

THE RURAL MUNICIPALITY OF ST. ANDREWS
BY-LAW NO. 4270

BEING A BY-LAW TO REGULATE THE OPERATION OF ALL TERRAIN/OFF
ROAD VEHICLES IN THE RURAL MUNICIPALITY OF ST. ANDREWS

WHEREAS Section 232(1)(g) AND 236(1) of The Municipal Act, S.M. 1996 C.58 provides authority for the Rural Municipality of St. Andrews to pass a by-law respecting the operation of off road vehicles on public or private property;

AND WHEREAS Section 46 of The Off-Road Vehicles Act authorizes the Rural Municipality of St. Andrews to make rules by by-law supplementary to or in addition to, but not contrary to any other provision of the said Act or regulations made thereunder prescribing the periods of the day, or of the year, during which designated off road vehicles shall not be operated, prescribing areas in which the operation of designated off road vehicles shall be permitted or prohibited, and fixing penalties for violations of by-laws passed under that Section;

AND WHEREAS Section 45 of The Off Road Vehicles Act authorizes a traffic authority of a municipal road to make by-laws supplementary to or in addition to, but not contrary to any provision of that Act or regulations made thereunder 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 and prohibiting the operation of designated off road vehicles upon a designated right of way or a specified portion thereof;

AND WHEREAS the Rural Municipality of St. Andrews is a traffic authority;

NOW THEREFORE the Rural Municipality of St. Andrews deems it expedient to enact a by-law regulating the operation of off road vehicles in the Rural Municipality of St. Andrews as follows;

1. **DEFINITIONS:**

“**off road vehicle**” means an off-road vehicle that,

- (a) operates or travels on three or more low-pressure tires;
- (b) has a seat designed to be straddled by the operator of the vehicle; and
- (c) has handlebars for steering the vehicle.

“**R.M.**” means the Rural Municipality of St. Andrews.

“**municipal road**” 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 therefore, and includes all the space between the boundary lines thereof, and includes any area designated or intended and primarily used for the parking of vehicles and the necessary passage ways thereon.

“**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 off road 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) a four-wheel drive motor vehicle, motorcycle 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.

“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.

“playground” means an area owned by the R.M. which is primarily intended for outdoor recreation use by children.

“private property” does not include unoccupied R.M. property.

“snow vehicle” means a vehicle that has a gross vehicle weight 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.

“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. **EXCEPT IN ACCORDANCE WITH THIS BY-LAW:**

No person shall operate an off road vehicle upon any land within the territorial

boundaries of the R.M., which includes without limiting the generality of the foregoing, public reserves, park areas, road allowances, public parking lots, playgrounds, pool areas and recreation areas but excluding private property with the express consent of the owner or other person having lawful possession or control of the property, if they are in contravention of any of the following provisions of this by-law listed as (a) through (j) below: off road

- (a) No person shall operate an off road vehicle at a speed greater than is reasonable and prudent, or in a manner that is not reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, or in a manner that is disturbing the public peace in a residential area as determined by the by-law enforcement officer.
- (b) No person shall operate an off road vehicle in the R.M. within 30 metres of a dwelling between the hours of 11:00 p.m. and 7:00 a.m. unless the dwelling is located on the operator's own property or property under the operator's control or with the consent of the owner or occupier.
- (c) No person shall operate an off road vehicle in a careless manner or without due care and attention, or without reasonable consideration for other persons and property, or in a manner likely to cause damage or injury to other persons and property.
- (d) No person under the age of 14 years shall operate an off road vehicle unless supervised and accompanied by and at all times within clear view of the person's parent or a person who has attained the age of 18 years and authorized by the parent and on property owned by either the owner of the ATV or parent of the child.
- (e) An owner of an off road vehicle shall not permit a person under the age of 14 years to operate an off road vehicle, of which he or she is the owner, on a municipal road, road allowance, public reserve, park area, public parking lot, playground, pool area, recreation area, or private property other than the owners.
- (f) No person shall operate an off-road vehicle while carrying more persons than the number for which the off-road vehicle was designed.
- (g) No person shall ride on or operate an off-road vehicle unless the person is wearing on his or her head a properly adjusted and securely fastened helmet in compliance with the requirements contained in the regulations under *The Drivers and Vehicles Act*.
- (h) Every operator of and passenger in an off-road vehicle in which a seat belt assembly is provided, shall wear a complete seat belt assembly in a properly adjusted and securely fastened manner.
- (i) No person shall operate an off-road vehicle when local circumstances make the use of an off road vehicle a fire hazard or when the Province of Manitoba or the R.M. declares fires are not permitted.

