

THE CORPORATION OF THE CITY OF TEMISKAMING SHORES

BY-LAW NO. 2009-023

BEING A BY-LAW TO REGULATE AND CONTROL THE OPERATION OF OFF-ROAD VEHICLES WITHIN THE CITY OF TEMISKAMING SHORES

WHEREAS the Council of the Corporation of the City of Temiskaming Shores deems it necessary and expedient to pass a By-law to regulate off road vehicles within the City of Temiskaming Shores;

AND WHEREAS under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS under Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Section 27 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws with respect to highways over which it has jurisdiction;

AND WHEREAS Section 425(1) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 429(1) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act;

AND WHEREAS Section 191.8(3)(a) of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended, provides that a municipality may pass by-laws, permitting the operation of off-road vehicles on any highway within municipality or on any part or parts of such highways;

AND WHEREAS Section 191.8(3)(b) of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended, provides that a municipality may pass by-laws, prescribing a lower rate of speed for off-road vehicles than that prescribed for off-road vehicles by regulation on any highway within municipality or on any part or parts of such highways;

NOW THEREFORE the Council of the Corporation of the City of Temiskaming Shores hereby enacts as follows:

1. That Council adopts a by-law to regulate and control the operation of off-road vehicles within the City identified as Schedule "A", attached hereto and forming part of this by-law;
2. That By-law No. 2005-030 being a by-law to regulate, govern and control off-road vehicles within the City of Temiskaming Shores is hereby repealed.
3. That the Clerk of the City of Temiskaming Shores is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-law and schedule, after the passage of this By-law, where such modifications or corrections do not alter the intent of the By-law.
4. That this by-law shall come into force and take effect on the date of its final passing.

Read a FIRST and SECOND time this 24th day of March, 2009.

Mayor

Clerk

Read a THIRD time and FINALLY passed this 21st day of April, 2009.

Mayor

Clerk

THE CORPORATION OF THE CITY OF TEMISKAMING SHORES

SCHEDULE “A” TO BY-LAW NO. 2009-023

**BEING A BY-LAW TO REGULATE AND CONTROL THE OPERATION OF OFF-ROAD
VEHICLES WITHIN THE CITY OF TEMISKAMING SHORES**

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PART 1
GENERAL PROVISIONS

SECTION

1.1 Short Title

This By-Law shall be cited as the “ATV By-law”.

1.2 Scope

The provisions of this By-law shall apply to all property within the geographic limits of the *City*, except where other wise provided.

1.3 Enforcement

This By-law shall be enforced by a *By-law Enforcement Officer* or a *Police Officer*.

1.4 Conflicts with other by-law

Where a provision of this By-law conflicts with a provision of another by-law in force in the *City*, the provisions that establishes the higher standard in terms of protecting the health, safety and welfare of the general public and the environmental well being of the municipality, shall prevails to the extent of the conflict.

PART 2
DEFINITIONS

Definitions of words, phrases and terms used in this By-law that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

The words, phrases and terms defined in this section have the following meaning for the purposes of this By-law.

SECTION

2.1 “All-Terrain Vehicle” means an *off-road vehicle* that,

- (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.

2.2 “By-law Enforcement Officer” means the *person* or *persons* duly appointed by *Council* as Municipal Law Enforcement Officers for the purpose of enforcing regulatory by-laws of the *City*.

2.3 “City” means the Corporation of the City of Temiskaming Shores.

- 2.4 “**City Property**” means any land situated within the *City* which is owned by the *City* or controlled by the *City* by lease or otherwise, but does not include a *highway*.
- 2.5 “**Council**” means the Municipal *Council* of the *City* of Temiskaming Shores.
- 2.6 “**Highway**” means a common and public highway, street, roadway, crescent, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or other such place designed and intended for, or used by the general public for the passage or parking of vehicles and includes the area of land between the lateral property lines thereof.
- 2.7 “**Highway Traffic Act**” means Highway Traffic Act, R.S.O. 1990, c. H8, as amended.
- 2.8 “ **Low Pressure Bearing Tire**” means a wide, balloon-type tire with a rounded cross-section and no distinct shoulder area and that is designed to operate with inflation pressure of no greater than 70 kpa (10 psi).
- 2.9 “**Off-Road Vehicle**” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,
(a) on not more than three wheels, or
(b) on more than three wheels and being of a *prescribed* class of vehicle.
- 2.10 “**Off-Road Vehicle Act**” means the Off-Road Vehicle Act, R.S.O. 1990, c. 0.4, as amended.
- 2.11 “**Person**” means an individual, firm or corporation.
- 2.12 “**Police Officer**” means a member of the Ontario Provincial Police service.
- 2.13 “**Prescribed**” means prescribed by the *Off-Road Vehicle Act* – R.R.O. 1990, Reg. 863.
- 2.14 “**Prohibited Highway**” means those *highways* identified in Appendix “1” attached to and forming part of this Bylaw.
- 2.15 “**Provincial Offences Act**” means the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 2.16 “**Residence**” means a *persons* dwelling unit and shall include a temporary unit such as a hotel or motel.
- 2.17 “**School Site**” means land or premises or an interest in land or premises required by a board for a school, school playground, school garden, school parking areas or for any other school purpose, but does not include post secondary institution.
- 2.18 “**Trail**” means the whole of any trail established and maintained by a recreational organization for the use of *all-terrain vehicles*.

