

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2007 - 48

A By-law to regulate the fishing in the Nottawasaga River from municipal property, and to require individuals to obtain and hold a valid Fishing Access Pass permitting them to fish from municipal parks.

WHEREAS Section 11 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides municipalities with the authority to pass by-laws with respect to culture, parks, recreation and heritage; and

WHEREAS the Corporation of the Township of Essa deems it necessary and in the public interest to pass a by-law establishing regulations with respect to municipally owned or controlled parkland and municipally owned lands used for recreational purposes, specifically fishing, within the Township; and

WHEREAS Section 391 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorize a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it, and for the use of its property including property under its control;

NOW THEREFORE the Council of the Corporation of the Township of Essa enacts as follows:

TITLE AND SCOPE

This By-law shall be known as a *Fishing Access Pass By-law* to regulate fishing from municipally owned lands and to provide authority to enforce the Fishing Access Pass system.

All funds and proceeds raised from the sale of Fishing Access Passes, and from fines resulting from a contravention of this by-law, shall be used toward restoration of the riverbank of the Nottawasaga River in these parks, and to maintain and keep in good condition the four fishing parks specified herein.

1. DEFINITIONS

“Fee Schedule” means the fee schedule attached to the Township Fees and Charges By-law, being By-law 2007-35, and any subsequent fee by-law approved by Council.

“Fishing Access Pass” means a pass created by and sold by The Township of Essa which enables the pass holder to fish on municipally owned property for a given calendar year. Persons under 18 years of age or Essa residents over 65 years of age are exempt from the requirement for a Fishing Access Pass.

“Fishing License” means a tag issued by the Ontario Ministry of Natural Resources, which is affixed to the back of an Outdoor Card, allowing the holder to legally fish and to catch fish within the Province of Ontario without penalty or fine. Ontario residents between the ages of 18 and 65 years

are required to obtain an Outdoor Card with the fishing license tag attached.

“Marshall” means a person retained by the municipality to monitor and oversee the municipally owned fishing parks.

“MNR” means the Ministry of Natural Resources of Ontario.

“Municipal Parkland” means all lands owned by or belonging to the Township of Essa and as otherwise may be designated for use as a public park.

“Municipal Parks” for the purposes of this policy, mean the Angus Community Park, Centennial Park, the Nottawasaga Park, and the Don Ross Park.

“Officer” shall include a Township appointed Fishing Marshall, a Municipal Law Enforcement Officer of the Corporation of the Township of Essa appointed by by-law, an officer of the Ontario Provincial Police, or a Provincial Conservation Officer.

“Outdoor Card” means a card issued by the Ontario Ministry of Natural Resources to which a tag is affixed to show that an Ontario fishing license has been purchased.

“Proceeds” refer to the proceeds of the sale of Fishing Access Passes, which are used for riverbank restoration of the Nottawasaga River, to repair and maintain fishing areas in municipal parkland, and maintenance and upkeep of the fishing parks.

“Township” means The Corporation of The Township of Essa.

2. GENERAL PROVISIONS

- a. No person over the age of 18 shall fish from or on any municipal parkland or municipally owned lands used for recreational purposes within the Township of Essa without having first obtained a Fishing Access Pass, attached hereto as Schedule “C”.
- b. No person shall be issued a Fishing Access Pass without having a valid Ontario fishing tag affixed to an Outdoor Card issued by the Ministry of Natural Resources.
- c. Persons found to be fishing in municipally owned parks without a valid Fishing Access Pass will be required to refrain from further fishing until they have obtained a valid pass. Failure to do so will result in their removal. Fishing passes will be available for purchase from the Fishing Marshall on site and at various locations throughout the municipality.
- d. At the discretion of the Officer, a warning may be issued to the holder of an invalid pass upon first offence.
- e. Individuals wishing to fish in the aforementioned municipal parks are required to abide by and adhere to all provincial and federal regulations, and municipal by-laws pertaining to park use and public property, such as but not limited to noise, signage, smoking, littering, canine control, parking or public nuisance.
- f. Access passes are valid from January 1 to December 31 of each year.
- g. Access passes are not transferable and are valid only for the person to whom they have been issued.

