

CITY OF MORDEN

By-Law No. 10-2013

BEING a By-law to regulate the operating of Off-Road Vehicles within the limits of the City of Morden.

WHEREAS "The Off-Road Vehicles Act" C.C.S.M. Cap. 031 (the "Act") provides as follows:

- 32 (1) No person shall operate an off-road vehicle
- (a) on privately owned land without the express or implied consent of the owner or lawful occupier of the property; or
 - (b) on Crown land allocated by lease or permit, without the express or implied consent of the lawful occupier of the property, unless the operator is lawfully authorized to under such land; or
 - (c) within 30 metres of a dwelling between the hours of twelve midnight and seven o'clock in the morning, unless the dwelling is located on the operator's own property or property under the operator's control or as an invited guest; or
 - (d) within 30 metres of a playground, or areas set aside for other recreational use, unless the area is enclosed or fenced or unless the off-road vehicle is required for the maintenance or operation thereof.
- 33 (1) Except as may be authorized under another provision of this Act or under the regulations, no person shall operate an off-road vehicle
- (a) upon or across a roadway or the shoulder thereof;
 - (b) on or across the median of a divided highway;
 - (c) on the right-of-way of an interchange; or
 - (d) on or across a sidewalk.
- 33 (1) Notwithstanding any other provision of this Act, where a storm or blizzard renders a roadway impassable to vehicular traffic, a local authority may authorize, for a fixed period, the operation of designated off-road vehicles on the roadway or shoulder or designated portions thereof; and during that period, operators may operate off-road vehicles on the roadways or shoulders.
- (2) For the purpose of subsection (1), "local authority" means;
- (a)
 - (i) the council of an incorporated city, town, village, or another municipality; and
 - (ii) a community or incorporated community, as defined in *The Northern Affairs Act*;
 - (b) the resident administrator and council of a local government district; or

- (c) the Minister of Aboriginal and Northern Affairs with respect to Northern Manitoba.
- 45 (1) Subject to subsections (2), (3) and (4), the traffic authority of a highway may make by-laws and the minister may make rules supplementary to, or in addition to, but not contrary to any provision of this Act or the regulations made under this Act
- (a) permitting or prohibiting the operation of designated off-road vehicles across a roadway and shoulder at any place or at a designated place along the highway or on any portion thereof;
 - (a.1) permitting the operation of designated off-road vehicles upon roadway or the shoulder of a roadway; and
 - (b) prohibiting the operation of designated off-road vehicles upon a designated right-of-way or specified portion thereof.
- 45 (2) After a traffic authority has given second reading to a By-law which affects a departmental road, it shall forward the By-law to the minister for approval of the minister or a person authorized by the minister who may approve the By-law or require the traffic authority to comply with certain conditions or requirements before approving the By-law.
- 46 (1) Rules supplementary to, or in addition to, but not contrary to any other provision of this Act or the regulations made under this Act
- (a) prescribing the periods of the day, or of the year, during which designated off-road vehicles shall not be operated;
 - (a.1) prescribing the maximum speed above which off-road vehicles shall not be operated;
 - (b) prescribing areas in which the operation of designated off-road vehicles shall be permitted or prohibited; and
 - (c) fixing penalties for violation of By-laws passed under this section; may be made
 - (d) in respect of a municipality, by the council thereof; ...".

AND WHEREAS the Council of the City of Morden deems it advisable to pass a By-law regulating the use of off-road vehicles within the limits of the City of Morden;

NOW, THEREFORE, the City of Morden in open session duly assembled enacts:

1. **THAT** unless the context specifically indicates otherwise, the meaning of the terms used in this By-law shall be as follows:

DEFINITIONS

- (a) **Highway** means any place or way, including any structure forming part thereof, which or any part of which the public is ordinarily entitled or permitted to use for the passage of vehicles, with or without fee or charge therefore, and includes all the space between the boundary lines thereof; but does not include any area designed or intended, and primarily used for the parking of vehicles and the necessary passage-ways thereon;
- (b) **Intersection** means the area embraced within the straight projection of the lateral boundary lines of two or more highways that joint one another at an angle, whether or not one of the highways crosses another
- (c) **Off-road Vehicle** means any wheeled or tracked motorized vehicle designed or adapted for cross-country travel on land, water, ice, snow, marsh, swamp land or other natural terrain and includes, but is not limited to,
- (a) a snowmobile,
 - (b) an all-terrain vehicle,
 - (c) a mini-bike, dirt-bike and trail-bike,
 - (d) a miniature vehicle such as a dune or sport buggy,
 - (e) an off-road maintenance machine,
 - (f) an amphibious vehicle, and
 - (g) any motor vehicle, or snow vehicle that is being driven elsewhere than on a highway, whether or not it is registered under *The Drivers and Vehicles Act*, but does not include an implement of husbandry, farm tractor, special mobile machine, garden tractor, lawn tractor or golf cart;
- (d) **Operate** means to drive or to be in actual physical control of an off-road vehicle;
- (e) **Operator** means a person operating or driving an off-road vehicle or a person in actual physical control of an off-road vehicle;
- (f) **Owner** includes a person, in possession of an off-road vehicle under a contract providing that the ownership, title, and property therein is to vest in the person at a subsequent time upon payment of the whole or part of the price or the performance of any other condition;
- (g) **Right-of-Way** means an area of land acquired for a public thoroughfare including any facility incidental thereto;
- (h) **Roadway** means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic, and includes that portion thereof that, but for the presence of a safety zone, would be ordinarily so used, but does not include the shoulder; and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not all the roadways collectively;
- (i) **Shoulder** means the portion of a highway contiguous with the travelled way for accommodation of stopped vehicles for emergency use and or lateral support of base and surface course;
- (j) **Snowmobile** means a vehicle that has a gross vehicle margin not exceeding 454 kilograms, and;
- (a) is not equipped with wheels, but in place thereof is equipped with tractor treads alone or with tractor treads and skis, or with skis and a propeller, or is a toboggan equipped with tractor treads or a propeller,

