

MUNICIPALITY OF CHATHAM-KENT
INFRASTRUCTURE AND ENGINEERING SERVICES
ENGINEERING AND TRANSPORTATION DIVISION

TO: Mayor and Members of Council

FROM: Gary Northcott, P.Eng.
Director, Engineering and Transportation Division

DATE: September 28, 2009

SUBJECT: Permanent Permissive Use By-law, Use of All-Terrain Vehicles in the Communities of Erieau, Shrewsbury and Bates Subdivision

RECOMMENDATIONS

It is recommended that:

1. By-law 248-2007, a by-law establishing the permissive use for all-terrain vehicles (ATV) be amended to allow for permanent use in the Communities of Erieau, Shrewsbury and Bates Subdivision for the period commencing November 1st in any calendar year and terminating on March 31st of the following calendar year.
2. The communities be encouraged to support and participate with the Chatham-Kent Police Services (CKPS) in an educational program for ATV users.

BACKGROUND

In 2005 Council received and considered Engineering and Traffic report #2587 on the usage of all terrain vehicles (ATV's) within the Municipality. Council passed the following recommendations.

- a. Council not adopt an all-encompassing permissive by-law which would allow for the use of all-terrain vehicles (ATV's) within all municipal road allowances.
- b. Council direct administration to assist local groups of all-terrain vehicle owners (where possible) in their efforts to locate potential sites for the operation of such vehicles.
- c. Administration return to Council for further review of a specific permissive by-law related to the interconnectivity of sites as identified in recommendation 1b.

Council passed the following Motion, "That safe and responsible All Terrain Vehicle (ATV) operation in Mitchell's Bay, Bass Haven and Waterway Camp as a one year pilot

project and have administration provide a background report in the near future” and “That the Rondeau, Erieau and Shrewsbury areas be included in this report.”

In October 2008, the ATV permissive use by-law for Mitchell’s Bay was made permanent. In November 2008, the ATV pilot project for the Communities of Erieau, Shrewsbury and Bates Subdivision was initiated.

COMMENTS

As previously reported, in July of 2003, new regulations were introduced to the Off-Road Vehicle Act (ORVA). These new regulations allowed municipalities the authority and ability to allow the use of all-terrain vehicles within highways (roadways) presently under municipal authority. The legislation is specific to four-wheel, single rider, all-terrain type vehicles. Under this new legislation, municipalities may also stipulate which roadway, time of day and season such vehicles are allowed access. Municipalities can also set up speed limits that are slower than those currently allowed by regulation.

The relevant governing legislation is:

- Highway Traffic Act O.Reg. 316/03 – Operation of Off-Road Vehicles on Highways
- Off-Road Vehicles Act, R.S.O. 1990, Chapter 0.4

The Highway Traffic Act, (HTA) O.Reg. 316/03 – Operation of Off-Road vehicles on highways governs the use of ATV’s when they are operated on a highway. This legislation took effect on July 31, 2003.

The Off-Road Vehicles Act, (ORVA), R.S.O. 1990, Chapter 0.4 governs the use of off-road vehicles when they are not operated on a highway.

The notice of motion passed by Council asks for consideration of only ATV’s within a permissive use by-law.

An all-terrain vehicle (ATV) is a specific type of off-road vehicle (ORV). Additional information governing operations of an ATV under the ORVA and HTA were documented in a previous report.

ATV’s that are designed as utility vehicles are regarded as usable for other purposes and therefore must be registered.

Operation on Public Roads

In order to consider operation of ATV’s on public roads a permissive use by-law must be adopted.

Permissive Use By-law, Erieau, Shrewsbury and Bates Subdivision

Notices for a public information session to gauge community support feedback following the pilot project for the Erieau, Shrewsbury and Bates Subdivision were circulated throughout the area by direct mailing and published advertisements in the print media. A Public Information Centre (PIC) was held at the Erieau fire hall on June 3, 2009. The June 3rd meeting was well attended by residents from all areas as well as the Essex County ATV Club.