PART 3 REGULATIONS

SECTION

3.1 Prohibited Highways

- 3.1.1** No *person* shall operate an *off-road vehicle* upon a *highway*.
- 3.1.2** Notwithstanding Section 3.1.1 a *person* shall be allowed to cross a *highway* while operating an *off-road vehicle*, provided such crossing is done at an angle of approximately 90 degrees to the direction of the *highway*.
- 3.1.3** Notwithstanding Section 3.1.1 a *person* shall be allowed to operate an *all-terrain vehicle* with *low pressure bearing tires* upon a *highway*.
- 3.1.4** No *person* shall operate an *all-terrain vehicle* with *low pressure bearing tires* upon a *prohibited highway*.

3.2 City Property

- 3.2.1** No *person* shall operate an *off-road vehicle* upon *City property*.
- 3.2.2** Notwithstanding Section 3.2.1 a *person* may operate an *all-terrain vehicle* upon a *trail* established on *City property*.

3.3 School Site

- 3.3.1** No *person* shall operate an *all terrain vehicle* upon any portion of a *highway* located within 100 meters of any *school site* between the hours of 8:00 a.m. to 9:30 a.m. and 3:00 p.m. to 4:30 p.m., Monday to Friday from September 1 to June 30 of the following year.
- 3.3.2** Notwithstanding Section 3.3.1 where a *persons residence* is located within 100 meters of a *school site*, such *person* may operate an *all-terrain vehicle* to gain direct access to or from their *residence*.

PART 4 PENALTIES

SECTION

4.1 General Penalties

Any *person* who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to do or refrains from doing anything required to be done pursuant to any provisions of this By-law or any permit or order issued pursuant thereto, commits an offence and except where specifically provided in Appendix "2", shall be liable to a fine of not less than \$100.00, but not exceeding \$5,000.00.

Where an offense is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

PART 5
VALIDITY

SECTION

5.1 Validity of By-law

If any section, clause, or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

THE CORPORATION OF THE CITY OF TEMISKAMING SHORES
Appendix “1” OF Schedule “A”
TO ATV BY-LAW NO. 2009- 023

PROHIBITED HIGHWAYS

HIGHWAY	FROM	TO
Armstrong Street North	Highway 65 East	Whitewood Avenue
Armstrong Street South	Whitewood Avenue	Cedar Street
Drive-In-Theatre-Road	Crystal Crescent	Highway 11
Ferguson Avenue	Blackwall Street	Browning Street
Golf Course Road	Highway 11	Highway 65 West
Hessle Street	Armstrong Street North	ESCSM
High Street	Shepherdson Road	Whitewood Avenue
King Street	Carter Boulevard	South Limit (Coleman Twp.)
Lakeview Avenue	King Street	Mill Creek
Lakeshore Road North	Radley Hill Road	Paget Street
Lakeshore Road South	Browning Street	Radley Hill Road
Main Street	Farr Drive	Browning Street
Paget Street	Lakeshore Road North	Dymond Street
Rorke Avenue	Main Street	Carter Boulevard
Shepherdson Road	Radley Hill Road	High Street
West Road	Browning Street	Highway 11
Whitewood Avenue	May Street	Highway 11

THE CORPORATION OF THE CITY OF TEMISKAMING SHORES
Appendix “2” OF Schedule “A”
TO ATV BY-LAW NO. 2009- 023

PART 1 PROVINCIAL OFFENCES ACT
SET FINES

Item	COLUMN 1 Short form wording	COLUMN 2 Offence creating provision or Defining offence	COLUMN 3 Set fine
1	Drive <i>off-road vehicle</i> on <i>highway</i> .	Sch. A, section 3.1.1	\$85.00
2	Drive <i>all-terrain vehicle</i> on <i>prohibited highway</i> .	Sch. A, section 3.1.4	\$85.00
3	Drive <i>off-road Vehicle</i> on <i>City property</i> .	Sch. A, section 3.2.1	\$85.00
4	Drive <i>all-terrain vehicle</i> within 100m of <i>school site</i> .	Sch. A, section 3.3.1	\$85.00

Note: The general penalty provision for the offences listed above is Schedule A section 4.1 of By-law No. 2009- 023, a certified copy of which has been filed.