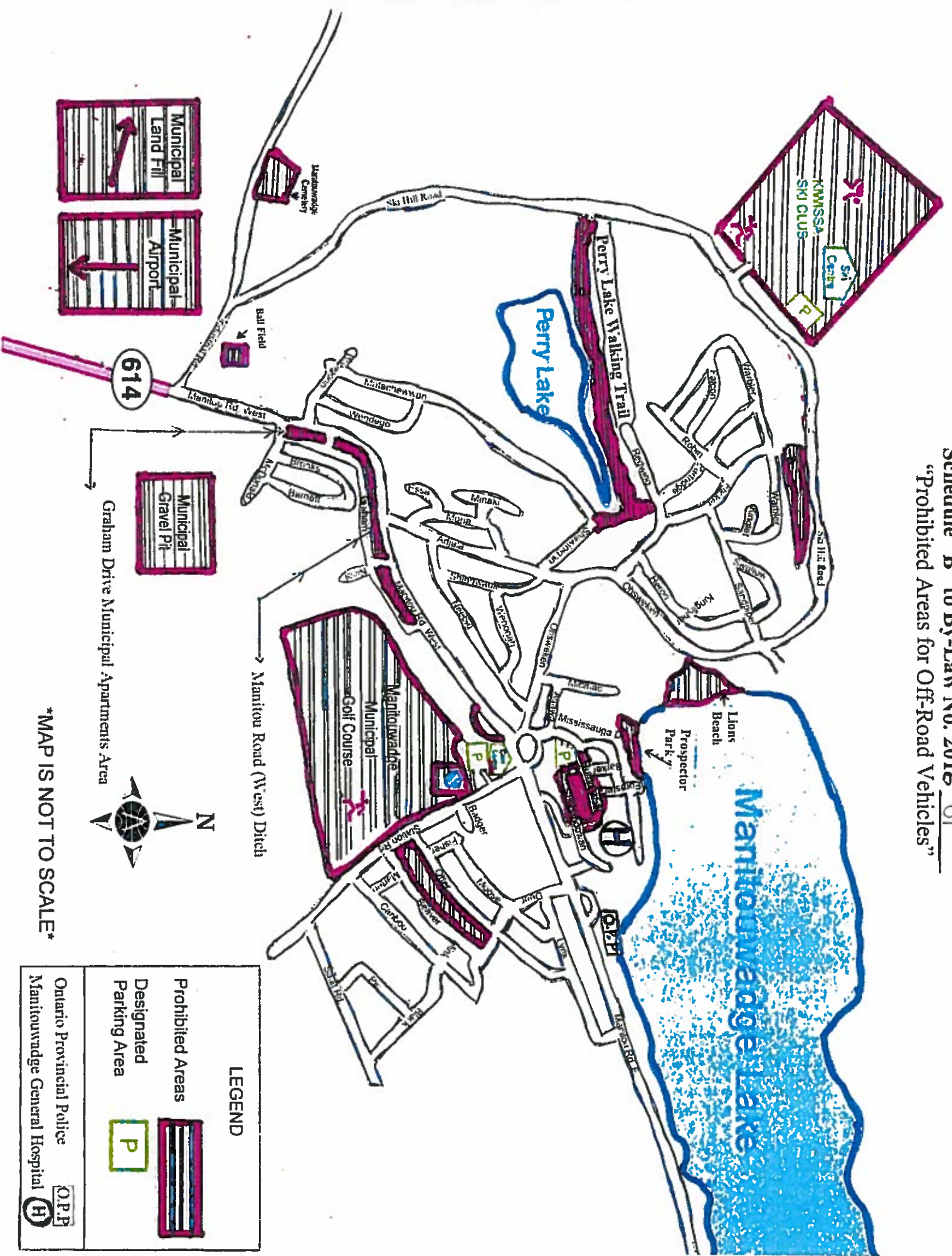

Margaret Hartling, CAO/Clerk-Treasurer

"PROHIBITED AREAS FOR OFF-ROAD VEHICLES"

(Prohibited Areas Map-Refer To SCHEDULE "B"- MAP)