Based on the feedback from the meeting on June 3rd, staff organized an additional meeting in Shrewsbury to address ongoing issues specific to the Community of Shrewsbury. That meeting was held on September 23, 2009. One south ward councilor was in attendance. Representation from the CKPS was present at both meetings.

The majority of the comments and consensus received from both meetings and through comments forwarded to the Engineering and Transportation Division were positive and supported continuing the permissive use by-law. Concerns about the enforcement of off road motorized vehicles (not specifically ATV usage) outside of the specific guidelines and requirements of the by-law comprised the negative comments.

The applicable by-law amendment is attached to this report, Appendix E.

Chatham-Kent Police Services

The enforcement of the by-law relating to off road vehicles either through a permissive use by-law or in general under the Highway Traffic Act falls to the Chatham-Kent Police Services (CKPS). The Ontario Provincial Police (OPP) has jurisdiction over the waterways and frequently participates with the CKPS in joint enforcement exercises. Council should be aware that the CKPS have consistently been on record that they lack the proper resources and training to properly enforce the regulations relating to Off Road Vehicles and will likely address this issue through its own processes and budget approvals.

The CKPS has joined with members of the Communities of Erieau and Shrewsbury to establish neighborhood watch programs and have taken a proactive role in this initiative.

During the follow-up meetings on June 3rd and September 23rd, representatives of CKPS presented the concept of working cooperatively in community policing with the CKPS. Incidents related to improper use of off-road vehicles, including ATV's, should be reported to CKPS and self corrected where possible to prevent incidents that might jeopardize the program continuing in their community.

The areas to be included in the permanent permissive use by-law are indicated in Exhibits A, B and C.

The premise for the permissive use by-law is that it would strategically support tourism and responsible ATV users in the community who enjoy this type of winter sport activity. It is hoped that economic opportunity in these areas will be supported as well as increase, as a result of this program.

By-law Restrictions

Speed restrictions for ATV use would be limited to 20 kph within the permissive route(s) identified. Insurance, licensing and helmets are required. Appropriate signage would be posted. As part of the pilot program and to ensure all permissive routes have a maximum 50 kph posted speed, the speed limit on New Scotland Line was lowered from Communication Road to Fargo Road. The applicable by-law was amended.

At the PIC meeting in Shrewsbury on September 23, the residents requested that signs stating the time period that ATV's are allowed be posted. Administration is currently reviewing appropriate signage.

Liability and Legal Issues

Council has been advised in a prior report on liability issues associated with this by-law based on consultation with the insurance underwriters.

COMMUNITY STRATEGIC PLAN

The recommendations in this report support the following objective and strategic direction:

A. Health – We are a healthy community

A4: Foster a safe and caring community

B. Economy – we are a prosperous community

B1: Promote and Market Chatham-Kent

B2: Make Chatham-Kent a business friendly community and a desirable leisure destination

Desired Outcomes

- Improve health and safety statistics.
- Increase tourist dollars and time spent in Chatham-Kent by a measurable percentage.

- Develop Chatham-Kent as the business and leisure destination of choice in Ontario.

The recommendations will not adversely impact on the remainder of the Community Strategic Plan.

CONSULTATION

Consultation sessions for the communities in South Kent were initiated through two Public Information Centers, public mailings and advertisements in the local media.

The Chatham-Kent Police Services were consulted and attended the public meetings. The General Manager of Infrastructure and Engineering Services and Director of Public Works South were consulted.

The Solicitor was consulted on legal and liability issues in the preparation of this report and by-law.

The Lower Thames Conservation Authority has not been consulted but will be advised of Council's recommendations.

The Ministry of Natural Resources, operators of Rondeau Provincial Park have not been consulted but will be advised of Council's recommendations.

FINANCIAL IMPLICATIONS

There would be minimal financial implications associated with the placement of regulatory signage within the permissive area. These costs will be incorporated within the Public Works maintenance and operations budget.

At the present time we are not aware of any financial implications from the municipal insurers resulting from the ATV permissive use program in Mitchell's Bay or the pilot permissive use program in the Communities of Erieau, Shrewsbury and Bates Subdivision.

