

# THE CORPORATION OF THE TOWNSHIP OF ESSA

## BY-LAW 2021 – 16

**Being a By-law to permit all-terrain, multi-purpose off highway utility and recreational off-highway vehicles (off-road vehicles) on the shoulder of all municipal roads and to repeal By-law 2005-24.**

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 municipally owned roads, including parking and traffic on such highways; and

Whereas requests have been received to permit off-road vehicles on certain municipally owned highways within the boundary of the Township of Essa; and

Whereas Council of the Corporation of the Township of Essa is desirous of permitting ATVs and ORVs access to roads under its municipal jurisdiction as part of a Pilot Project in 2021 to run from May 1, 2021 to November 1, 2021, at which time Council will re-evaluate the merits of the Pilot Project;

Now Therefore Council of the Corporation of the Township of Essa hereby enacts 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 Township of Essa.

"*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 Township of Essa.

## **II. REGULATION OF OFF-ROAD VEHICLES ON HIGHWAYS**

1. Off-road vehicles shall be permitted upon the highways under the jurisdiction of the Township of Essa, 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, open space lands, sport field, playground or trail under the jurisdiction of the municipality;
  - c) Any cemetery within the jurisdiction of the municipality;
  - d) Any municipal public property in the Township 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 Township;
  - 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. No person shall operate an off-road vehicle 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. No person shall drive an off-road vehicle 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 Township of Essa 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.
8. No person shall operate an off-road vehicle on roads under municipal jurisdiction between November 1<sup>st</sup> to April 30<sup>th</sup> in each calendar year.

### **III. ENFORCEMENT**

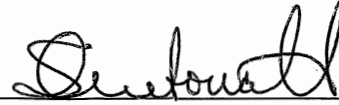
1. Where applicable, the provisions of this By-law shall be enforceable by a Police Officer, Municipal Law Enforcement Officer, or other such persons appointed by the municipality.
2. No person shall obstruct, hinder, or otherwise interfere with a Police Officer, Municipal Law Enforcement Officer or 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 the *Provincial Offences Act*, R.S.O, 1990, Chapter P.33, as amended.

### **IV. GENERAL**

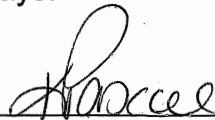
1. That in the event any provisions of this By-law are found by a Court of competent jurisdiction to be without effect under Section 14.(1) of the *Municipal Act*, S.O. 2001, as amended, such provisions shall be deemed to be severed and the remainder of this By-law shall remain in full force and effect.
2. That this By-law shall apply in addition to the provisions of any other Township 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 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.
3. That By-law 2005-24 be and 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.

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6. That this By-law shall be cited as the "Off Road Vehicles By-law".
  7. That this By-law shall come into force and take effect on the date of final passing thereof.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY  
PASSED 5<sup>th</sup> day of May, 2021.



Sandie Macdonald  
Mayor



Lisa Lehr  
Manager of Legislative Services

THE HONOURABLE ESTHER ROSENBERG  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
CENTRAL EAST REGION

50 EAGLE STREET WEST  
NEWMARKET, ONTARIO L3Y 6B1



L'HONORABLE ESTHER ROSENBERG  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DU CENTRE-EST

50, RUE EAGLE OUEST  
NEWMARKET (ONTARIO) L3Y 6B1  
TELEPHONE/TÉLÉPHONE (905) 853-4890  
FAX/TÉLÉCOPIEUR (905) 853-4891

May 10, 2021

Ms. Krista Pascoe  
Clerk  
5786 County Road 21  
Utopia, Ontario  
L0M 1T0

Dear Ms. Pascoe,

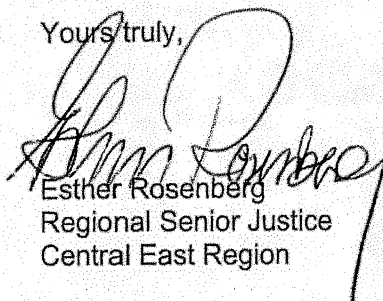
**Re: Set Fines for the Township of Essa**

Enclosed herewith please find the Order and the schedule of set fines.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded copies of the Orders and the Schedules of the set fines to the POA Court in Barrie.

Yours truly,

  
Esther Rosenberg  
Regional Senior Justice  
Central East Region

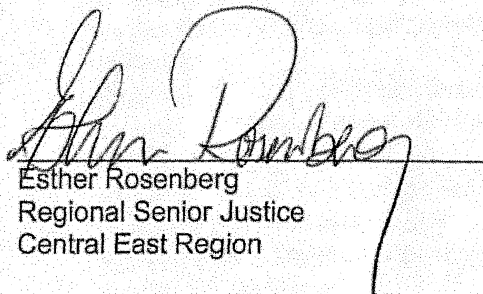
/bmw  
Enclosures

**PROVINCIAL OFFENCES ACT**

**Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By Law 2021-16, for the Township of Essa, attached hereto is the set fine for that offence. This Order is to take effect May 10, 2021.

DATED at Newmarket this 10<sup>th</sup>  
day of May, 2021

  
Esther Rosenberg  
Regional Senior Justice  
Central East Region

**PART I PROVINCIAL OFFENCES ACT**

**TOWNSHIP OF ESSA**

**BY-LAW 2021-16  
"Off Road Vehicles By-law"**

A By-law to permit all-terrain, multi-purpose off highway utility and recreational off-highway vehicles (off-road vehicles) on the shoulder of all municipal roads

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Operating an Off-Road Vehicle in a prohibited area	II(2)	\$150.00
2.	Fail to meet equipment requirements	II(3)	\$150.00
3.	Drive an Off-Road Vehicle at a speed greater than 20 km/h if established speed limit is not greater than 50 km/h	II(4a)	\$150.00
4.	Drive an Off-Road Vehicle at a speed greater than 50 km/h if established speed limit is greater than 50 km/h	II(4b)	\$150.00
5.	Operate an Off-Road Vehicle during prohibited times	II(5)	\$150.00
6.	Operate an Off-Road Vehicle in a way as to disrupt or destroy natural environment on municipal property or highway	II(6)	\$150.00
7.	Operate an Off-Road Vehicle on municipal roads between November 1 <sup>st</sup> to April 30 <sup>th</sup>	II(8)	\$150.00
8.	Obstruct, hinder or interfere with a Police Officer, Municipal Law Enforcement Officer or other duly appointed individual	III(2)	\$200.00
9.	Fail to stop when directed.	III(3)	\$200.00

NOTE: The penalty provisions for offences listed above are Section III (4) of By-law 2021-16, certified copy of which has been filed.