

The Corporation of the Township of Southgate

By-law Number 2021-160

being a by-law to regulate the operation of Off-Road Vehicles on certain designated highways and unopened road allowances within the jurisdiction of the Township of Southgate

Whereas Sections 8 (1) and 9 of the *Municipal Act*, 2001, S.O. 2001, c. 25 (as amended) provide that the powers of a municipality shall be interpreted broadly so as to enable the Municipality to govern its affairs as it considers appropriate and to respond to issues; and

Whereas subsection 11(3) of the *Municipal Act*, 2001, S.O. 2001, c. 25 (as amended) provides that a lower-tier municipality may pass by-laws respecting highways, including parking and traffic on highways, and subsection 8 (3) provides that a by-law made under this section may regulate or prohibit respecting the matter; and

Whereas Section 191.8 (3) of the Highway Traffic Act, R.S.O. 1990, c. H.8 (as amended) authorizes a municipality to pass by-laws permitting and regulating the operation of Off-Road Vehicles with four or more wheels and low pressure bearing tires on any highway or part of a highway under the jurisdiction of the Municipality and further, to prescribe the rate of speed for such off-road vehicles as well as the specific months or hours during which they can be operated on a municipal highway or part of a highway; and

Whereas Ontario Regulation 316/03: Operation of Off-Road Vehicles on Highways, as amended, passed under the *Highway Traffic Act*, regulates the operation and requirements of ATV, Multi-Purpose Off-Highway Utility Vehicles, Recreational Off-Highway Vehicles, which are classes of off-road vehicles; and

Whereas Section 7(2) of the *Motorized Snow Vehicles Act* allows a municipality to pass by-laws regulating, governing or prohibiting the operation of Motorized Snow Vehicles within the municipality including any highways therein or any part or parts thereof; and

Whereas Section 35 of the *Municipal Act*, allows a municipality to restrict the common passage by the public on a highway within its jurisdiction; and

Whereas the Council of the Township of Southgate deems it in the public interest to permit and regulate the operation of Off-Road Vehicles on certain designated highways and unopened road allowances within the Township of Southgate on a non-exclusive basis, and to prohibit other motor vehicles from these highways and unopened road allowances; and

Whereas Ontario Regulation 316/03: Operation of Off-Road Vehicles on Highways, as amended, passed under the Highway Traffic Act, regulates the operation and requirements of Off-Road Motorcycles (ORM) and Extreme Terrain Vehicles (ETV), ORM and ETV's are prohibited for use on designated highways and unopened road allowances within the Township of Southgate,

Now Therefore the Council of the Corporation of the Township of Southgate hereby enacts as follows:

1. SHORT TITLE

- 1.1 This by-law shall be known as the "Off-Road Vehicle By-law"

2. DEFINITIONS

- 2.1 **Boulevard** shall mean the portion of a highway between the curb line or edge of roadway and the adjacent property line except for the area that is used as a sidewalk.
- 2.2 **By-law** shall mean this by-law.
- 2.3 **Designated Highway** means an opened maintained road allowance or part thereof, under the jurisdiction of the Township that is indicated on Schedule "A" as being permitted for use by off-road vehicles under this by-law.
- 2.4 **Designated Unopened Road Allowance** means an unopened road allowance or part thereof, under the jurisdiction of the Township that is indicated on Schedule "B" as being permitted for use by off-road vehicles under this by-law.
- 2.5 **Helmet** means a protective head covering made of hard material, such as metal, or plastic that has a chin strap that is securely fastened and has Canadian Standards Association (CSA) Approval.
- 2.6 **Highway** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or 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.
- 2.7 **Highway Traffic Act** means the Highway Traffic Act, R.S.O. 1990, c.H.8 as amended or replaced.
- 2.8 **Motorized Snow Vehicle Act** means the Motorized Snow Vehicle Act, R.S.O. 1990, c.M.44, as amended or replaced.
- 2.9 **Motor Vehicle** includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry, or a road-building machine.
- 2.10 **Municipal Law Enforcement Officer** means a municipal law enforcement officer duty authorized by the Council of the Township of Southgate to enforce this by-law.