Prepared by:

Gary Northcott, P. Eng.
Director, Engineering and Transportation
Infrastructure and Engineering Services

Reviewed by:

Reviewed by:

Leo Denys, P. Eng.
General Manager
Infrastructure and Engineering Services

Rob Browning
Chief Administrative Officer

Attachments: Appendix A - ATV Permissive Use By-Law Amendment
Exhibit A - Area Map, Permissive Use Locations, Erieau
Exhibit B - Area Map, Permissive Use Locations, Shrewsbury
Exhibit C - Area Map, Permissive Use Locations, Bates Subdivision

(RTC:\Infrastructure & Engineering\I&ES\2009\3175 – ATV Permissive Use By-Law,
Erieau, Shrewsbury and Bates Subdivision.doc)

BY- LAW NUMBER _____

OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A By-law to amend By-law Number 248-2007 of the
Municipality of Chatham-Kent.
(Designated All-terrain Vehicle Highways, Community
of Harwich)

FINALLY PASSED the _____ day of _____, 2009

WHEREAS the Corporation of the Municipality of Chatham-Kent did enact By-Law 248-2007 for the propose of regulating All-terrain Vehicles on highways in the Municipality of Chatham-Kent.

AND WHEREAS the Corporation of The Municipality of Chatham-Kent now deems it expedient to amend certain provisions of said By-law 248-2007.

NOW THEREFORE the Municipal Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

1. Schedule "A" (Designated All-terrain Vehicle Highways) of By-law 248-2007 be and the same is hereby amended by adding thereto and inserting therein;

Column 1	Column 2	Column 3	Column 4
<u>Highway</u>	<u>From</u>	<u>From Day(s) and</u>	<u>Day(s) and Time(s)</u>
COMMUNITY OF ERIEAU			
a) 2 nd Street	Ross Lane	northern limit	7:00 am to 11:00 pm
b) 3 rd Street	Ross Lane	northern limit	7:00 am to 11:00 pm
c) 4 th Street	Marnier's Road	northern limit	7:00 am to 11:00 pm
d) 5 th Street	Ross Lane	northern limit	7:00 am to 11:00 pm
e) Bay View Avenue	eastern limit	western limit	7:00 am to 11:00 pm
f) Cameron Street	Ross Lane	northern limit	7:00 am to 11:00 pm
g) Carpenter Lane	Kerr Avenue	western limit	7:00 am to 11:00 pm
h) Galbraith Avenue	Mariner's Road	southern limit	7:00 am to 11:00 pm
i) Kerr Avenue	Vidler Avenue	Carpenter Lane	7:00 am to 11:00 pm
j) Mariners Road	2 nd Street	Nichols Avenue	7:00 am to 11:00 pm
k) Mariners Road	Nichols Avenue	eastern limit	7:00 am to 11:00 pm
l) Nichols Avenue	Ross Lane	southern limit	7:00 am to 11:00 pm

m)	Post Point Lane	Stevens Lane	eastern limit	7:00 am to 11:00 pm
n)	Powell Lane	western limit	Stevens Lane	7:00 am to 11:00 pm
o)	Robert Road	east limit	west limit	7:00 am to 11:00 pm
p)	Ross Lane	2 nd Street	Nichols Avenue	7:00 am to 11:00 pm
q)	Samson Street	Ross Lane	northern limit	7:00 am to 11:00 pm
r)	Stass Lane	Kerr Avenue	northern limit	7:00 am to 11:00 pm
s)	Trojek Avenue	Mariner's Road	southern limit	7:00 am to 11:00 pm
t)	Vidler Avenue	Kerr Avenue	Carpenter Lane	7:00 am to 11:00 pm