1. **All Municipal Lands** including vacant lots, easements, ditches, any sidewalk, pathway or footpath in the Township of Manitouwadge, used by or set apart for the use of pedestrians and forming part of any highway, bridge, boulevard or other means of public communication.
2. **Any public park and/or public gathering area** in the Municipality.
3. **The Downtown Core** bordered by and including Huron Walk and Shebandowan Street, as well any parking areas therein, ***except the designated signed Off-Road Vehicle parking area located in the parking lot adjacent to and south of Huron Walk, across from the Canada Post Building.***
4. **All of Huron Walk.**
5. **All of Shebandowan Street *except from Lot 38 to Lot 42 on Plan M163 (from Jiffy Car Wash- East to the Intersection of Shebandowan Street and Manitou Road-East)***
6. **The Community Centre Grounds**, including the rear of the Community Centre from the South East corner of the building in a westerly direction to a distance of 150 feet, ***except the signed designated Off-Road Vehicle Parking Area at the South West corner at the rear of the Community Centre.***
7. **All of the Municipal Golf Course.**
8. **All of Kiwissa Ski Hill** including any parking area at the Kiwissa Ski Hill, ***except to access the signed designated Off-Road Vehicle parking area(s) at the Kiwissa Ski Hill.***
9. **All Cross-Country Ski Trails.**
10. **All of Perry Lake Trail**, including any area or section set apart for pedestrians as part of this walking trail.
11. **All of Lions Beach**, including any areas or land at the beach, the playground, the washroom area and/or picnic areas.
12. **Prospectors Park.**
13. **All Recreation Fields or Ballparks.**
14. **All Fire Lanes.**
15. **All of the Municipal Airport property.**
16. **All of The Municipal Landfill Site**, ***except for the sole purpose of disposing waste by a person operating an off-road vehicle during the Landfill Site scheduled hours of operation.***
17. **All Municipal Gravel Pits.**
18. **The Manitou Road (West) Ditch**, located between Manitou Road (West) and Graham Drive, ***except any paved portions of roadways joining these two roadways.***
19. **Graham Drive Municipal Apartments Area**, which is signed and adjacent to the Graham Drive municipal apartments parking lot and for the tenants and/or visitors use here, ***except for operators of Off-Road Vehicles who are tenants and/or visitors accessing any of the municipal apartments here.***
20. **Otter Avenue Easement** located at the rear of Otter Avenue and the rear of Beaver Drive, between Station Road and Deer Avenue.
21. **The Warbler Ditch**, located to the rear of Warbler Drive and between and/or adjacent to the Ski Hill Road.
22. **Any Private Property**, ***except when permission is given by the occupier or land owner to operate any Off-Road Vehicle(s) on private property.***

Schedule "B" to By-Law No. 2016-01
"Prohibited Areas for Off-Road Vehicles"



MAP IS NOT TO SCALE

LEGEND	
Prohibited Areas	
Designated Parking Area	
Ontario Provincial Police	
Manitowadge General Hospital	

SCHEDULE "C" TO BY LAW 2016- 01**"DESIGNATED SIGNED PARKING AREAS FOR OFF-ROAD VEHICLES"**

(Refer To SCHEDULE "B"-Map)

1. **(Near Downtown Area)**- the designated signed parking area for Off-Road Vehicle(s) is located in the parking lot across Huron Walk and South of the Canada Post Building.
2. **(Rear of Community Centre Grounds)** - the designated signed parking area for Off-Road Vehicle(s) is located at the South West corner section of the Community Centre and as far as possible from any motor vehicles parked in the main parking area in the rear of the Community Centre parking area.
3. **(Kiwissa Ski Hill-East of Main Parking Area)** – the designated signed Off-Road Vehicle(s) parking area is located further to the East of the main parking area and as far as possible from any motor vehicles parked in the main parking area at Kiwissa Ski Hill.
4. **(Authorized Special Event Area)** - the designated signed parking area for Off-Road Vehicles(s) during an authorized special event shall be clearly posted for the participants of the event only and for the duration of the authorized special event.