- 2.11 **Off-Road Vehicle or ORV** 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 which shall be limited to the following:
 - i. **All-Terrain Vehicle or ATV** 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,
 - 1. a driver only and no passengers, or
 - 2. a driver and only one passenger, if the vehicle,
 - A. has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
 - B. is equipped with footrests for the passenger that are separate from the footrests for the driver.
 - ii. **Extreme Terrain Vehicle** 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.
 - iii. **Multi-Purpose Off-Highway Utility Vehicle** 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.
 - iv. **Off-Road Motorcycle** 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 millimeters,
 - D. has a minimum wheelbase of 1,016 millimeters,
 - 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.

- v. **Recreational Off-Highway Vehicle** 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 centimeters.
- vi. **Motorized Snow Vehicle** means a self-propelled vehicle designed to be driven primarily on snow.

- 2.12 **Person** shall mean an individual, corporation, partnership or limited liability partnership.
- 2.13 **Police Officer** means the Ontario Provincial Police or other police service having jurisdiction in the area, who are duly appointed under the Police Services Act.
- 2.14 **Property Owner** shall mean the registered owner, condominium corporation, assessed owner, occupant, tenant, person for the time being managing or receiving the rent for the property whether on his/her own account or as any agent or trustee or on account of any other person.
- 2.15 **Provincial Offences Act** means the *Provincial Offences Act*, R.S.O. 1990 c.P.33, as amended.
- 2.16 **Public Works Manager** means the Township-authorized representative or designated staff.
- 2.17 **Settlement Area** means a defined area shown in the County of Grey Official Plan.
- 2.18 **Sidewalk** shall mean the portion of a highway between the curb line or edge of a roadway and the adjacent property line that is designated and intended for the use of pedestrians.
- 2.19 **Township** means the Corporation of the Township of Southgate or the geographic area of the Township, as the context requires.
- 2.20 **Unopened Road Allowance** means a highway under the jurisdiction of the Township that has neither been opened for public travel nor assumed for maintenance purposes by the Township as indicated on Schedule "C".

3. INTERPRETATION

- 3.1 This by-law includes the Schedules attached to it, and the Schedules are hereby declared to form part of the by-law.
- 3.2 The headings and subheadings used in this by-law are inserted for convenience

of reference only, form no part of this by-law, and shall not in any way change or alter the meaning or interpretation of the provisions of this by-law.

- 3.3 Unless the context requires otherwise, references to items in the plural include the singular unless used with a number modifying the term, and words imparting the masculine gender shall include the feminine.
- 3.4 It is declared that if any section, subsection, paragraph or part thereof is declared by any Court to be bad, illegal, or ultra vires, such section, subsection, paragraph part or parts shall be deemed to be severable and all other parts of this by-law are declared to be separate and independent, and enacted as such.

4. GENERAL PROVISIONS

- 4.1 No person shall operate an Off-Road Vehicle on any highway or part of a highway under the jurisdiction of the Township of Southgate that is not a Designated Highway as described in Schedule "A" to this by-law.
- 4.2 No person shall operate an Off-Road Vehicle on an unopened road allowance or part of an unopened road allowance under the jurisdiction of the Township of Southgate that is not a Designated Unopened Road Allowance as described in Schedule "B" to this by-law.
- 4.3 No person shall operate an Off-Road Vehicle on any restricted unopened road allowance as described in Schedule "C" to this by-law, unless such vehicle is required for emergency response purposes or unless prior permission has been obtained by the Township.
- 4.4 Any person operating an Off-Road Vehicle under this by-law shall comply with the *Highway Traffic Act*, *Off-Road Vehicles Act*, *the Motorized Snow Vehicles Act*, and all other Federal or Provincial laws and municipal by-laws, as applicable, or any regulations made under them as amended or replaced from time to time.
- 4.5 Permission to operate an Off-Road Vehicle on a Designated Highway or Designated Unopened Road Allowance under this by-law does not constitute permission to travel upon or operate such vehicles on any private or public property without the prior consent of the property owner.
- 4.6 No person shall operate an off-road vehicle at a rate of speed greater than that identified under the *Highway Traffic Act* and Ontario Regulation 316/03 or any superseding legislation.
- 4.7 No person shall operate an Off-Road Vehicle on a Designated Highway or Designated Unopened Road Allowance at any time without appropriate functioning factory muffler devices to be respectful of other members of the community or by acting in reckless manner to be in contravention of the Township of Southgate Noise By-law and specifically when doing so when returning from trails to an operator's residence after 12:00 AM and earlier than 6:00 AM.

