

# MUNICIPALITY OF KILLARNEY -TURTLE MOUNTAIN

## BY-LAW NO. 1-2018

**BEING a by-law for the purpose of regulating the operation of snowmobiles within the Municipality of Killarney – Turtle Mountain.**

**WHEREAS** “The Off-Road Vehicle Act”, S.M. 1987-88, c. 64, Cap. O31  
(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 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 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; or
  - (b) on or across the median of a divided highway; or
  - (c) on the right-of-way of an interchange.
- “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 roadways 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 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 Aboriginal and Northern Affairs with respect to Northern Manitoba.
- “s. 45 (1) Rules respecting the operations of off-road vehicles  
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 a roadway or the shoulder of a roadway; and
  - (b) prohibiting the operation of designated off-road vehicles upon a designated right-of-way or a specified portion thereof.
- “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

**AND WHEREAS** "The Highway Traffic Act". S.M. 1985-86, c. 3, Cap H60, provides, inter alia, the council of 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 Municipality of Killarney – Turtle Mountain deems it advisable to pass a By-law regulating the use of snowmobiles within the Municipality of Killarney – Turtle Mountain;

**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 thereof, 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 or sidewalks 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 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
  - (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,
  - (ii) is designed primarily for operating over snow or ice, and is used primarily for 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 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 1 to April 15 in each year, operate a snowmobile within the Town of Killarney in the Municipality of Killarney – Turtle Mountain on the roadway or shoulder of the following designated routes - (see Schedule "A" attached) while the designated routes are snow covered:
  - (a) South Railway Street from Highway 18 to the corner of Williams Avenue and South Railway Street, and
  - (b) Mountain Avenue from South Railway Street to Tupper Street.
5. No person shall operate a snowmobile at a speed that is greater than 50 kilometers an hour on designated routes or 20 kilometers an hour on lanes which are the speeds established by "The Highways Traffic Act" for vehicular traffic within the Town of Killarney in the Municipality of Killarney – Turtle Mountain or such other speeds may be designated under "The Highway Traffic Act" from time to time.
6. No person shall operate a snowmobile within the Town of Killarney or any residential area in the Municipality of Killarney – Turtle Mountain between the hours of 11:00 P.M. to 7:00 A.M.
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, not alongside other snowmobiles or vehicles; and,
  - (c) observe and comply with all traffic control devices and signage; and,
  - (d) stay off of all public walkways and sidewalks and boulevard property.
8. The Municipality of Killarney – Turtle Mountain shall cause to be erected snowmobile warning signs at each and every intersection where snowmobiles may be entering any highway.
9. 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 Municipality of Killarney – Turtle Mountain may authorize, for a fixed period, the operation of snowmobiles on roadways, other than those designated routes, within the Town of Killarney.
- 10 (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, 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 (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.
11. 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 less than \$100.00 or more than \$1,000.00 or, in default of payment thereof, to imprisonment for a term of not more than 30 days.

12. Town of Killarney By-Law No. 4-97 and any amendment thereof be hereby repealed.

**DONE AND PASSED** in Council duly assembled at the Municipality of Killarney – Turtle Mountain Council Chamber in Killarney, in the Province of Manitoba this 31st day of January, 2018.

**MUNICIPALITY OF KILLARNEY-TURTLE  
MOUNTAIN**

  
\_\_\_\_\_  
Mayor

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

Read a first time this 10<sup>th</sup> day of January, 2018  
Read a second time this 31<sup>st</sup> day of January, 2018  
Read a third time this 31<sup>st</sup> day of January, 2018