

BY-LAW NO. 6148

OF

THE CORPORATION OF THE COUNTY OF SIMCOE

A By-law to Repeal and Replace By-law No. 5886, By-law No. 6002, By-law No. 6047 and to Permit the Use of All Terrain Vehicles on certain Municipal Highways.

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 County of Simcoe;

AND WHEREAS by the adoption of Recommendation CS-054-12 of the Corporate Services Committee, County Council deems it necessary to enact a by-law to permit the use of All Terrain Vehicles on certain Municipal Highways.

NOW THEREFORE the Council of the Corporation of the County of Simcoe enacts as follows:

1. Definitions

THAT in this By-law:

“All Terrain Vehicles” shall mean any 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 designed to be straddled by the driver;
- (d) is designed to carry a driver only and no passengers;

- (e) has not been modified in any way from its manufactured design either by the addition of passenger seats or otherwise, or the removal of equipment such as mufflers; and
- (f) is being operated, driven or used as designed by the manufacturer.

“County of Simcoe Highway” shall mean any and all public highways assumed and maintained under the jurisdiction and ownership of the County of Simcoe.

“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 an all terrain vehicle as defined in Section 1.1 (1)(a).

2. Compliance

THAT compliance with all of the criteria in Section 1. herein is mandatory. Any vehicle not meeting all of the criteria in Section 1. Herein does not qualify as an all terrain vehicle under this By-law.

3. Limited & Conditional Privilege

- 3.1 THAT no person shall operate an all terrain vehicle on a County of Simcoe Highway except in accordance with and subject to the conditions and permissions granted in this By-law.
- 3.2 THAT a limited and revocable conditional permission shall be and is hereby granted to persons to operate all terrain vehicles as defined in this By-law on County of Simcoe Highways at any time from one half hour after sunrise to one half hour before sunset.
- 3.3 THAT all terrain vehicles shall not be operated on County of Simcoe Highways at a rate of speed greater than:
 - (a) 20 kilometres per hour, if the speed limit is not greater than 50 kilometres per hour; or
 - (b) 50 kilometres per hour, if the speed limit is greater than 50 kilometres per hour; and in accordance with provincial legislation.

- 3.4 THAT no person shall operate an all terrain vehicle in such a way as to disrupt or destroy the natural environment or private or municipal property.
- 3.5 THAT the following conditions shall be met both prior to and during the operation of all terrain vehicles for the permission granted herein to be valid:
- (a) each all terrain vehicle must qualify as an all terrain vehicle as defined in this by-law;
 - (b) all of the terms and conditions of this By-law shall be complied with at all times, including acceptance of the waiver as set out in this By-law; and
 - (c) all of the provisions of Regulations 316/03 under the *Highway Traffic Act*, as amended from time to time, and any other legislation governing the use of all terrain vehicles shall be complied with at all times.
- 3.6 THAT the permission granted herein includes only those highways identified in Schedule 'A' and assumed and maintained under the jurisdiction and ownership of the County of Simcoe and does not apply to highways under the jurisdiction of the Province or the lower tier municipality and does not apply to sidewalks, municipality owned parks, unopened road allowances or private roads which are not under the jurisdiction of the County of Simcoe.
- 3.7 THAT persons purporting to operate all terrain vehicles under the permission granted herein shall obtain current and adequate insurance at all times. In the event that such insurance is inadequate in terms of deductibles, terminated or limited coverage or otherwise, the person operating the all terrain vehicle shall be responsible for any and all losses and costs of the County of Simcoe which the County may incur as a result of such inadequate insurance coverage which the person shall save harmless the County of Simcoe, their servants and their agents for any loss that may have been incurred within the boundaries of the County of Simcoe.
- 3.8 THAT in the event that the drawing of a trailer by an all terrain vehicle on highways is permitted by the *Highway Traffic Act*, including any regulations thereto, the following requirements shall apply:
- (a) any and all provisions of the *Highway Traffic Act* and regulations thereto applicable to trailers generally shall apply to trailers drawn by all terrain vehicles.

