

**TOWN OF KILLARNEY**

**BY-LAW NO. 4-1997**

\*\*\*\*\*

**Being a By-law for the purpose of regulating the operation of snowmobiles within the Limits of the Town of Killarney.**

\*\*\*\*\*

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

- "s.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 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.

s.33(1) 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.

s.33(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.

s.38(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.

s.38(2) For the purposes 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.

s.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;
- (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.
- (e) in respect of a local government district, by the resident administrator thereof;
- f) in respect of a community in Northern Manitoba for which a community council has been established under The Northern Affairs Act, the community council thereof through the minister of the Executive Council charged with the administration of that Act; and
- (g) in respect of any area not within a municipality, a local government district, or a community in Northern Manitoba in which a community council has been established, or in respect of any Crown lands within a municipality or a local government district, or such a community in Northern Manitoba, by the Lieutenant Governor in Council.

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 Killarney deems it advisable to pass a By-law regulating the use of snowmobiles within the limits of the Town of Killarney.

NOW THEREFORE BE IT ENACTED AS FOLLOWS:

1. **DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of the terms used in this By-law shall be as follows:

- (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
- treads
- (i) 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,
- for
- (ii) is designed primarily for operating over snow or ice, and is used primarily that purpose, and
- (iii) is designed to be self-propelled.
2. No person shall operate a snowmobile within the limits of the Town of Killarney except as permitted in this By-law or under the Off-Roads Vehicles Act.
3. 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. A person who is qualified under the Act to operate a snowmobile may, during the period from November 15 to April 1 in each year, operate a snowmobile within the Town of Killarney only on the routes designated on Schedule "A" attached to and forming part of this By-law and while the designated routes are snow covered. Attached as Schedule "B" to this by-law is a sketch of the designated routes as described on Schedule "A".
5. No person shall operate a snowmobile within the Town of Killarney at a speed that is greater than 50 kilometres per hour.
6. No person shall operate a snowmobile within the Town of Killarney between the hours of 11:00 o'clock p.m. of one day and 7:30 o'clock a.m. of the next day.
7. 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 and shoulder as possible; and,
- (b) drive in a single line with other snowmobiles.
8. Snowmobiles shall at all times be operated at a speed and in a manner that the right-of-way can be yielded in vehicular and pedestrian traffic which shall at all times have the right-of-way.
9. The Town of Killarney shall cause to be erected warning signs referenced as "WC10" in the manual of Uniform Traffic Control Devices at each and every intersection where snowmobiles may be entering any highway.
10. Notwithstanding any other provision of this By-law and the Act, where a storm or blizzard renders a roadway impassable to vehicular traffic, the Council of the Town of Killarney may authorize, for a fixed period, the operation of snowmobiles on roadways with the Town of Killarney.
11. (1). 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,

owner is guilty of the offence and is liable, on summary conviction, to the penalty herein provided, unless the owner satisfied 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.

(2) Nothing in subsection (1) relieves the operator of a snowmobile from any liability for any offence or violation of any provision of this By-law.

12. 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 is liable, on summary conviction, to a fine of not more than \$100.00 or, in default of payment thereof, to imprisonment for a term of not more than 30 days.

DONE AND PASSED in Council duly assembled this        day of        1997, A.D.

Mayor \_\_\_\_\_

Chief Administrative Officer \_\_\_\_\_

Read a first time this        day of        , A.D., 1997  
 Read a second time this        day of        , A.D., 1997  
 Read a third time this        day of        , A.D., 1997