

## TOWN OF PICTOU

### OFF-HIGHWAY VEHICLES BY-LAW

**BE IT RESOLVED** that this By-Law, known as the Off-Highway Vehicles By-Law for the Town of Pictou be enacted effective this 5<sup>th</sup> day of June, 2013.

#### TITLE

1. This By-Law may be cited as the “Off-Highway Vehicles By-Law”.

#### DEFINITIONS AND INTERPRETATION

2. In this By-Law:

- (a) **“Council”** means the Council of the Town of Pictou;
- (b) **“CAO”** has the same meaning as in the *Municipal Government Act*, S.N.S. 1998 c. 18, of the Province of Nova Scotia or successor legislation as may be enacted from time to time;
- (c) **“Emergency Response Personnel”** includes personnel of police departments or forces, fire departments or brigades, registered emergency service providers, search and rescue organizations, provincial, regional or municipal emergency measures organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency;
- (d) **“Event”** means a rally, derby, race, truck pull, mud bog or any gathering of any manner whatsoever of Off-Highway Vehicles for an organized entertainment purpose, whether or not there are spectators;
- (e) **“Exhibition Event”** means an Event running concurrently with the Pictou-North Colchester Exhibition and on lands of the Pictou Agricultural Society or their successors or assigns pursuant to section 9 of this By-Law;
- (f) **“Off-Highway Vehicle”** means a snow vehicle, all-terrain vehicle, motorcycle, mini bike, four-wheel-drive or low-tire-pressure vehicle, dune buggy, or any Vehicle used for an off-highway Event or Exhibition Event, whether it is a Registered Vehicle or unregistered Vehicle pursuant to the *Motor Vehicle Act*, R.S., c. 293 or the *Off-Highway Vehicles Act*, R.S., c. 323;
- (g) **“Occupier”** has the same meaning as in the *Off-Highway Vehicles Act*, R.S., c. 323, of the Province of Nova Scotia or successor legislation as may be enacted from time to time;

- (h) **“Peace Officer”** means a member of the Provincial Police as defined in the *Police Act*, S.N.S. 2004, c. 31;
- (i) **“Permit”** means a permit for an Event or an Exhibition Event issued pursuant to this By-Law;
- (j) **“Person”** means a body corporate or politic, or party;
- (k) **“Policy Officer”** means any employee of the Town or other employee in connection with the Town charged with enforcement of policies and/or By-Laws of the Town, including, without limitation, a By-Law enforcement officer;
- (l) **“Registered Vehicle”** means an Off-Highway Vehicle or a Vehicle that is registered with the Registrar pursuant to the *Motor Vehicle Act*, R.S., c. 293 or the *Off-Highway Vehicles Act*, R.S., c. 323;
- (m) **“Registrar”** means the Registrar of Motor Vehicles;
- (n) **“Town”** means the Town of Pictou; and
- (o) **“Vehicle”** has the same meaning as in the *Motor Vehicle Act*, R.S. c. 293 of the Province of Nova Scotia or successor legislation as may be enacted from time to time, regardless of whether it is a Registered Vehicle.

## **APPLICATION**

- 3. This By-Law is enacted pursuant to Section 172 of the *Municipal Government Act*, S.N.S. 1998, c. 18, and applies to Off-Highway Vehicles operated within the Town.
- 4. This By-Law is intended to add to, and not to conflict with or subtract from, the requirements contained in valid provincial or federal legislation and regulations in force from time to time and shall be interpreted accordingly.
- 5. This By-Law does not apply to:
  - (a) Employees or agents of the Town, the Province of Nova Scotia, the Government of Canada, public utilities as defined by the *Public Utilities Act*, R.S.N.S. 1989, c. 380, while performing their duties;
  - (b) A Person or a corporation, or an agent or employee of such Person or corporation, reasonably performing work at the request of any party described in section 5(a);
  - (c) Off-Highway Vehicles used in snow removal or snow clearing operations;

(d) Off-Highway Vehicles used by Emergency Response Personnel;

(e) Off-Highway Vehicles used for maintenance of Town-owned or Town-maintained athletic or recreation fields, park areas or school grounds.

## **GENERAL**

### **Public Property**

6. Subject to section 7, no Person shall operate an Off-Highway Vehicle on Town or public property, excepting:

(a) crossing a sidewalk to leave or enter a permanent driveway;

(b) lawful parking, loading or unloading;

(c) authorized construction or maintenance; or

(d) where an Event Permit or an Exhibition Event Permit has been issued pursuant to this By-Law.