- (b) the maximum width of the trailer shall be equal to the lesser of the width of the all terrain vehicle which is drawing the trailer or 1.35 metres;
- (c) every trailer shall be supplied with mudguards, fenders and other devices adequate to reduce effectively the water spray or splash of water unless adequate protection is afforded by the body of the trailer; and
- (d) the trailer shall not obstruct the view of any rear and/or brake lighting required unless equivalent lighting is affixed to the rear of the trailer and clearly visible to approaching traffic.

4. Enforcement

- 4.1 THAT members of the Ontario Provincial Police shall be and they are hereby authorized and empowered to enforce this By-law.
- 4.2 THAT in a court proceeding of any kind whatsoever in which the presence of an all terrain vehicle on a County of Simcoe Highway is in issue, the provisions of this By-law are not a defence unless the person claiming the benefits of this By-law establishes that he/she was in fact in compliance with the requirements herein at the time the defence is put forward. Any person who is unable or unwilling to provide such evidence shall be deemed to be trespassing on the County of Simcoe Highways.
- 4.3 THAT no person shall interfere or obstruct an Officer carrying out his/her duties enforcing this By-law.

5. Waiver, Warranty & Indemnity

- 5.1 THAT in recognition of the permission granted herein is a privilege; every person purporting to exercise the permission shall be deemed to have agreed to all of the terms and conditions of this By-law.
- 5.2 THAT each person exercising the permission granted herein acknowledges and accepts that the County of Simcoe does not, in any way, shape or form, warrant, represent or undertake that the public highways to which permission applies are suitable for or maintained to permit use by all terrain vehicles. Each such person shall not, at any time or under any circumstances, claim or attempt to claim at any time in any proceedings whatsoever that the public highway was not suitable for all terrain vehicle use or not maintained properly.

- 5.3 THAT where the County of Simcoe incurs any loss, costs or damages as a result of any person exercising permission as set out herein, each such person shall, upon request, reimburse the County of Simcoe for all such loss, costs and damages. In addition to any remedies otherwise available by law, Section 3.2 herein shall not apply to any person who has failed to comply with this section.

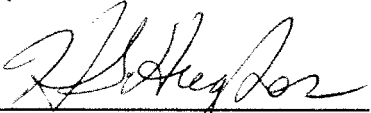
6. Offences

- 6.1 THAT except as expressly permitted by Provincial or Federal Act or Regulation, every person who contravenes any provision of this By-law is guilty of an offence.
- 6.2 THAT any person who contravenes any provision in Section 3.4 herein shall be guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act.
- 6.3 THAT Section 6.1 herein does not apply if a person can establish that he was the driver of and operating an all terrain vehicle in accordance with the provisions of this By-law.

7. General

- 7.1 THAT this By-law shall come into force and effect on the date of passing thereof and remain in effect until February 21, 2016.
- 7.2 THAT in the event that 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, Chapter 25, such provisions shall be deemed to be severed and the remainder of this By-law shall remain in full force and effect.
- 7.3 THAT By-laws No. 5886, 6002, and 6047 be repealed.
- 7.4 THAT without limiting the powers of the County of Simcoe Council to amend, alter or revoke this By-law at any time, it is hereby recognized that this By-law may be revoked and repealed at any time.

By-law read a first, second and third time and finally enacted this 24th day of April, A.D., 2012.


DEPUTY Warden, County of Simcoe


Clerk, County of Simcoe

<u>County Road</u>	<u>From</u>	<u>To</u>
County Road 5	Concession 2	Concession 3, Township of Adjala-Tosorontio
County Road 13	County Road 12	15 Sideroad, Township of Adjala-Tosorontio
County Road 17	Kinnear Sideroad	Big Chute, Township of Severn
County Road 52	McCarthur Sideroad	Washago, Township of Severn