COMMUNITY OF BATES SUB-DIVISON

a)	Bass Street	Rose Beach Line	Bates Drive	7:00 am to 11:00 pm
b)	Bates Drive	Bass Street	Coho Street	7:00 am to 11:00 pm
c)	Bates Line	northern limit	Provincial Park Boundary	7:00 am to 11:00 pm
d)	Centre Street	Fifth Avenue	First Avenue	7:00 am to 11:00 pm
e)	Coho Street	Rose Beach Line	Bates Drive	7:00 am to 11:00 pm
f)	Fifth Avenue	Wildwood Line	Bates Line	7:00 am to 11:00 pm
g)	First Avenue	Wildwood Line	Provincial Park Boundary	7:00 am to 11:00 pm
h)	Fourth Avenue	Wildwood Line	Bates Line	7:00 am to 11:00 pm
i)	Kent Bridge Road	Wildwood Line	Bates Line	7:00 am to 11:00 pm
j)	Pike Street	Rose Beach Line	Bates Line	7:00 am to 11:00 pm
k)	Second Street	Wildwood Line	Bates Line	7:00 am to 11:00 pm
l)	Sixth Avenue	Wildwood Line	Bates Line	7:00 am to 11:00 pm
m)	Third Avenue	Wildwood Line	Bates Line	7:00 am to 11:00 pm
n)	Wildwood Line	Kent Bridge Road	Provincial Park Boundary	7:00 am to 11:00 pm

COMMUNITY OF SHREWSBURY

a)	Adelaide Street	New Scotland Line	Scarboro Street	7:00 am to 11:00 pm
b)	Albert Street	New Scotland Line	Prince Street	7:00 am to 11:00 pm
c)	Bayview Avenue	Prince Street	southern limit	7:00 am to 11:00 pm
d)	Brock Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
e)	Kent Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
f)	Metcalfe Street	Nelson Street	Kent Street	7:00 am to 11:00 pm

g) Nelson Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
h) New Scotland Line	Nelson Street	Kent Street	7:00 am to 11:00 pm
i) Peel Street	Nelson Street	Kent Street	7:00 am to 11:00 pm
j) Prince Street	Brock Street	Albert Street	7:00 am to 11:00 pm
k) Prince Street	western limit	Kent Street	7:00 am to 11:00 pm
l) Princess Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
m) Russell Street	New Scotland Line	St. George Street	7:00 am to 11:00 pm
n) Scarboro Avenue	Victoria Street	Kent Street	7:00 am to 11:00 pm
o) St. George Street	Nelson Street	Wellington Street	7:00 am to 11:00 pm
p) St. Patrick Street	New Scotland Line	St. George Street	7:00 am to 11:00 pm
q) Talbot Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
r) Tecumseh Street	New Scotland Line	Prince Street	7:00 am to 11:00 pm
s) Victoria Street	New Scotland Line	Scarboro Street	7:00 am to 11:00 pm
t) Wellington Street	New Scotland Line	Scarboro Street	7:00 am to 11:00 pm
u) William Street	New Scotland Line	Scarboro Street	7:00 am to 11:00 pm
v) Wolfe Street	New Scotland Line	southern limit	7:00 am to 11:00 pm
w) Woods Street	New Scotland Line	St. George Street	7:00 am to 11:00 pm