- 4.8 No person shall operate an Off-Road Vehicle over or upon:
- 1) any municipal facility and/or community center grounds,
 - 2) any park, playground, sports field, walking trail, or
 - 3) any cemetery in the Township of Southgate
- 4.9 No person shall operate an Off-Road Vehicle near any churches or funeral homes when services are in progress.
- 4.10 No person shall operate an Off-Road Vehicle on a public sidewalk that is under the jurisdiction of the Township of Southgate.
- 4.11 No person shall operate an Off-Road Vehicle in such a way as to disrupt or destroy the natural environment, create a nuisance by method of frequency of operation on any municipal property or upon any highway within the municipality.
- 4.12 A helmet shall be worn while operating any type of Off-Road Vehicle as outlined in Section 19 (1) and (2) of Ontario Regulation 316/03 of the *Highway Traffic Act*.
- 4.13 The Off-Road Vehicle shall be insured in accordance with Section 2 of the *Compulsory Automobile Insurance Act* and Section 15 of the *Off-Road Vehicles Act*.

5. EXEMPTIONS

- 5.1 This by-law shall not apply to Off-Road Vehicles operated for emergency purposes by the Township of Southgate employees or agents, Township of Southgate Fire Department, Municipality of West Grey Fire Department, Municipality of Grey Highlands Fire Department, Township of Melancthon Fire Department, Grey County OPP, Wellington OPP, Grey County Paramedic Services or Wellington County Paramedic Services.
- 5.2 This by-law does not apply to Off-Road Vehicles that are being used for agricultural purposes and are plated under the Off-Road Vehicle Act but do not require a number plate under the Highway Traffic Act. When travelling either on or off the road, a Slow-Moving Vehicle (SMV) sign must be on the rear of the vehicle, or on the rear of any towed implement or trailer.
- 5.3 This by-law does not apply to licensed trappers driving an Off-Road Vehicle for trapping purposes.

6. TRAIL NETWORK SYSTEM – NEW ROUTES

- 6.1 New routes in respect to the network system trails to be applied for, permitting Off-Road Vehicles to ride on the Township's approved network system must submit an application in writing to the Township and provide the following to be

considered:

- 1) Applicants must have membership in, or affiliation, with Ontario Federation of ATV Clubs;
- 2) Proof of appropriate insurance with a minimum limit of \$2,000,000.00;
- 3) Documented support of Ontario Federation of ATVs Clubs for proposed new routes;
- 4) Confirmation that the applicant has consulted with the local Snowmobile Club and include response from the consultation; and
- 5) Detailed descriptions of proposed new routes for the network system, including maps.

Once these conditions are met, Township staff will review the proposed new routes, and work with the applicant to complete the following:

- 1) Identify which parts of the proposed network system are:
 - a) Township owned land;
 - b) Township owned right-of-way;
 - c) private land; and
 - d) shared use trails
- 2) Township staff will assist Applicant with public outreach to the community and adjacent landowners to determine support;
- 3) Upon completion of review, Township staff will make a determination based on the full application and make a recommendation to Council regarding the proposed new route; and
- 4) All membership clubs will execute a written agreement (MOU) with the Township of Southgate to the Township's satisfaction.

7. NO EVIDENCE OF OPENING OR ASSUMPTION OF UNOPENED ROAD ALLOWANCE AND USE AT OWN RISK

- 7.1 Permission under this by-law to operate an Off-Road Vehicle on a Designated Unopened Road Allowance does not constitute evidence that the Council of the Township of Southgate agrees to open or to assume for maintenance purposes the unopened road allowance and all persons use such Designated Unopened Road Allowance at their own risk.

8. NON-EXCLUSIVE USE

- 8.1 It is declared that any permitted use under this by-law of a Designated Highway and a Designated Unopened Road Allowance is non-exclusive and any person operating an Off-Road Vehicle shall have regard for other users and shall use caution when approaching or passing other users.

