

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2020-71

Being a By-law to prohibit the use of Off-Road Vehicles on Municipal Highways and Land in the Township of Tay

WHEREAS the Highway Traffic Act, R.S.O. 1990, c. H.8, Section 191.8(1), provides that no person shall drive an off-road vehicle on a highway except in accordance with the Highway Traffic Act regulations and any applicable Municipal By-Laws;

AND WHEREAS the Highway Traffic Act, R.S.O. 1990, c. H.8 Section 191.8(3), provides that a municipality may pass By-laws permitting certain off-road vehicles on highways under the jurisdiction of the municipality and providing speed limits for such vehicles;

AND WHEREAS pursuant to O. Reg. 316/03, as amended, made under the Highway Traffic Act, a municipality may only authorize the operation of all-terrain vehicles, multi-purpose off-highway utility vehicles and recreational off-highway vehicles on municipal highways;

AND WHEREAS the Municipal Act, S.O. 2001, c. 25, Section 11(3), provides that a municipality may pass by-laws with respect to municipally owned roads, including parking and traffic on such highways;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, authorizes municipalities to prohibit and regulate with respect to public nuisances;

AND WHEREAS Council deems it necessary to pass a by-law to prohibit the use of off-road vehicles on municipal highways;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AS FOLLOWS:

SECTION 1 – DEFINITIONS

“Boulevard” shall mean the part of the highway situated between the curb line and the property line of the lot abutting the highway, but does not include the sidewalk or shoulder;

“Community Event” means an event which is held for and benefits residents or the local area within the Township of Tay;

“Council” means the Council for the Corporation of the Township of Tay;

“Designated Trail Route” shall mean a trail that has been approved by council and designated by agreement or memorandum of understanding with a recognized agency and includes extension of the agency’s insurance coverage to terms acceptable to the Township;

“Farming” shall mean a property used for growing of crops or raising of livestock;

“Highway” includes a common and public highway, street, road, 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 that area between the lateral property lines thereof;

“Emergency Vehicle” means a Motorized Vehicle required to attend a situation which arises suddenly and requires prompt action, and includes ambulance, fire, police, and municipal law enforcement vehicles;

“Motorized Vehicle” means an automobile, motorcycle, power assisted bicycle, snowmobile or any other vehicle propelled or driven otherwise than by muscular power as defined by the Ministry of Transportation;

“Municipal Public Property” shall mean any land owned or leased by the Township of Tay, which is accessed by or provided for public use including but not limited to an arena, community centre, parking lot, public library, parks and offices, as well as land owned or leased by the Township of Tay that is not normally accessible to the public;

“Municipal Parkland” means any and all lands owned by or belonging to the Township of Tay that are utilized for recreational purposes and as otherwise may be designated for use as a public park, open space, dock or wharf, including, Tay Shore Trail and any and all buildings, structures, facilities, erections and improvements located in or on such land;

“Officer” means a Municipal Law Enforcement Officer who has been appointed by Council for the purposes of carrying out the enforcement of Municipal by-laws and/or a Police Officer;

“Off-Road Vehicle” shall mean an off-road vehicle intended for off-road use and within the meaning of the Off-Road Vehicles Act, and as defined by the Highway Traffic Act and or the regulations thereto and includes off-road vehicles and defined as follows;

“All-terrain vehicle” means an off-road vehicle:

- That has three or four tires, the tires of which all make contact with the ground
- Has a steering handlebar
- Has a seat that is designed to be straddled by the driver
- Designed to carry a driver and no passenger or a driver and one passenger;

“Dirt bike” means an off-road vehicle:

- That has two tires, the tires of which all make contact with the ground
- Has a steering handlebar
- Has a seat that is designed to be straddled by the driver
- Designed to carry a driver and no passenger or a driver and one passenger;

“Multi-purpose off-highway vehicle” means an off-road vehicle that,

- Has four or more wheels, that tires of which are all in contact with the ground,
- Has a steering wheel for steering control,
- Has seats that are not designed to be straddled, and
- Has a minimum cargo capacity of 159 kilograms;

“Recreational off-highway vehicle” means off road vehicle that;

- Has four or more wheels, that tires of which are all in contact with the ground,
- Has a steering wheel for steering control,

- Has seats that are not designed to be straddled, and
- Has an engine displacement equal to or less than 1,000 cubic centimetres;

“Utility off-road vehicle” means an off-road vehicle that:

- has four or more wheels
- the tires of which are all in contact with the ground
- has a steering wheel for steering control
- and has seats that are not designed to be straddled;

For the purpose of this By-law the terms off-road vehicle, all-terrain vehicle, dirt bike, multi-purpose off highway utility vehicle, recreational off-highway vehicle and utility off-road vehicle shall be referred to as “off-road vehicle” and treated as one in the same.

“Park” means any Municipal Parkland that is owned or belonging to the Township of Tay;

“Person” means an individual, firm, corporation business association or partnership;

“Recognized Agency” shall be the Ontario Federation of All-Terrain Vehicle Clubs and the Central Ontario ATV Club;

“Sidewalks/Footpaths” means that portion of a highway as is set aside by The Corporation of the Township of Tay for the use of pedestrians;

“Special Event” means an exhibition, concert, festival or other organized event held for profit otherwise.

