

**Office Consolidation of By-law 2011-029, as amended
by: 2011-44**

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The Corporation of the Township of Springwater

By-Law 2011-029, as amended by 2011-44

A By-law to Permit and Restrict Access, and Use of Road Allowances within the Township of Springwater, and to repeal By-laws 2006-061 and 2010-031.

Whereas the Municipal Act, 2001, S.O. 2001, c.25, (the "Act") Section 8, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

Whereas the Act, Section 11, provides that a lower-tier municipality may pass by-laws respecting highways, including parking and traffic on highways; and

Whereas the Highway Traffic Act, R.S.O 1990, (the "HTA") Subsection 191.8(1) provides that no person shall drive an off-road vehicle on a highway except in accordance with the regulations and any applicable municipal by-law; and

Whereas the HTA subsection 191.8(3) provides that a municipality may pass by-laws, permitting the operation of off-road vehicles with three or more wheels and low pressure bearing tires on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway; and prescribing a lower rate of speed for off-road vehicles with three or more wheels and low pressure bearing tires than that prescribed for off-road vehicles by regulation on any highway within the municipality that is under the jurisdiction, or on any part or parts of such highway, including prescribing different rates of speed for different highways or parts of highways;

Whereas the HTA subsection 191.8(4) provides that a by-law passed under subsection 191.8(4) may permit the operation of off-road vehicles with three or more wheels and low pressure bearing tires on any highway or on any part or parts of a highway only during specified months or hours; and

Whereas the unopened road allowances set out in Schedule "A" are highways under the jurisdiction of the Corporation of the Township of Springwater; and

Whereas the Act, Section 35 provides that a local municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway; and

Whereas The Council of the Corporation of the Township of Springwater deems it advisable to restrict the common law right of passage on or over certain the road allowances set out in Schedule "A";

Now Therefore the Council of The Corporation of the Township of Springwater enacts as follows:

Section 1 – Definitions and Application

Definitions

1. In this by-law:

All-Terrain Vehicle (ATV): 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.

Highway: includes a common or public highway, street, avenue, parkway, square, place, drive, bridge, viaduct or trestle, any part that is intended for or used by general public for the passing of vehicles and includes the area between the lateral property lines thereof.

Mobility device: shall mean an accessibility device intended for and used by a person with a disability as a means of conveyance.

Motor vehicle (MV): includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in this By-law, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implemented of husbandry or a road-building machine.

Motorcycle: means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle.

Off-Road Vehicle (ORV): includes “Utility-terrain Vehicle (UTV)”, “Off-Road Motorcycle” and 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.

Application of By-law

2. This by-law applies to municipal owned property, all highways, road allowances and unopened road allowances under jurisdiction of and within the geographic boundaries of the Township of the Municipality of Springwater.

Section 2 – Prohibitions and Regulations

Removal of Common Law Right of Passage: Motor Vehicles

1. No person shall enter or permit entry upon the road allowances set out in Schedule “A” in or upon a motor vehicle, ATV or ORV, unless provided elsewhere in this by-law.
2. Unless provided otherwise in this by-law, no person shall operate or permit the operation a motor vehicle, ATV, or ORV on municipal owned property, including but not limited to Community Centres, parks, playgrounds, sidewalks, without written consent of the Township.
3. No person shall operate or permit the operation of a ATV or ORV upon a highway, unless provided elsewhere in this by-law.

Exemptions on Prohibition

4. This by-law does not apply to the following:
 - 4.1. Employees, representatives or agents of the Corporation of the Township of Springwater, the Provincial or Federal Government while in the course of their duties;
 - 4.2. Employees, representatives or agents of any utility while in the course of their duties where such utility maintains or operates services in, upon or adjacent to such road allowance;
 - 4.3. Emergency service personnel while in the course of their duties; and
 - 4.4. Any other person authorized in writing by the Township of Springwater, pursuant to subsection 4(6) herein;
 - 4.5. Any person riding upon a mobility device; and

Authorization in Writing

- 4.6. The Township may authorize in writing the use of motor vehicle, ATV or ORV on a highway or road allowance or Township Property, upon receiving a written request, and such authorization may be made upon the terms and conditions deemed appropriate by the Township. Without limiting the generality of such foregoing, this may require the “user” to enter into an agreement concerning such use.
- 4.7. For the purposes of subsection 4(6), agreements existing as of the date of the passage of this By-law, entered into by the Township with a snowmobile club regarding the creation, improvement, and maintenance of Ontario Federation of Snowmobile Club trails, shall be deemed to be an authorization in writing and a permitted use of road allowances provided for in Schedule “A”.
- 4.8. For the purposes of subsection 4(6), agreements entered into by the Township with a ATV or ORV club regarding the use of specified highways or road allowances within the agreement, shall be deemed to be an authorization in writing.

Signs

5. The Township may erect signs:
 - 5.1. Advising the public that entry upon the road allowance is prohibited, subject to the specified exceptions; and
 - 5.2. Setting out the fines for contravention of the by-law.

Gates

6. The Township may erect gates upon the road allowances for the purposes of restricting public access.

Prohibition on Damage, Alterations to Road Allowances

7. No person shall damage or make any alterations to the road allowance unless such alteration is authorized in writing by the Township.

Damage, Alteration to Gates and Signs

8. No person shall make any alteration or damage any sign or gate placed or located upon a road allowance by the Township or by an authorized person pursuant to a written authorization.

Section 3 – Enforcement and Administration

Remedies and Penalties

1. Every person who contravenes any provision of this by-law is guilty of an offence, pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, upon conviction, is liable to a fine as provided for in the Act, or to the maximum fine applicable pursuant to the Act.

By-law Enforcement

2. This By-law may be enforced by the Municipal Law Enforcement Officers of the Corporation of the Township of Springwater, or a Provincial Offences Officer as defined in the Provincial Offences Act, R.S.O. 1990, c. P.33.
3. No person shall hinder or obstruct the enforcement of this by-law.

Damages

4. In the event that damage occurs to any Township road allowance as a result of any contravention of this by-law, such persons causing the damage shall bear all costs for repairing any such damage.

Common Name of By-law

5. This by-law may be referred to as the Recreational Vehicle use of Road Allowances By-law.

Force and Effect

6. This By-law shall take force on June 30, 2011.

The Corporation of the Township of Springwater

By-Law 2011-029

Schedule "A"

Road Allowances

Road Allowance:	From:	To:
1. Matheson Road	Baseline Road	Old Second Road North
2. Baseline Road	Terminus of open portion, approximately 1.0 km north of junction with Rainbow Valley Road East	Flos Road Four East
3. Old Penetanguishene Road, Hillsdale – along Unopened Road Allowance (PIN 583710012)	North West corner of PIN 583710313	South East corner of PIN 583710253
4. Old Penetanguishene Road, Hillsdale – along Unopened Road Allowance (PIN 583710012)	West corner of PIN 583710214	Just North of driveway located on PIN 583710341
5. Road allowance between Lots 10 & 11, Concession 3, former Vespra, formerly known as Craig Road	Gill Road	Russell Road
6. Flos Road 3	Flos Road 3 West, approximately 3,300 metres east from the boundary of Crossland Road	430 metres west of Phelpston Road