9. ENFORCEMENT AND PENALTY PROVISIONS

- 9.1 This by-law may be enforced by an Ontario Provincial Police Officer or a municipal enforcement officer.
- 9.2 Every person who contravenes any portion of the provisions of this by-law is guilty of an offence and upon conviction thereof shall be liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 9.3 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.
- 9.4 Every person who is alleged to have contravened any of the provisions of this by-law shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an officer in the execution of his or her duties.
- 9.5 Upon conviction, any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 9.6 Failure to stop when directed by an Officer shall be an offence of obstruction.
- 9.7 If a Person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court or competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

10. SEVERABILITY

- 10.1 Each and every one of the foregoing provisions of this by-law is severable and if any provisions of this by-law should, for any reason, be declared invalid by any court, it is the intention and desire of this council that each and every one of the then remaining provisions shall remain in full force and effect.

11. SCHEDULES

- 11.1 Schedules "A", "B" and "C" appended to this by-law are incorporated into and form part of this by-law.
- 11.2 Schedule "D" (Short Form Wording and Set Fines) attached hereto does not form part of this by-law.

12. REPEAL

- 12.1 By-law 2020-089 is hereby repealed on the passing of this by-law.

13. EFFECTIVE DATE

13.1 This by-law shall come into force and takes effect on the date of its final passing.

Read a first, second and third time and finally passed this 3rd day of November, 2021.

John Woodbury, Mayor

Lindsey Green, Clerk

By-law 2021-160**Schedule "A"****Designated Highways****Dufferin Grey ATV Club Trails**

| Highway | From: | To: |
|-------------------------------------|-------------------------------|------------------------------|
| Southgate-Melancthon Townline | Southgate Road 08 | Southgate Road 12 |
| Southgate Road 12 | Southgate-Melancthon Townline | Southgate Sideroad 21 |
| Southgate Sideroad 21 | Southgate Road 12 | Southgate Sideroad 71 |
| Southgate Road 24 | Southgate Sideroad 71 | Grey County Rail Trail |
| Ida Street North (Southgate SDR 75) | Grey County Road 9 | Southgate Road 26 |
| Southgate Road 26 | Southgate Sideroad 75 | Southgate Sideroad 73 |
| Southgate Sideroad 73 | Southgate Road 26 | Southgate-Artemesia Townline |
| Southgate Road 24 | Southgate Sideroad 71 | Highway 6 |

West Grey ATV Club Trails

| Highway | From: | To: |
|-----------------------|----------------------------|-----------------------|
| Southgate Sideroad 47 | Southgate-Glenelg Townline | Southgate Road 22 |
| Southgate Sideroad 41 | Southgate Road 22 | Southgate Road 14 |
| Southgate Road 14 | Southgate Sideroad 41 | Highway 6 |
| Southgate Sideroad 47 | Southgate Road 14 | Southgate Road 08 |
| Southgate Sideroad 57 | Southgate-Glenelg Townline | Southgate Road 08 |
| Southgate Sideroad 61 | Southgate-Glenelg Townline | Southgate Road 12 |
| Southgate Road 12 | Southgate Sideroad 61 | Southgate Sideroad 57 |
| Southgate Road 10 | Southgate Sideroad 57 | Southgate Sideroad 61 |
| Southgate Sideroad 61 | Southgate Road 10 | Southgate Road 08 |

| | | |
|-----------------------|-----------------------|-----------------------|
| Southgate Road 08 | Southgate Sideroad 57 | Southgate Sideroad 41 |
| Southgate Sideroad 41 | Southgate Road 08 | Southgate Road 06 |
| Southgate Road 06 | Southgate Sideroad 41 | Grey County Road 109 |

Mount Forest Drifters Snowmobile Trails

| Highway | From: | To: |
|-----------------------|-----------------------|-----------------------|
| Southgate Sideroad 21 | Grey County Road 9 | Southgate Road 12 |
| Southgate Road 12 | Southgate Sideroad 21 | Southgate Sideroad 19 |
| Southgate Sideroad 19 | Southgate Road 12 | Southgate Road 08 |

No Winter Maintenance Roads

All other open, maintained Southgate roads that are not included in Schedule "A" are permitted for travel.