- (j) No person shall operate an off-road vehicle in public reserves, park areas, public parking lots, playgrounds, pool areas and recreation areas, or any area where signs prohibit the operation of an off-road vehicle.

3. **PENALTY:**

- (a) Any person who contravenes, disobeys, or violates, or refuses, omits, neglects or fails to observe, obey or comply with any provision on this by-law is guilty of an offense punishable on summary conviction and is liable on conviction to a fine not exceeding \$1,000.00 for each offense together with costs of prosecution and in default of payment of such fine and costs is liable to imprisonment for a period not exceeding six (6) months.
- (b) Where an offense, consisting of a violation of any provision of this by-law is committed by means of operation of an off road vehicle, the owner of the off road vehicle may be charged with the commission of the offense and, if the Judge or Justice before whom the charge is tried, is satisfied that the offense was committed, the owner may be found guilty of the offense unless the owner can satisfy Judge or Justice that at the time of the violation, the off road vehicle was in the possession of the operator without the consent of the owner.

4. **DETENTION OF ALL TERRAIN VEHICLES:**

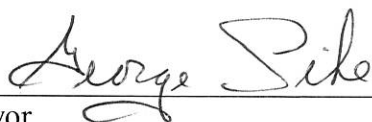
- (a) Where a by-law enforcement officer has reason to believe that an offence has been committed by means of, or in relation to, an off road vehicle, he may detain the vehicle for five (5) clear days but the vehicle may be released sooner if security in an amount as determined by a Justice is provided on the first offence unless otherwise ordered by the Provincial Court.
- (b) Where a by-law enforcement officer has detained an off road vehicle he shall provide to the owner a seizure notice in the form attached as Schedule "A".
- (c) Where an off road vehicle is so impounded, the R.M. shall not be liable for any damage, loss, or consequential damage or loss that may be suffered by the owner resulting from the seizure and/or impoundment.
- (d) Where an off road vehicle has been detained it shall be subject to the fees and charges as may be reasonable in the circumstances in respect of towing, removal and storage of the off road vehicle.

5. **SEVERABILITY:**

If any provision of this by-law be contrary to any express provision of any applicable statute, such provision shall be read subject thereto and except as aforesaid this by-law and all provisions thereof shall be valid and binding.

- 6. This by-law may be cited as the "Off Road Vehicles" By-Law.
- 7. That By-Law No. 3730 be rescinded.

DONE and PASSED in Council duly assembled, this 11th day of August, 2015.



Mayor



Asst. Chief Administrative Officer

READ A FIRST TIME this 14th day of July, 2015.

READ A SECOND TIME this 11th day of August, 2015.

READ A THIRD TIME this 11th day of August, 2015.



SCHEDULE A

NOTICE OF SEIZURE AND IMPOUNDMENT OF OFF ROAD VEHICLE

Driver Information: _____
Name: _____ DOB: _____
Address: _____
DL #: _____ PH #: _____
ALT. #: _____ Province: _____ Postal Code: _____

____ 1st offence seizure five (5) days pursuant to R.M. of St. Andrews Off Road Vehicle By-Law
____ 2nd offence seizure five (5) days pursuant to R.M. of St. Andrews Off Road Vehicle By-Law

Vehicle Information: _____
Vehicle Plate #: _____ Prov: _____
Vehicle Year: _____
Make: _____
Mode: _____
Year: _____ Color: _____
Serial #: _____

Owner Information: _____
____ Same As Above Owner Present ____ YES ____ NO
Name: _____
Address: _____
PH #: _____ ALT. #: _____

Time and Date of OFFENCE _____
Time and Date of SEIZURE _____
Date to Redeem Vehicle _____

The undersigned By-Law Enforcement Officer has reason to believe that the above noted driver was operating the above noted Off Road Vehicle contrary to the Rural Municipality of St. Andrews Off Road Vehicle By-Law (No. 4270) and has therefore seized the Off Road Vehicle and impounded it.

The Off Road Vehicle is impounded at _____
Address: _____ PH # _____

(By-Law Enforcement Officer) (Detachment/Force)