“Township” means the Corporation of the Township of Tay or the geographic Township of Tay as the case requires;

“Trail” means any portion of the Tay Shore Trail or any other trail or pedestrian or recreational pathway in the Township;

SECTION 2.0 – GENERAL PROVISIONS

2.1 Off-road vehicles shall be prohibited upon the highways under the jurisdiction of the Township of Tay.

2.2 Unless such lands form part of a designated trail route approved by the Township and maintained by a Recognized Agency, no person shall operate an off-road vehicle over or upon the following areas:

2.2.1 Any park, sports field, playground, or trail under the jurisdiction of the Municipality;

2.2.2 Any open or unopened road allowance, unless such vehicle is an emergency vehicle required for emergency response purposes;

2.2.3 Any cemetery under the jurisdiction of the Municipality;

2.2.4 Any municipal public property in the Municipality without the consent of the Municipality;

- 2.2.5 Upon any sidewalks/footpaths or boulevards within the Municipality;
- 2.2.6 Within any ditches, drainage areas or other portions of the highway outside of the travelled portion (of the highway);
- 2.2.7 Any highway under the jurisdiction of the Township of Tay.

SECTION 3.0 - EXEMPTIONS

3.1 This By-law does not apply to the following:

- 3.1.1 Employees, representatives or agents of the Corporation of the Township of Tay, the Provincial or Federal Government while in the course of their duties;
- 3.1.2 Employees, representatives or agents of any utility while in the course of their duties where such utility maintains or operates services in the Township;
- 3.1.3 Emergency services personnel while in the course of their duties; and
- 3.1.4 Community Events or Special Events where an exemption to this by-law is authorized by the Township;
- 3.1.5 Persons operating an off-road vehicle for farming or work purposes.

SECTION 4.0 - AUTHORIZATION

4.1 Notwithstanding subsection 2.2.2, The Township Council may authorize in writing the use of off-road vehicles on an unopened road allowance or trail or Township property, upon receiving an application from a Recognized Agency, and such authorization may be made upon the terms and conditions deemed appropriate by the Township. Without limiting the generality of the foregoing, this may require the "user" to enter an agreement concerning such use.

SECTION 5.0 - ENFORCEMENT

5.1 The provisions of this By-law shall be enforceable by a Police Officer, Municipal Law Enforcement Officer, or other such persons as appointed by the municipality.

SECTION 6.0 – OFFENCES AND PENALTIES

- 6.1 No person shall obstruct, hinder or otherwise interfere with a Police Officer, Municipal Law Enforcement Officer or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this By-law.
- 6.2 Failure to stop when directed by a Police Officer, Municipal Law Enforcement Officer, or appointed person shall be an offence of obstruction.
- 6.3 Every person who contravenes any provision of this By-law shall be guilty of an offence and upon conviction is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

SECTION 7.0 - TOWNSHIP NOT LIABLE

- 7.1** The Township assumes no liability for property damage, or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person, or property that is subject of this by-law.

SECTION 8.0 - VALIDITY AND SEVERABILITY

- 8.1** That in the event any provision of this By-law is found by a court of competent jurisdiction to be without effect under Section 14. (1) of the Municipal Act, S.O. 2001, as amended, such provisions shall be deemed to be severed and the remainder of this By-law shall remain in full force and effect.
- 8.2** This By-law shall apply in addition to the provisions of any other Township By-law and the Municipal Act, S.O. 2001 c.25, as amended, provided that in the event of conflict, the provisions of any other Township By-law or the Municipal Act, 2001, S.O. 2001 c.25, as amended, shall not be paramount over this By-law, provided such provisions are not contrary to law.
- 8.3** Whenever any reference is made in this By-law to a statute of the Legislature of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute and all successor legislation to such statute.
- 8.4** That it is hereby recognized that this By-law may be revoked and repealed at any time.
- 8.5** That nothing in this By-law shall limit any other statutory or common law rights or powers of the municipality or any Officer to enter on land.
- 8.6** That this By-law shall be cited as the "Off-Road Vehicles By-law".

SECTION 9 - ENACTMENT

- 9.1** That this by-law shall take force and take effect immediately upon the final passage thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 16TH DAY OF DECEMBER, 2020.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR, Ted Walker

CLERK, Cyndi Bonneville

SCHEDULE "A" TO BY-LAW 2020-71

PART 1 Provincial Offences Act - Set Fine Schedule

THE CORPORATION OF THE TOWNSHIP OF TAY

By-law No. 2020-71, Off-Road Vehicles By-law

Item	Column 1 Short Word Form Wording	Column 2 Provision Creating Defining Offence or	Column 3 Set Fine
1	Operate an off-road vehicle in or on a park, sports field, playground or trail.	2.2.1	\$250.00
2	Operate an off-road vehicle on any unopened road allowance.	2.2.2	\$250.00
3	Operate an off-road vehicle in a municipal cemetery.	2.2.3	\$250.00
4	Operate an off-road vehicle on municipal property without consent.	2.2.4	\$250.00
5	Operate an off-road vehicle on a sidewalk, footpath or boulevard.	2.2.5	\$250.00
6	Operate an off-road vehicle within ditches, drainage areas or other portions of the highway, outside of the traveled portion (of the highway).	2.2.6	\$250.00
7	Operate an off-road vehicle on any traveled portion of any Township highway.	2.2.7	\$85.00
8	Hinder or Obstruct an Officer	6.1	\$300.00

Note: The penalty provision(s) for the offences indicated above is Section 6 of By-Law #2020-71. A certified copy of which has been filed.

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4	Operate an off-road vehicle on municipal property without consent.	2.2.4	
5	Operate an off-road vehicle on a sidewalk, footpath or boulevard.	2.2.5	
6	Operate an off-road vehicle within ditches, drainage areas or other portions of the highway, outside of the traveled portion (of the highway).	2.2.6	
7	Operate an off-road vehicle on any traveled portion of any Township highway.	2.2.7	
8	Hinder or Obstruct an Officer	6.1	

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