

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2021-XX

**Being a By-law to Regulate the Operation of Off-Road Vehicles on Municipal
Highways within the Township of Asphodel-Norwood**

WHEREAS pursuant to the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Section 191.8, subsection 1, 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-laws;

AND WHEREAS the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Section 191.8, subsection (3) provides that a Council of a municipality may pass by-laws:

- a) permitting the operation of off-road vehicles or classes of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality, or on any parts of such highway;
- b) prohibiting the operation of off-road vehicles on any highway within the municipality that is under jurisdiction of the municipality, or on any parts of such highway;
- c) prescribing a lower rate of speed for off-road vehicles than that prescribed for off-road vehicles by regulation on any highway within the municipality that is under its jurisdiction or on any part or parts of such highway, including prescribing different rates of speed for different highways or parts of highways;

AND WHEREAS the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Section 191.8, subsection (4) provides that by-laws may regulate times of operation on any highway or parts of highway only during specified times;

AND WHEREAS the Council of the Corporation of the Township of Asphodel-Norwood deems it desirable to enact such a By-law for off-road vehicles as defined in Section 1 of the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03, as amended;

AND WHEREAS the purpose of the by-law is to provide access to link an off-road vehicle riders home or accommodation to existing and approved ATV trails, from trail to trail, and from ATV trail to economic services including food, fuel, supplies and service;

AND WHEREAS the Highway Traffic Act, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03: Operation of Off-Road Vehicles on Highways Act, regulates the equipment and operational requirements of off-road vehicles;

AND WHEREAS the Corporation of the Township of Asphodel-Norwood deems it necessary to develop off-road vehicle safety regulations that allow off-road vehicles to have increased access to municipally owned highways within the municipality under safe circumstances;

NOW THEREFORE BE IT RESOLVED that the Council of the Township of Asphodel-Norwood hereby enacts as follows:

1. Definitions:

In this by-law,

"Act" means the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, Ontario Regulation 316/03:

Operation of Off-Road Vehicles on Highway Act.

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"All-Terrain Vehicle (ATV)" as defined by Ontario Regulation 316/03, 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. driver only and no passengers, or
 - ii. a driver and only one passenger, if the vehicle,
 - iii. has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
 - iv. is equipped with foot rests for the passenger that are separate from the foot rests for the driver.

"Extreme Terrain Vehicle (XTV)" as defined by Ontario Regulation 316/03, means an off-road vehicle that:

- a) has six or eight wheels, the tires of which are all in contact with the ground;
- b) has no tracks that are in contact with the ground;
- c) has seats that are not designed to be straddled, and;
- d) has a minimum cargo capacity of 159 kilograms.

"Highway" as defined by the *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaductor 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. This also includes any open road allowances under the jurisdiction of the Corporation of the Township of Asphodel-Norwood.

"Multi-Purpose Off-highway Utility Vehicle (UTV)" as defined by Ontario Regulation 316/03, 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" means the Township of Asphodel-Norwood.

"Off-road Motorcycle (ORM)" as defined by Ontario Regulation 316/03, means an off-road vehicle, designed primarily for recreational use, that,

- a) has steering handlebars;
- b) has two wheels, the tires of which are all in contact with the ground;
- c) has a minimum wheel rim diameter of 250 millimetres;
- d) has a minimum wheelbase of 1,016 millimetres;
- e) has a seat that is designed to be straddled by the driver;
- f) is designed to carry a driver only and no passengers; and
- g) does not have a sidecar.

"Off-road Vehicle (ORV)" as defined by the Off-Road Vehicles Act, R.S.O. 1990, c. 0.4, 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.

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"Peace officer" for the purposes of this by-law includes:

- a) a police constable appointed under the Ontario Police Act;
- b) a conservation officer under the Fish and Wildlife Conservation Act;
- c) a park warden appointed under the Provincial Parks Act; and
- d) a by-law enforcement officer appointed by the Township.

"Recreational Off-Highway Vehicle (ROV)" as defined by Ontario Regulation 316/03, 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.

"Seat belt assembly" as defined by Ontario Regulation 316/03, 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.

"Township" means the Township of Asphodel-Norwood.

