

CORPORATION OF THE MUNICIPALITY OF NEEBING

BY-LAW NUMBER 2018-005

**Being a By-law to amend By-law 2017-009, being a
By-law to Authorize the Use of Certain Off-road
Vehicles on Municipal Highways**

Recitals:

1. The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes Ontario's municipalities to establish rules for the use of its highways.
2. Council passed By-law Number 2017-009 on March 15th, 2017, to allow certain off-road vehicles to be used on the Municipality's Highways for a trial period of one year.
3. By-law 2017-009 provides that it is to expire one year from the date of its passage unless it is amended. At its regular meeting of February 21st, 2018, Council considered this matter and determined that the trial year had been successful and that the expiration date of the by-law should be removed.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NEEBING ENACTS AS FOLLOWS:


1. Amendment to By-law 2017-009: Section 7 of By-law 2017-009, which reads as follows:
This By-law shall take effect on the date that it is passed, and will remain in effect for one calendar year, after which time, if it has not been amended to be extended, it will automatically be repealed.

is deleted, and the following wording is substituted:

This By-law shall take effect on the date that it is passed.
2. Balance Confirmed: The balance of By-law 2017-009 is confirmed, as enacted.
3. Effective Date: This By-law shall take effect retroactively as at March 13th, 2018.

ENACTED AND PASSED IN COUNCIL this 21st day of March, 2018 as witnessed by the corporate seal of the Corporation of the Municipality of Neebing and the hands of its proper Officers duly authorized in that behalf.


Mayor


Solicitor-Clerk



CORPORATION OF THE MUNICIPALITY OF NEEBING

BY-LAW NUMBER 2017-009

Being a By-law to Authorize the Use of Certain Off-road
Vehicles on Municipal Highways

Recitals:

1. The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes Ontario's municipalities to establish rules for use of its highways.
2. Regulation 316/03 passed under the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended, provides that the Council of a local municipality may pass by-laws regulating, governing or prohibiting the operation of all-terrain vehicles within the municipality. The Regulation was amended by Ontario Regulation 135/15 which took effect July 1, 2015, and expanded authority for the operation of all-terrain vehicles on Provincial Highways.
3. Provincial legislation contains definitions of various types of "off-road" vehicles, including: "off road vehicles", "all-terrain vehicles", "multi-purpose off-highway utility vehicles", and "recreational off-highway vehicles". Off-road vehicles have fewer than four tires. The other three categories of these types of machines all have four or more wheels. The Province does not authorize any type of off-road vehicle with fewer than 4 tires on Provincial Highways, except to traverse the road, or except when used by farmers or trappers. In all cases where these types of vehicles are allowed on Provincial Highways, there are requirements stipulated for licencing, safety equipment, insurance, and vehicle fitness.
4. Council considers it appropriate to allow certain off-road vehicles on the Corporation's highways, for a one year trial period, on the same terms and conditions as these vehicles are allowed on Provincial Highways.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NEEBING ENACTS AS FOLLOWS:

1. **Definitions:** The words set out in the lettered paragraphs below, when used in this by-law with their initial letters capitalized, are intended to have the meanings set out for them in this Section. Where a word within this Section appears in this By-law in lower case letters, it is intended to have the meaning ordinarily ascribed to it in the English language.
 - a) "All Terrain Vehicle" means a vehicle propelled or driven otherwise than by muscular power or wind, designed to travel on four wheels, the tires of which are all in contact with the ground when it is operational, and:
 - i. has steering handlebars;
 - ii. has a seat that is designed to be straddled by the driver; and
 - iii. is designed to carry:

1. only one person, being the driver, or
 2. the driver and only one passenger, and the passenger must sit, facing forward, behind the driver, and must place his or her feet on foot rests made for the passenger that are separate from the foot rests made for the driver.
- b) "By-law" means this By-law, as amended from time to time.
- c) "Controlled Vehicle" means a vehicle meeting this By-law's definitions of an All-Terrain Vehicle, a Multi- Purpose Off-Highway Utility Vehicle" or a "Recreational Off-Highway Vehicle", with the following exceptions:
- i. golf carts
 - ii. road-building machines
 - iii. self-propelled implements of husbandry; or
 - iv. wheelchairs.
- d) "Multi-Purpose Off-Highway Utility Vehicle" means a vehicle propelled or driven otherwise than by muscular power or wind, designed to travel on four wheels, the tires of which are all in contact with the ground when it is operational, and:
- i. has a steering wheel for steering control;
 - ii. has seats that are not designed to be straddled, and
 - iii. has a minimum cargo capacity of 159 kilograms.
- e) "Municipality" means The Corporation of the Municipality of Neebing.
- f) "Municipal Law Enforcement Officer" means a member of the Ontario Provincial Police or any other person who has been appointed by the Municipality to enforce its by-laws.
- g) "Neebing" means the geographic area under the jurisdiction of the Municipality.
- h) "Recreational Off-Highway Vehicle" means a vehicle propelled or driven otherwise than by muscular power or wind, designed to travel on four wheels, the tires of which are all in contact with the ground when it is operational, and:
- i. has a steering wheel for steering control;
 - ii. has seats that are not designed to be straddled, and
 - iii. has an engine displacement equal to or less than 1,000 cubic centimeters.
- i) "Road" means a highway under the jurisdiction of the Municipality.
2. **Authorization:** Controlled Vehicles are permitted on Roads within Neebing, provided they are operated in compliance with this By-law. This By-law does not authorize Controlled Vehicles on any other property owned by the Municipality, including: parks, unopened road allowances, the grounds associated with municipal buildings, or cemeteries.

3. **Provincial Requirements:** It is an offence to operate a Controlled Vehicle on a Road within Neebing where the operation of that vehicle would be prohibited on a Provincial Highway due to non-compliance with any of the following:
- a) Part X.3 of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended;
 - b) Regulation 313/03 passed under the authority of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended;
 - c) The Off-Road Vehicles Act, R.S.O. 1990, c. O.4, as amended; and/or
 - d) Regulation 863, 1990, passed under the authority of the Off-Road Vehicles Act, R.S.O. 1990, c. O.4, as amended.

The onus is on the operator of the Controlled Vehicle to know and understand all of the restrictions in the Provincial legislation and regulations, and to abide by them.


Restrictions and regulations include:

- the use of safety equipment (such as helmets);
 - vehicle licencing requirements, including display of the licence plate;
 - operator licencing requirements;
 - a requirement to have liability insurance;
 - weight restrictions;
 - tire inflation rules;
 - motor vehicle safety standards;
 - seat belt requirements;
 - rules about brakes, lamps and windshields;
 - age restrictions;
 - speed restrictions;
 - location of travel within the Road;
 - and more.
4. **Enforcement Officers:** Every person operating a Controlled Vehicle on a Road shall promptly obey all signals given by a Municipal Law Enforcement Officer for the purposes of directing or regulating Controlled Vehicles. Failure to do so constitutes an offence.
5. **Signs:** Every person operating a Controlled Vehicle on a Road shall comply with the requirements of every sign, symbol or mark legally erected or placed for the purpose of regulating, directing, prohibiting, or permitting Controlled Vehicles on Roads. Failure to do so constitutes an offence.
6. **Penalties:** Any person who contravenes any of the provisions of this By-law has committed an offence and, upon conviction, is liable to the penalties prescribed in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
7. **Effective Dates:** This By-law shall take effect on the date that it is passed, and will remain in effect for one calendar year, after which time, if it has not been amended to be extended, it will automatically be repealed.

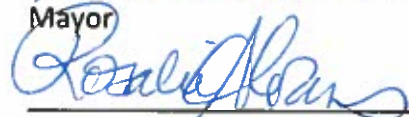
8. **Enforcement in Progress:** Despite the repeal of this By-law in accordance with Section 7, the By-law shall be deemed to continue in full force and effect for the purposes of law enforcement or prosecutorial proceedings that involve offences alleged to have occurred prior to the By-law's repeal.

9. **Severability:** If any Section or part of a Section of this By-law is ruled by a court or tribunal of competent jurisdiction to be invalid, that ruling shall not affect the validity of the By-law as a whole or any other part of the By-law. The only impacted part of the By-law will be the portion involved in the ruling.

ENACTED AND PASSED IN COUNCIL this 15th day of March, 2017 as witnessed by the corporate seal of the Corporation of the Municipality of Neebing and the hands of its proper Officers duly authorized in that behalf.



Mayor



Solicitor-Clerk

