

TOWN OF MORDEN

By-Law No. 36-2007

BEING a By-law to regulate the operating of snowmobiles within the limits of the Town of Morden.

WHEREAS "The Off-Road Vehicle Act" S.M. 1987-88 c. 64 Cap. 031 (the "Act") provides as follows:

- 32 (l) No person shall operate an off-road vehicle;
- (a) on private 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 otherwise lawfully authorized to enter such land; or
 - (c) within 30 meters 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 meters of a playground, or area 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 (l) Except as may be authorized by subsection (4) or any other provision of this Act or regulation thereunder, no person shall operate an off-road vehicle
- (a) upon or across a roadway or the shoulder thereof; or
 - (b) on or across the median of a divided highway; or
 - (c) on the right-of-way of an interchange.
- (4) The minister may authorize a traffic authority to make by-laws to permit the operation of an off-road vehicle upon a roadway or the shoulder thereof.
- 38 (l) 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) the council of an incorporated city, town, village, community as defined in "The Northern Affairs Act", or rural municipality; or

- (b) the resident administrator and council of a local government district; or
 - (c) the Minister of Northern Affairs with respect to Northern Manitoba
- 46 (l) Rules supplementary to, or in addition to, but not contrary to any other provision of this Act or regulations made under this Act;
- (a) prescribing the periods of the day, or the year, during which designated 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 Highway Traffic Act", S.M. 1985-86, c.3, Cap H60, provides, inter alia, the council of a municipality may, by By-Law, fix the maximum speed at which a vehicle may be driven on a highway of which the municipality is the traffic authority;

AND WHEREAS the Council of the Town of Morden deems it advisable to pass a By-law regulating the use of snowmobiles within the limits of the Town of Morden;

NOW THEREFORE the Town 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 therefor, 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 join one another at an angle, whether or not one of the highways crosses another;
- (c) Operate means to drive or to be in actual physical control of an off-road vehicle;
- (d) Operator means a person operating or driving an off road vehicle or a person in actual physical control of an off-road vehicle;
- (e) 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;
- (f) Right-of-way means an area of land acquired for a public thoroughfare including any other facility incidental thereto;
- (g) 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;
- (h) Shoulder means the portion of a highway contiguous with the travelled way for accommodation of stopped vehicles for emergency use and for lateral support of base and surface courses;
- (i) Snowmobile means a vehicle that has a gross vehicle weight 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 designed 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 a snowmobile within the limits of the Town of Morden except as permitted in this By-law or under the Act.

3. THAT no person shall operate a snowmobile:

(a) in a careless manner or without due care and attention; or

(b) without reasonable consideration for other persons and property or in a manner likely to cause damage or injury to other persons and property,

4. THAT a person who is a resident of the Town 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 Town of Morden on the roadway or shoulder and shall be restricted to:

(a) the most direct route in exiting the Town of Morden from their residence and returning to same. Snowmobiles are not allowed to cross Thornhill Street (PTH #3) between 1st Street and 18th Street, or Stephen Street (Business District) between Route 100 and 12th Street. (Access 4th Street and 12th Street by using the Public Lane and exit via North Railway Street); or

(b) the designated routes as outlined in Section 5 of this By-law permitting snowmobiles to travel to service stations for product or servicing.

5. THAT a person who is a non-resident of the Town of Morden and who is otherwise qualified under the Act to operate a snowmobile may, when reasonable snow conditions exist, operate a snowmobile in the Town of Morden only on the approved designated routes as set out hereafter:

(a) Entering the Town of Morden from the East, a person must follow the North ditch of Victoria Street (Thornhill Street) crossing over 1st Street and discontinuing further travel at the premises known as "Esso Express Mart" situated at 25 Thornhill Street.

(b) Entering the Town of Morden from the West, a person must follow the North ditch of Thornhill Street crossing over 19th Street and discontinuing travel at the intersection of Thornhill Street (PTH #3) and Mountain Street (PR #432).

(c) Entering the Town of Morden from the South, a person must follow the East boulevard of Mountain Street South crossing over Cochlan Drive and

discontinuing further travel at the premises know as "Hillside Service" situated at 201 Mountain Street South.

6. THAT no person shall operate a snowmobile within the Town of Morden at a speed that is greater than 25 kilometers an hour when within 200 meters of residential development.

7. THAT where a snowmobile is being operated on a roadway or shoulder as permitted in this By-law the operator shall:

- (a) drive the snowmobile 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 Town of Morden may authorize, for a fixed period, the operation of snowmobiles on the roadways within the Town of Morden.

9. 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, a snowmobile; or
- (b) occurs by reason of, or with respect to, the ownership, use, or operation of a snowmobile:

the owner of the snowmobile may be charged with the 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 snowmobile was in the possession of a person without the consent of the owner.

10. THAT nothing in subsection (9) relieves the operator of a snowmobile from any liability for any offence or violation of any provision of this By-law.

11. 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 or, in default, to imprisonment for a period not exceeding thirty (30) days.

By-law 16-97 be hereby repealed.

ENACTED in open council duly assembled at Morden, in Manitoba, this 14th day January, A.D. 2008.

TOWN OF MORDEN

Mayor

Chief Administrative Officer

Read a first time this	17th	day of	December,	A.D. 2007
Read a second time	14th	day of	January	A.D. 2008
Read a third time	14th	day of	January	A.D. 2008