Amended
by 2018-
67

- h. Fishing Access Pass fees are non-refundable except where overpayment is the result of an administrative error.
- i. The fee charged to replace a lost, misplaced or stolen Access Pass shall be as set out in the most current Township of Essa Fees and Charges By-law, as may be amended from time to time.
- j. Fees for Essa Fishing Access Passes shall be set out in Schedule “A” attached, in accordance with the Township of Essa Fees and Charges By-law, as may be amended from time to time.

3. EXCEPTIONS

- a. Residents of Essa Township who are 65 years of age or older are exempt from the requirement to purchase a Fishing Access Pass.
- b. Essa residents with a valid Accessible Parking permit issued by the Province of Ontario, or who require the assistance of a mobile or mechanical device, shall also be exempt.
- c. Individuals who purchase a Fishing Access Pass are automatically eligible to participate in the annual Essa Riverbank Salmon Derby and are not required to pay additional entry fees.

4. INSPECTION

- a. A Marshall or Officer duly appointed by The Township of Essa has the authority to request and inspect the Fishing Access Pass or an Ontario Outdoor Card in any municipally owned parkland being used for fishing.
- b. An Officer may be accompanied by such other person or persons as deemed necessary to properly carry out their duties under this By-law.

5. OBSTRUCTION

- a. Every person who hinders, disturbs or obstructs any Officer in the carrying out of their duties, or contravenes any provision of this By-law unless otherwise provided herein is guilty of an offence and, upon conviction, is liable to a fine pursuant to the *Provincial Offences Act*.

6. PENALTIES AND ENFORCEMENT

- a. This by-law shall be enforced by the Fishing Marshalls appointed by the municipality, and by the Municipal Law Enforcement Officer(s) of The Township of Essa, the Ontario Provincial Police, a Provincial Conservation Officer or Officer of the Ministry of Natural Resources, and any other person so designated this authority by Council.
- b. Any person who contravenes any provision of this By-law, unless otherwise provided herein, is guilty of an offence and, upon conviction, is liable to a fine of not more than \$5,000.00.
- c. Each incident wherein a breach of this By-law continues shall constitute a separate offence.

Amended
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67

7. INTERPRETATION

- a. For the purposes of this by-law:
 - i. Words used in the singular form shall have corresponding meanings when used in the plural form.
 - ii. The word "may" shall be construed to be permissive.
 - iii. The word "shall" shall be construed as imperative.
- b. Should any section, subsection, clause, paragraph or provision of this by-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability or any other provision of this by-law or the by-law as a whole.
- c. The short title of this by-law shall be "**The Fishing Access Pass By-law**".
- d. This by-law shall come into force and have effect on the date it is finally passed.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED
this Fifth day of September, 2007.

David Guergis, Mayor

Carol O. Trainor, Clerk

TOWNSHIP OF ESSA
Schedule “B” to By-law 2007 - 48
Fishing Access Pass By-law

ITEM	Offence	Provision creating or defining offence	Fine
1.	Fishing in a municipal park without a valid Pass.	Sec. 2 a	\$50.00
2.	Fishing in a municipal park without a valid Provincial fishing tag.	Sec. 2 b	\$50.00
3.	Failure to vacate municipal property following an order issued by an Officer.	Sec. 2 c	\$60.00
4.	Use of an Access Pass by someone other than the person named.	Sec. 2 g	\$60.00
5.	Replacement of lost or misplaced Pass.	2 i	\$10.00
6.	Obstructing an Officer from enforcing any provision of this By-law	Sec. 5 A	\$75.00

**Schedule "C" to
Township of Essa By-law 2007 - 48**

**TOWNSHIP OF ESSA
FISHING ACCESS PASS**

LIC NO: 001

Name:

Full Address: _____ City: _____ Postal
Code: _____

The above named person is hereby permitted, pursuant and subject to municipal authority conferred under the Municipal Act, 2001, to fish in the municipally owned parks within The Township of Essa.

Valid Fishing Tag: Yes No Essa Resident: Yes No Exempt: Yes No

The Pass holder shall observe all by-laws, rules and regulations, matters and things as are, or may be enacted by the Council of the Township of Essa or its legally constituted Police Services Board, as well as any other applicable law.

Subject to revocation, this pass shall continue in force until: December 31, 20 _____

Fee of \$ _____ paid this _____ day of _____, 20 _____

Signature of Issuing Officer

Date