

The Corporation of the Town of
New Tecumseth

By-law

Number 2020-029

**“Repeal By-law 2019-171 Off Road Vehicles and Replace with
By-law 2020-029 Off Road Vehicles”**

A by-law to repeal By-law 2019-171 and replace it with By-law 2020-029 to permit All-Terrain, Multi-Purpose Off-Highway Utility and Recreational Off-Highway Vehicles (Off-Road Vehicles) on the shoulder of municipal roads with the exception of Schedule “A”

Whereas the Highway Traffic Act, R.S.O. 1990, Chapter 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-law;

And Whereas the Highway Traffic Act, R.S.O. 1990, Chapter 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 the operation of off-road vehicles on highways is a privilege and not a right;

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

And Whereas requests have been received to permit off-road vehicles on certain municipality owned highways within the boundary of the Town;

And Whereas the Town of New Tecumseth enacted By-law 2019-171 on the 4th day of November 2019 to permit All-Terrain, Multi-Purpose Off-Highway Utility and Recreational Off-Highway Vehicles (Off-Road Vehicles) on the shoulder of municipal roads with the exception of Schedule “A”;

And Whereas By-law 2019-071 was forwarded to the Ministry of the Attorney General on January 7th, 2020 for comment and approval of set fines;

And Whereas upon the Ministry's review, wording suggestions were made as it relates to the administration of the set fines as referenced in Report #ADMIN-2020-16;

And Whereas the Council of the Corporation of the Town of New Tecumseth deems it expedient to repeal By-law 2019-171 and replace it with By-law 2020-029;

Now Therefore the Council of the Corporation of the Town of New Tecumseth does hereby enact as follows:

I. DEFINITIONS

In this by-law,

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

“Highway” 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.

“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;

"Municipality" shall mean the Town of New Tecumseth or Town

"Off-Road Vehicle" shall mean an off-road vehicle intended for off-road 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 as defined as follows:

"All-Terrain Vehicle" means an off-road vehicle that,

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

"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 centimetres;

"Recognized Agency" shall be the Ontario Federation of All-Terrain Vehicle Clubs and the Central Ontario ATV Club.

"Seat belt assembly" means a device or assembly composed of a strap or straps, webbing or similar material that restrains the movement of a person in order to prevent or mitigate injury to the person.

"Highway" shall mean any and all public highways assumed and maintained under the jurisdiction and ownership of the Town of New Tecumseth.

II. REGULATION OF OFF-ROAD VEHICLES ON HIGHWAYS

1. Off-road vehicles shall be permitted upon the highways under the jurisdiction of the Town of New Tecumseth, with the exception of Schedule A and in accordance with Ontario Regulation 316/03 of the Highway Traffic Act, as amended, and the Off Roads Vehicle Act, as amended.
2. Unless such lands form part of a trail route approved and maintained by a Recognized Agency, no person shall operate an off-road vehicle over or upon the following areas:
 - a) Any Community Centre under the jurisdiction of the municipality;
 - b) Any park, sports field, playground or trail under the jurisdiction of the municipality;
 - c) Any cemetery under the jurisdiction of the municipality;
 - d) Any municipal public property in the Town without the consent of the municipality;
 - e) Any unopened road allowance unless such vehicle is required for emergency response purposes or unless prior permission has been obtained from the Town
 - f) Upon any sidewalk or boulevard within the municipality;
 - g) In any settlement area except as a means of direct access to the approved trail routes or to obtain core services.
3. Every person shall comply with the following requirements: An off-highway vehicle shall not be operated on highways unless it meets the equipment requirements of Section 7 to 15 of O. Reg. 316/03, as amended, and it is operated in accordance with Sections 16 to 24 of O. Reg. 316/03, as amended.
4. Every person shall comply with the following requirements: The off-road vehicle shall not be driven at a rate of speed greater than:
 - a) 20 kilometres per hour, if the speed limit established under the Highway Traffic Act or by municipal by-law for that part of the highway is not greater than 50 kilometres per hour, or
 - b) 50 kilometres per hour, if the speed limit established under the Highway Traffic Act or by municipal by-law for that part of the highway is greater than 50 kilometres per hour

5. No person shall operate an off-road vehicle within the Town of New Tecumseth between the hours of 11:00 p.m. and 7:00 a.m. the following day, except where approved in advance by Council in association with a special event or other activity
6. No person shall operate an off-road vehicle in such a way as to disrupt or destroy the natural environment, create a nuisance by method or frequency of operation on any municipal property or upon any highway within the municipality.
7. No person shall leave an off-road vehicle within the municipal road allowance unless it is within designated parking lot spaces and or designated on-street parking spaces or where otherwise authorized signage is displayed indicating that off-road vehicle parking is permitted.


III. ENFORCEMENT


1. Where applicable, the provisions of this by-law shall be enforceable by a Police Officer, Municipal Law Enforcement Officer, or other such persons appointed by the municipality.
2. 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.
3. Failure to stop when directed by a Police Officer or Municipal Law Enforcement Officer shall be an offence of obstruction.
4. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine provided for by Provincial Offences Act, R.S.o, 1990, Chapter P.33, as amended.

IV. GENERAL

1. That in the event any provisions of this by-law are 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.
2. That this by-law shall apply in addition to the provisions of any other Town By-law and the Municipal Act, 2001, S.O. 2001 c. 25, as amended, provided that in the event of conflict, the provisions of any other Town 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.
3. That By-law 2019-171 is hereby repealed.
4. That it is hereby recognized this by-law may be revoked and repealed at any time.
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.
6. That this by-law shall be cited as the "Repeal By-law 2019-171 Off Road Vehicles and Replace with By-law 2020-026 Off Road Vehicles".
7. That this by-law shall come into force and take effect on the date of final passing thereof.

Read a first, second and third time and finally passed this 30th day of March, 2020


Deputy Mayor


Deputy Clerk

Schedule "A" to
By-law No. 2020-029

Prohibited Access

Town Road	From	To
Industrial Parkway	Highway 89	Young Street