- (b) is designated primarily for operating over snow or ice, and is used primarily for that purpose, and;
 - (c) is designed to be self-propelled.
- 2. **THAT** no person shall operate an off-road vehicle within the limits of the City of Morden except as permitted in this By-law or under the Act.
- 3. **THAT** no person who is permitted in this By-law or under this Act to operate an off-road vehicle within the limits of the City of Morden shall operate said off-road vehicles:
 - (a) in a careless manner or without due care and attention; or
 - (b) without reasonable consideration for other persons and property or on a manner likely to cause damage or injury to other persons and property.
- 4. **THAT** a person who is a resident of the City of Morden and who is otherwise qualified under the Act to operate a snowmobile may, when reasonable snow conditions exist operate a snowmobile within the City of Morden on the roadway or shoulder and shall be restricted to:
 - (a) the most direct route exiting the City of Morden from their residence and returning to same, excluding PTH #3 and PTH #432, PTH 3A and Stephen St. Snowmobiles are not allowed to cross PTH #3 within City limits, or Stephen Street or
- 5. **THAT** a person who is a nonresident of the City of Morden and who is otherwise qualified under the Act to operate a snowmobile may, when reasonable snow conditions exist operate a snowmobile are not allowed to operate within the City of Morden on the roadway or shoulder other than the following restricted area:
 - (a) the most direct route along Willcocks Rd to a bulk card station for fuel purposes.
- 6. **THAT** no person shall operate a snowmobile within the City of Morden at a speed that is greater than 25 kilometers.
- 7. **THAT** where a snowmobile is being operated on a highway or shoulder as permitted in this By-law the operator shall:
 - (a) drive that snowmobile with the flow of traffic as close to the right hand edge of the roadway or shoulder as possible; and
 - (b) drive in single line with other snowmobiles.
- 8. **THAT** notwithstanding any other provisions of this By-law and the Act, where a storm or blizzard renders a roadway impassable to vehicular traffic, the Mayor of the City of Morden may authorize, for a fixed period, the operation of snowmobiles on the roadways within the City of Morden.

9. **THAT** any employee of the City of Morden who is properly licenced under the Act may, when so required by the City of Morden and for its purposes, operate an licenced off-road vehicle owned by the City of Morden on any roadway and on any shoulder of a roadway located within the City of Morden and may also operate said licenced off-road vehicle for maintenance purposes on any playground or other area set aside for recreational purposes that is owned by the City of Morden.
10. **THAT** where an offence, resulting from the violation of any provision of this By- Law;
- (a) is committed by means of, or with respect to, off-road vehicle; or
- (b) occurs by reason of, or with respect to, the ownership, use, or operation of an off-road vehicle
- the owner of the off-road vehicle may be charged with a commission of the offence and if the judge or justice before whom the charge is tried, is satisfied that the offence was committed, the owner is guilty of the offence and is liable, on summary conviction, to the penalty herein provided, unless the owner satisfies the judge or justice that, at the time of the violation the off-road vehicle was in the possession of a person without the consent of the owner.
11. **THAT** nothing in subsection (9) relieves the operator of an off-road vehicle from any liability for any offence or violation of any provision of this By-law.
12. **THAT** any person who violates, contravenes, or disobeys or refuses, omits, neglects, or fails to observe, obey or comply with any provision of this By-law is guilty of an offence and liable, on summary conviction, to a fine of not less than \$100.00 or more than \$1,000.00.
13. By-law 36-2007 be hereby repealed.

ENACTED in open Council duly assembled at Morden, in Manitoba, this 12th day of May A.D., 2014.

CITY OF MORDEN

Ken Wiebe

Mayor

John Scarce

City Manager

Read a first time this	15 th day of July	, A.D. 2013.
Read a second time this	15 th day of July	, A.D. 2013.
Read a third time as amended	12 th day of May	, A.D. 2014.

I, John Scarce, City Manager of the City of Morden do hereby certify the above By-law No.10-2013 to be a true and correct copy as read a third time by the Council of the City of Morden in Regular Session assembled on Monday, May 12th, A.D. 2014.

Dated at Morden, Manitoba this 12th day of May, A.D. 2014.

John Scarce

City Manager