### **Jitney Trail**

7. Persons shall be permitted to operate snow mobiles and all-terrain vehicles on the portion of the Jitney Trail beginning at the point on the West where the Town Gut as defined by *An Act to Incorporate the Town of Pictou, 1873, c. 30*, intersects with provincial highway 376, and proceeding in an easterly direction to the point where the Jitney Trail intersects with the Browns Point Road, subject to compliance with the *Off-Highway Vehicles Act, R.S., c. 323* and other applicable provincial statutes, federal laws or By-Laws of the Town.

### **Private Property**

8. No Person shall operate an Off-Highway Vehicle on private property, excepting operation by the land owner or Occupier or with the written permission of the land owner or Occupier, provided that such operation does not constitute an Event or an Exhibition Event.

## **EXHIBITION EVENT PERMIT**

9. No Event or Exhibition Event shall occur on lands owned by the Pictou Agricultural Society, their assigns or successors, particularly, but without limitation, PID #'s **00983189**, **65148132** and **65186686**, excepting one Exhibition Event per calendar year running not more than one day and operating concurrently with the Pictou-North Colchester Exhibition, and the

Pictou Agricultural Society must obtain an Exhibition Event Permit prior to the Exhibition Event.

10. The Pictou Agricultural Society may make application to the CAO for an Exhibition Event Permit. The CAO may refuse to grant the Exhibition Event Permit or may grant the Exhibition Event Permit applied for or may grant an Exhibition Event Permit of lesser effect. Any Exhibition Event Permit so granted shall require the Pictou Agricultural Society to:
  - (a) provide hydrocarbon spill kits on site for use in the event of leaks or spills;
  - (b) engage the Pictou Fire Department to be on call to handle fluids leaking;
  - (c) create and use supervised and protected fueling areas for Off-Highway Vehicles;
  - (d) if required, to excavate and close the site as specified by the Town under direct supervision of the Town;
  - (e) restrict Exhibition Event parking within 10 metres of the Town well located adjacent to the named properties in section 9 herein;
  - (f) deposit with the Town an amount prescribed within the Town's fee policy for associated costs of enhanced monitoring of the Town well located adjacent to the named properties in section 9;
  - (g) restore grounds to pre-Exhibition Event condition, including, without limitation, site closure, and store off site temporary structures and equipment associated with the Exhibition Event within 4 days of the last day of the annual Pictou-North Colchester Exhibition in a manner that is not in violation of federal or provincial statutes or other By-Laws of the Town;
  - (h) contain litter, dust and garbage resulting from the Exhibition Event; and
  - (i) abide by any other terms and conditions as Council deems appropriate, including, without limitation, specification of the day of the week and hours of the day during which the Exhibition Event Permit shall be effective and confirmation in writing by the CAO or his designate before becoming effective.
11. An application for an Exhibition Event Permit shall be filed with the CAO or his designate on the application form prescribed in Schedule A of this By-Law not later than ten weeks prior to the proposed date of the Exhibition Event with said application being accompanied by a fee prescribed within the Town fees policy as amended from time to time.

12. The Pictou Agricultural Society may appeal to Council denial of an Exhibition Event Permit, or a decision to grant an Exhibition Event Permit of lesser effect made by the CAO, and the appellant shall:

- (a) File a notice of appeal in writing within 15 business days setting out the grounds of appeal, such notice which shall be provided to the CAO;
- (b) The CAO shall prepare a recommendation report and schedule a Council meeting within 15 business days of receipt;
- (c) Council shall consider and allow or refuse the appeal, by resolution; and
- (d) The CAO shall notify the appellant in writing of the decision of Council.

### **EVENT PERMIT**

13. Any Person may make application to Council for an Event Permit. Any Event Permit so granted shall require the Person to abide by the terms and conditions set out in the Permit so granted. Council, by resolution, may refuse to grant the Event Permit or may grant the Event Permit applied for or may grant an Event Permit of lesser effect. Any Event Permit so granted shall:

- (a) identify with particularity the geographic boundaries of the Event site;
- (b) specify the time period, the day(s) of the week, and the hours of the day during which the Event Permit shall be effective;
- (c) be confirmed in writing by the CAO or his designate before becoming effective; and
- (d) include such terms and conditions as Council deems appropriate.

