

BY-LAW NO. 8/05

Being a By-Law for the purpose of regulating the operation of snowmobiles within the limits of the Town of Teulon.

WHEREAS “The Off-Road Vehicles Act”, S.M. 1987-88, Cap. 031 (The “Act”) provides as follows:

“s.31(1) No person shall operate an off-road vehicle

- (a) at a speed greater than is reasonable and prudent;
- (b) at a speed otherwise permitted under this Act if any factor exists in the face of which failure to reduce that speed, or to stop the vehicle temporarily, constitutes a danger to any person or property visible to the operator; or
- (c) in a manner that is not reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

“s.32(1)

- (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 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 authorized 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 roadways or shoulder of 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 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

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 Teulon deems it advisable to pass a By-Law regulating the use of snowmobiles within the limits of the Town of Teulon;

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 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
 - (a) is not equipped with wheels, but in place thereof is equipped with tractor treads alone or 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. No person shall operate a snowmobile within the limits of the Town of Teulon 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 15 to April 1 in each year, operate a snowmobile within the Town of Teulon on the following route(s) (see Appendix "A" attached):
5. A person who is qualified under the Act to operate a snowmobile and is either ordinarily resident within the Town of Teulon, who owns or is related by marriage or blood to the owner of a residence within the Town of Teulon, is entitled, when operating a snowmobile within the town of Teulon during the period provided in paragraph 4 of this By-Law, to drive the snowmobile along the land immediately adjacent to his or her residence or to the residence of his or her relative to the nearest designated route provided, however, at no time is any person entitled to operate a snowmobile along Main Street in Teulon.
6. No person shall operate a snowmobile within the Town of Teulon at a speed 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 Teulon or such other speeds may be designated under "The Highway Traffic Act" from time to time.
7. No person shall operate a snowmobile within the Town of Teulon between the hours of 11:00 P.M. of one day and 7:00 A.M. of the next day.
8. 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.
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 Town of Teulon may authorize, for a fixed period, the operation of snowmobiles on roadways within the Town of Teulon.

10(1)

The owner or the operator (with or without consent) of a snowmobile who contravenes the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine;

- (a) of not less than \$250.00 or more than \$500.00 and costs for a first offence;
- (b) of not less than \$500.00 or more than \$1000.00 and costs for a second offence, and
- (c) in case of non-payment of a fine and costs imposed under this section to imprisonment for a period not exceeding 30 days.

10(2)

Where it is alleged by a peace officer, or by any person appointed to enforce this by-law that any person has contravened a provision of this by-law, that person, on being notified of the allegation, may voluntarily consent

- (a) to appear before:
 - (i) a justice; or
 - (ii) a peace officer; or
 - (iii) the Chief Administrative Officer of the Town of Teulon, and

(b)where, without an information being laid or complaint or charge made or other formality, to admit the correctness of the allegation and pay the minimum fine fixed by subsection (1) hereof for the alleged offence. Upon any person who has consented as provided in subsection (2) paying the fine fixed by subsection (1) he is not liable to prosecution for the contravention in respect of which the payment is made.

10(3) 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. This By-Law comes into effect as of _____.

DONE AND PASSED by the Council of the Town of Teulon, duly assembled
This _____ day of _____, 20__.

Mayor

Chief Administrative Officer

Read a first time this _____ day of _____, 20__.

Read a second time this ___ day of _____, 20__.

Read a third time this _____ day of _____, 20__.