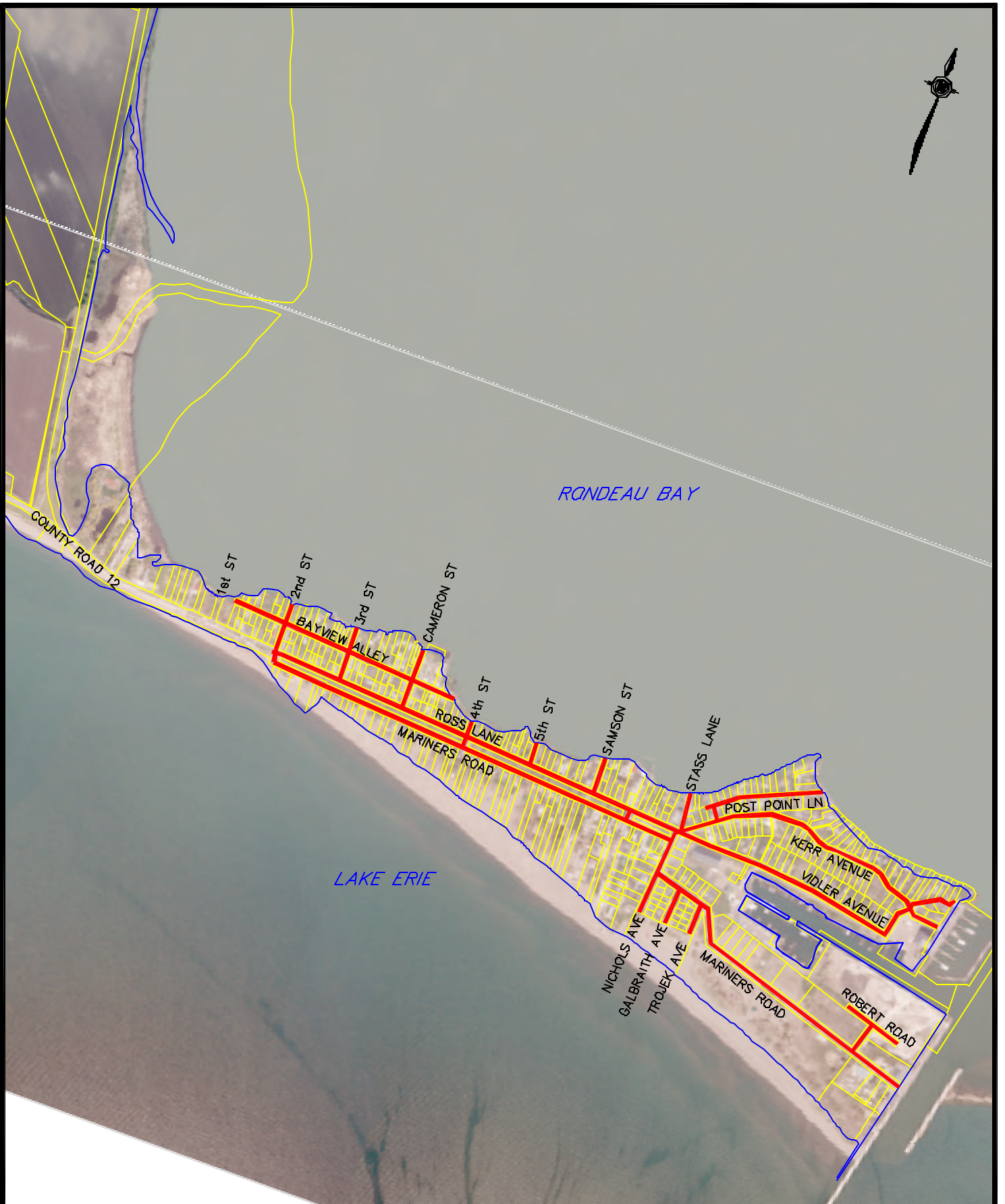
2. By-law 248-2007 of the Corporation of the Municipality of Chatham-Kent as heretofore amended from time to time are hereby ratified and confirmed in all respects save and except as amended hereby.

THIS By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD this day of , 2009.

Mayor – Randy Hope

Clerk – Elinor Mifflin



I.	NOV. 2008	
No.	DATE	ISSUANCE

CORPORATION OF THE
MUNICIPALITY OF
CHATHAM - KENT

INFRASTRUCTURE &
ENGINEERING SERVICES

ENGINEERING & TRANSPORTATION DIVISION


- EXHIBIT A -

Area Map, Permissive Use Locations,

COMMUNITY OF ERIEAU



I.	NOV. 2008	
No.	DATE	ISSUANCE



CORPORATION OF THE
MUNICIPALITY OF
CHATHAM - KENT

INFRASTRUCTURE &
ENGINEERING SERVICES

ENGINEERING & TRANSPORTATION DIVISION


- EXHIBIT B -

Area Map, Permissive Use Locations,

COMMUNITY OF SHREWSBURY



I.	NOV. 2008	
No.	DATE	ISSUANCE



CORPORATION OF THE
MUNICIPALITY OF
CHATHAM - KENT

INFRASTRUCTURE &
ENGINEERING SERVICES

ENGINEERING & TRANSPORTATION DIVISION

- EXHIBIT C -

**Area Map, Permissive Use Locations,
COMMUNITY OF BATES SUBDIVISION**