2. Regulation of Off-Road Vehicles on Highways

2.1 Only those "Off-road Vehicles" falling within the definition of "all-terrain vehicle (ATV)", "extreme terrain vehicle (XTV)", "multi-purpose off-highway utility vehicle (UTV)", "off-road motorcycle (ORM)" and "recreational off-highway vehicle (ROV)" in this by-law, may be driven on highways under the jurisdiction of the Township of Asphodel-Norwood provided that:

- a) the off-road vehicle meets the equipment requirements set out in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, Ontario Regulation 316/03: *Operation of Off-Road Vehicles on Highways Act*; and
- b) the off-road vehicle is driven in accordance with the operational requirements set out in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, Ontario Regulation 316/03: *Operation of Off-Road Vehicles on Highways Act*.

2.2 An Off-road Vehicle shall not be permitted to travel on municipal roads between 9:00 p.m. and 7:00 a.m.

2.3 That the Off-road Vehicle shall not be driven at a rate of speed greater than;

- a) 20 km/hr if the speed established under the Highway Traffic Act or by municipal by-law for that part of the highway is not greater than 60 km/hr; or
- b) 50 km/hr if the speed limit established under the Highway Traffic Act or by municipal by-law for that part of the highway is greater than 60 km/hr.

2.4 An Off-road Vehicle shall not be permitted to travel on a municipal highway if the exhaust system has been altered over the manufacturer's recommended decibel level.

2.5 No person shall operate an off-road vehicle:

- a) over and upon any municipally owned property that is not deemed an opened road allowance;
- b) on any sidewalk, footpath or other area meant solely for pedestrian traffic;
- c) on any private property, roads or driveways without the consent of the owner thereof;
- d) on any unopened road allowances.

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2.6 Helmets are required on all municipal highways along with a valid driver's licence and insurance.

2.7 Travel must be in the same direction as traffic and off-road vehicles must travel on the shoulder of the road, but may travel on the road only if the shoulder is unsafe.

2.8 All persons operating off-road vehicles under the permission granted in this by-law shall have adequate insurance at all times. In the event that such insurance is inadequate in terms of deductibles, terminated or limited coverage or otherwise, any and all losses and costs which, the Township of Asphodel-Norwood may incur as a result of such inadequate insurance coverage, are a debt due to the Township of Asphodel-Norwood, which the person shall pay on demand forthwith.

3. Warranty and Indemnity

3.1 In recognition that the permission granted in this by-law is a privilege, every person intending to exercise the permission shall be deemed to have agreed to all of the terms and conditions in this by-law.

3.2 Each person exercising the permission granted in this by-law acknowledges and accepts that the Township of Asphodel-Norwood does not, in any way, warrant, represent or undertake that the public highways to which permission applies are suitable for or maintained to permit use by off-road vehicles. Each such person shall not, at any time, under any circumstances, claim or attempt to claim, in any proceedings whatsoever that the public highway was not suitable for off-road vehicle use or not maintained properly.

3.3 Where the Township of Asphodel-Norwood incurs any loss, costs or damages as a result of any person exercising the permission in this by-law, each such person shall, upon request, reimburse the Township of Asphodel-Norwood for all such loss, costs and damages.

4. Exemptions

4.1 This by-law does not apply to police, fire, ambulance, search and rescue or other emergency vehicles.

4.2 The exemptions governing crossing a highway, farmers and trappers and public work functions as set out in Section 25, 26, 27 and 28, of the *Highway Traffic Act*, R.S.O. 1990, c. H.8., Ontario Regulation 316/03: *Operation of Off-Road Vehicles on Highways Act* shall apply to this by-law.

5. Parking

5.1 Off-road vehicles shall be subject to all regulations and by-laws governing the parking of vehicles within the Township.

6. Enforcement

6.1 A peace officer may stop any person driving an off-road vehicle.

6.2 Every person who has been signaled to stop by a person authorized to do so under subsections 6.1 shall stop forthwith.

6.3 Every person stopped under this Section or subsection 6.1, shall when so requested; identify himself or herself by giving his or her name to the person who stopped him or her.

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7. Severability

- 7.1 In the event any provision of this By-law is deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect unless the court makes an order to the contrary.

8. Penalties

- 8.1 That any person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction, where a fine for the contravention is not otherwise provided under the Highway Traffic Act, is liable to a fine under the Provincial Offences Act.

9. Date of Enactment

- 9.1 That this by-law shall come into force and take effect immediately upon the passing thereof by the Council of the Corporation of the Township of Asphodel-Norwood

Read a first, second and third time and finally passed this ____ day of _____, 2021.

Mayor, Rodger Bonneau

Clerk, Candice White