14. In considering an Event Permit application under section 13, including terms and conditions thereof, Council shall assess:

- (a) the social, recreational or economic benefit of the proposed use for which the Event Permit is sought;
- (b) the actual or potential competing or alternative uses for the site and their compatibility with the proposed use for which the Event Permit is sought;
- (c) volume, nature, duration and consistency of noise emission from the proposed use for which the Event Permit is sought;

- (d) the proximity and nature of abutting or adjacent land uses;
  - (e) the hours of operation of the proposed use for which the Event Permit is sought;
  - (f) compliance with all provisions of the Off-Highway Vehicles Act, particularly, but without limitation, sections 12A (Wetland, watercourse, dune, barren or other sensitive area) and 12B (Beach, core habitat, park or protected or ecological site).
  - (g) any effect on the Town's drinking-water supply area protection; and
  - (h) balancing of the applicant interests against any negative effect resulting from the Event.
15. Event Permits do not apply and shall not be granted to the Pictou Agricultural Society or their assigns or successors in connection with the Pictou- North Colchester Exhibition.
16. An application for an Event permit shall be filed with the CAO or his designate not later than six weeks prior to the proposed date of the Event with said application being accompanied by a fee as prescribed within the Town fees policy as amended from time to time.

#### **OFFENCE ENFORCEMENT AND PENALTY**

17. No Person shall contravene or fail to comply with any provision of this By-Law.
18. This By-Law may be enforced, at the discretion of the Town, by any Peace Officer or Policy Officer, in accordance with the procedures set out in the *Municipal Government Act* or by means of a Summary Offence Ticket under the *Municipal Government Act* or *Summary Proceedings Act*.
19. The *Summary Proceedings Act*, where applicable, shall apply to proceedings under this By-Law.
20. Except as otherwise provided in this By-Law, any Person who violates any of the provisions of the By-Law or who suffers or permits any act or thing to be done in contravention of this By-Law, or who refuses, omits, fails to comply with or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this By-Law, shall be liable upon summary conviction:
- (a) for the first offence to a penalty of not less than One Hundred Dollars (\$100.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;

- (b) for the second offence to a penalty of not less than Three Hundred Dollars (\$300.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;
- (c) for the third or subsequent offence to a penalty of not less than Five Hundred Dollars (\$500.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both.

**CAO ANNOTATION**

Date of First Reading: Monday, April 8, 2013

Date of advertisement of Notice of Intent to Consider: Wednesday, March 20, 2013

Date of Second Reading: Monday, May 27, 2013

Date of advertisement of Passage of By-Law: Wednesday, June 5, 2013

Date of mailing to Minister a certified copy of By-Law: June 26, 2013

I certify that the above OFF-HIGHWAY VEHICLES BY-LAW was duly adopted by Pictou Town Council at duly called meetings and was published as indicated above.

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Chief Administrative Officer





SCHEDULE A  
APPLICATION FORM FOR EXHIBITION EVENT (s. 11)

**APPLICATION INSTRUCTIONS**

Applications are to be made on this form and submitted to the Town Office for processing. **Applications must be filed, with the accompanying fee, at a minimum eight (8) weeks in advance of the proposed exhibition event (s. 11)**

\_\_\_\_\_  
Contact Name for Pictou Agricultural Society

\_\_\_\_\_  
Phone No.

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Day of the Proposed Exhibition Event (s. 9 and 10)

\_\_\_\_\_  
Hrs. of the Proposed Exhibition Event (s. 9 and 10)

I, the undersigned, do hereby agree to abide by all provisions of the Town of Pictou Off-Highway Vehicles By-Law. More specifically I agree to:

- a) Provide hydrocarbon spill kits on site for use in the event of leaks or spills;
- b) Engage the Pictou Fire Department to be on call to handle fluids leaking;
- c) Create and use supervised and protected fueling areas of Off-Highway Vehicles;
- d) If required, to excavate and close the site as specified by the Town under direct Supervision of the Town;
- e) Restrict Exhibition Event parking within 10 metres of the adjacent Town well;
- f) Deposit with the Town an amount prescribed within the Town's fee policy that will be used by the Town to pay for the associated pre-event and post-event TPH and BTEX water tests (and any other related water tests) associated with this application and the adjacent Town well;
- g) Restore grounds to pre-Exhibition Event condition, including, without limitation, site closure, and store off site temporary structures and equipment associated with the Exhibition Event within 4 days of the last day of the annual Pictou-North Colchester Exhibition in a manner that is not in violation of federal or provincial statutes or other By-Laws of the Town;
- h) Contain litter, dust and garbage resulting from the Exhibition Event during the Exhibition Event and during the period of clean-up; and
- i) Abide by any other terms and conditions as Council deems appropriate.

The undersigned hereby agrees to abide by all provisions of the Town of Pictou Off-Highway Vehicles By-Law, and understands a Permit does not take effect until written confirmation from the Town of Pictou has been received.

\_\_\_\_\_  
Authorized Agent of the Pictou Agricultural Society

\_\_\_\_\_  
Date