By-law 2021-160

Schedule "B"

Designated Unopened Road Allowances with Access

| Highway | From: | To: |
|-------------------|-----------------------|------------|
| Southgate Road 22 | Southgate Sideroad 75 | Highway 10 |

By-law 2021-106**Schedule "C"****Unopened Road Allowances with Restricted Access**

| Highway | From: | To: |
|-------------------------------|-----------------------|------------------------------|
| Southgate-Melancthon Townline | Highway 89 | North Southgate Road 04 |
| Southgate-Melancthon Townline | Southgate Road 10 | Southgate Sideroad 71 |
| Southgate Sideroad 21 | Highway 89 | Southgate Road 10 |
| Southgate Sideroad 19 | Southgate Road 10 | Southgate Road 12 |
| Southgate Sideroad 19 | Southgate Road 24 | Southgate-Artemesia Townline |
| Southgate Sideroad 15 | Southgate Road 22 | Southgate Road 26 |
| Southgate Sideroad 13 | Grey County Road 9 | Southgate Road 22 |
| Southgate Sideroad 13 | Southgate Road 26 | Southgate-Artemesia Townline |
| Southgate Sideroad 07 | Highway 89 | Southgate Road 04 |
| Southgate Sideroad 07 | Southgate Road 10 | Southgate Road 12 |
| Southgate Sideroad 03 | Grey County Road 9 | Southgate-Glenelg TL |
| Southgate Sideroad 61 | Highway 89 | Southgate Road 08 |
| Southgate Sideroad 61 | Southgate Road 10 | Southgate Road 12 |
| Southgate Sideroad 55 | Highway 89 | Southgate Road 04 |
| Southgate Sideroad 55 | Southgate Road 10 | Southgate Road 12 |
| Southgate Sideroad 41 | Southgate Road 22 | Southgate Road 24 |
| Southgate Sideroad 71 | Southgate Road 26 | Southgate-Artemesia Townline |
| Southgate Road 26 | Southgate Sideroad 15 | Southgate Sideroad 19 |
| Southgate-Glenelg Townline | Southgate Sideroad 41 | Southgate Sideroad 47 |
| Southgate-Glenelg Townline | Southgate Sideroad 47 | Southgate Sideroad 49 |

| | | |
|----------------------------------------|-----------------------|-----------------------|
| | | |
| Southgate-Glenelg Townline | Southgate Sideroad 49 | Grey County Road 23 |
| Southgate-Glenelg Townline | Stonehill Road | Southgate Sideroad 61 |
| Southgate-Glenelg Townline | Southgate Sideroad 61 | Southgate Sideroad 03 |
| Southgate-Artemesia Townline | Southgate Sideroad 03 | Southgate Sideroad 07 |
| Southgate-Artemesia Townline | Grey County Road 14 | Southgate Sideroad 15 |
| Southgate-Wellington North Townline | Sligo Road | Grey County Road 109 |

**Corporation of the Township of Southgate
By-law 2021-160 – ORV By-law
Schedule "D"**

**Part 1 Provincial Offences Act
Short Form Wording**

| Item | Column 1 Short Form Wording | Column 2 Provision Creating or Defining Offence | Column 3 Set Fine |
|-------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|------------------------------|
| 1 | Operate an ORV on an un-designated highway | 4.1 | \$200 |
| 2 | Operate an ORV on an un-designated unopened road allowance or part of an unopened road allowance | 4.2 | \$200 |
| 3 | Operate an ORV on a restricted unopened road allowance. | 4.3 | \$200 |
| 4 | Operate an ORV during prohibited hours | 4.7 | \$250 |
| 5 | Operate an ORV in a prohibited area | 4.8 | \$300 |
| 6 | Operate an ORV near a church/funeral home during services | 4.9 | \$250 |
| 7 | Operate an ORV on a public sidewalk | 4.10 | \$300 |
| 8 | Operate an ORV causing nuisance | 4.11 | \$250 |
| 9 | Hinder or obstruct, or attempt to hinder or obstruct, any Officer | 9.3 | \$500 |

NOTE: The general penalty provision for the offences indicated above is Section 9.2 of By-law 2021-160, a certified copy of which has been filed.