

THE MUNICIPALITY OF RHINELAND

By-law No. 2015-16

BEING a by-law to regulate the operating of off-road vehicles within the LUD of Plum Coulee excluding PTH #14.

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 recreation 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

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 any operate off-road vehicles on the roadways or shoulders.

38(2) For the purpose of subsection (1). “Local authority” means;

- (a) the council of an incorporated city, town, village or another municipality; and
- (b) a community or incorporated community, as defined in The Northern Affairs Act;
- (c) the resident administrator and council of a local government district; or(d) 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 a designated off-road vehicles across a roadway and shoulder at any place or at a designated place along the highway or 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 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 violations 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”, C.C.S.M. Cap H60, provides, inter alia, 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 Council of the Municipality of Rhineland in open session duly assembled enacts that:

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 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) 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 L.U.D. of Plum Coulee 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 L.U.D. of Plum Coulee 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 in a manner likely to cause damage or injury to other persons and property.
4. THAT a person who is a resident of the L.U.D. of Plum Coulee and who is otherwise qualified under the Act to operate a snowmobile may, when reasonable snow conditions exist operate a snowmobile within the L.U.D of Plum Coulee excepting PTH #14 on the roadway or shoulder and shall be restricted to:
  - (a) the most direct route exiting the L.U.D of Plum Coulee from their residence and returning too same.
  - (b) the operation of snowmobiles on school property is prohibited.
  - (c) the operation of any snowmobile within any residential area in the L.U.D. of Plum Coulee shall not be permitted between the hours of midnight and 7:00 am.
  - (d) any person operating a snowmobile within the limits of the L.U.D. of Plum Coulee must be sixteen years of age or over and must hold a valid driver's license.
5. THAT snowmobile operators who do not reside within the limits of the L.U.D. of Plum Coulee shall be permitted to enter the limits of the L.U.D. of Plum Coulee, provided that they take the most direct route to their place of destination and back as provided for in the preceding section (4).
6. THAT no person shall operate a snowmobile within the L.U.D. of Plum Coulee at a speed that is greater than 10 kilometers an hour.
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 as close to the right hand edge of the roadway or shoulder as possible; and
  - (b) Drive in a 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 Reeve of the Municipality of Rhineland or his/her designate may authorize, for a fixed period, the operation of snowmobiles on the roadways excepting PTH 14 within the L.U.D. of Plum Coulee.
9. THAT any employee of the L.U.D. of Plum Coulee who is properly licensed under the Act may, when so required by the L.U.D. of Plum Coulee and for its purposes, operated a licensed off-road vehicle owned by the L.U.D. of Plum Coulee on any roadway excepting PTH 14 and on any shoulder of a roadway excepting PTH 14 located within the L.U.D. of Plum Coulee and may also operate said licensed off-road vehicle for maintenance purposes on any playground or other area set aside for recreational purposes that is owned by the L.U.D. of Plum Coulee.

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 vehicles; or
  - b) occurs by reason of, or with respect to, the ownership, use, or operation of an off-road vehiclethe 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 it shall be lawful to operate an off road vehicle in the L.U.D. of Plum Coulee for an event approved by the Municipality of Rhineland Council such as a ATV Derby in the dates and hours approved by Council resolution and only on the prescribed trail set out on the map hereto attached as Schedule "A".
12. 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.
13. 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 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.
14. THAT By-Law 743-13 is hereby repealed.

DONE AND PASSED by Council of The Municipality of Rhineland, in the Province of Manitoba duly assembled this 26<sup>th</sup> day of October 2016.

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Reeve Don Wiebe

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Chief Administrative Officer Michael Rempel

Read a first time this 28<sup>th</sup> day of October A.D. 2015.

Read a second time this 26<sup>th</sup> day of October A.D. 2016.

Read a third time this 26<sup>th</sup> day of October A.D. 2016.