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THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2005-24

Being a By-law for Regulating, Governing or Prohibiting the operation of Off-Road Vehicles in the Township of Essa, and to repeal By-law 98-20.

WHEREAS Section 191.8, Subs. (3) of the *Highway Traffic Act*, R.S.O. 1990, as amended, and Ontario Regulation 316/03, provides that the Council of a municipality may pass by-laws permitting the operation of off-road vehicles with three or more wheels and low pressure bearing tires on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway; and

WHEREAS the *Off Road Vehicles Act*, R.S.O. 1990, governs off-road vehicles, including All Terrain Vehicles, when they are not operated on a highway; and

WHEREAS the Council of The Township of Essa deems it in the best public interest to regulate, govern or prohibit the operation of off-road and all terrain vehicles upon certain highways, parks and lands within the Township of Essa;

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

1. DEFINITIONS

“All Terrain Vehicle” means an off-road vehicle which:

- a) has four wheels, the tires of all of which are 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 a driver only* and no passengers.

“Council” means the Council of The Township of Essa

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles.

“Off Road Vehicle” means a vehicle, including All Terrain Vehicles, propelled or driven otherwise than by muscular power or wind and designed to travel on not more than three wheels, or on more than three wheels and being a prescribed class of vehicle (dirt bikes, dune buggies).

“Officer” means a Municipal Law Enforcement Officer appointed by Council or any authorized member of the Ontario Provincial Police or any other person appointed or designated by Council to provide law enforcement services in the Township of Essa.

“Pedestrian Walkway” means any land other than a sidewalk set aside by the Township for the use of pedestrians.

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“Roadway” means the part of the highway that is designed or ordinarily used for vehicular traffic, but does not include the shoulder.

“Shoulder” means that part of the highway for the use of vehicles immediately adjacent to the roadway and having a surface which has been improved with asphalt, concrete or gravel.

“Sidewalk” means that portion of a highway that is set aside by the Township of Essa for the use of pedestrians.

“Trail” means the whole of any trail established and maintained by a recreational organization for the use of motorized off road vehicles.

## **2. OPERATION OF OFF-ROAD VEHICLES IN PROHIBITED AREAS**

2.1 No operator or owner of a motorized off-road vehicle shall operate or permit to be operated in any of the following locations within the Township of Essa:

- a) on any sidewalk or pedestrian walkway
- b) in any park, parkland or other property owned, operated or leased by the Township for recreational purposes in the urban areas of the Township known as Angus, Thornton and Baxter;
- c) on any other property owned by the Township including an unopened road allowance, except with the written permission of the Township.

2.2 Notwithstanding Section 1 above, motorized off-road vehicles may operate on a trail that has been established under a lease or Agreement with the Township and/or other property owner, and which agreement permits the use of the trail for motorized off-road vehicles; or in a municipal parking lot for the purposes of parking.

2.3 No operator or owner of a motorized off road vehicle shall operate or permit to be operated any such vehicle unless such activity is specifically sanctioned by a Resolution of the Council of the Township, and in any such motion, Council shall establish conditions for such use including but not limited to the establishment of speed limits and provision of specific liability insurance.

2.4 The Public Works department may erect signs to advise the public of locations where motorized off-road vehicles are prohibited under this Section.

## **3. OFFENCES AND PENALTIES**

3.1 Every person who:

- a) willfully hinders or interrupts, or causes or procures to be hindered or interrupted, the Township, its officers, contractors, agents or employees in the exercise of any of the powers conferred under this By-law; or

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b) contravenes any provision of this By-law

is guilty of an offence and is subject to a penalty pursuant to the *Provincial Offences Act*, as amended or the *Highway Traffic Act*, as amended.

3.2 The conviction of an offender upon the breach of any provision of this By-law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provisions of the *Municipal Act*, as amended from time to time, and shall further apply to any continued or repeated breach of this By-law.

3.3 The driver of the off-road vehicle shall hold a valid Class A, B, C, D, E, F, G, G2, M or M2 driver's license issued under the Act unless he or she is exempt under Sec. 34 of the Act.

3.4 The driver of the off-road vehicle shall wear a helmet that complies with Section 19 of the *Off-Road Vehicles Act*.

**GENERAL PROVISIONS**

1. If any court of competent jurisdiction finds that any of the provisions of this By-law are ultra vires, or are invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.

2. Where the context permits, words importing the singular also include more than one persons, parties or things of the same kind.

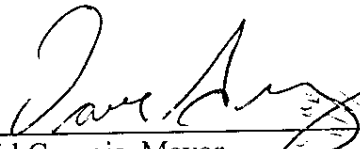
3. The word "may" shall be construed as permissive and the word "shall" shall be construed as imperative.

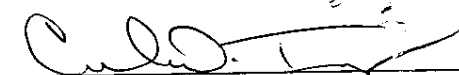
4. That By-law 98-20 be and is hereby repealed.

5. That this By-law shall come into force and effect on the date of passing thereof.

6. The short form title of this By-law shall be the "Off Road Vehicle By-law".

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this the Sixth day of April, 2005.

  
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David Guergis, Mayor

  
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Carol O. Trainor, Clerk