

**THE RURAL MUNICIPALITY OF LA BROQUERIE**

**BY-LAW NO. 21-2011**

**BEING A BY-LAW TO REGULATE THE OPERATION OF ALL TERRAIN/OFF ROAD VEHICLES IN THE RURAL MUNICIPALITY OF LA BROQUERIE**

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

**AND WHEREAS** Section 46 of The Off-Road Vehicles Act authorizes the Rural Municipality of La Broquerie 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 all terrain vehicles shall not be operated, prescribing areas in which the operation of designated all terrain 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 all terrain 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 all terrain vehicles upon a designated right of way or a specified portion thereof;

**AND WHEREAS** the Rural Municipality of La Broquerie is a traffic authority;

**NOW THEREFORE** the Rural Municipality of La Broquerie deems it expedient to enact a By-Law regulating the operation of all terrain vehicles in the Rural Municipality of La Broquerie as follows;

**1. DEFINITIONS:**

- **"All-terrain 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 La Broquerie.

- **“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 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) 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 all terrain 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;
  
- **“Sidewalk”** means “footpath”, whether improved or not that is intended primarily for use by pedestrians but does not include a sidewalk located on private 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:**

- (a) No person shall operate an all terrain vehicle upon any land within the territorial boundaries of the R.M. including 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.
  
- (b) No person shall operate an all terrain 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.
  
- (c) No person shall operate an all terrain vehicle in the R.M. of La Broquerie 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 as an invited guest.
  
- (d) No person shall operate an all terrain 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.
  
- (e) No person under the age of 14 years shall operate an all terrain 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.

(f) An owner of an all terrain vehicle shall not permit a person under the age of 14 years to operate an all terrain 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 owner's.

(g) No person shall operate an off-road vehicle while carrying more persons than the number for which the off-road vehicle was designed.

(h) 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*.

(i) 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.

(j) No person shall operate on off-road vehicles when local circumstances make the use of and off road vehicle a fire hazard or when Manitoba declares fires are not permitted.

### **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 all terrain vehicle, the owner of the all terrain 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 is guilty of the offense and is liable on summary conviction to the penalty herein provided for that offense unless the owner satisfied the Judge or Justice that at the time of the violation, the all terrain vehicle was in the possession of a person other than the owner or an immediate family member 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 all terrain vehicle, he may detain the vehicle for 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 all terrain vehicle he shall provide to the owner a seizure notice in the form attached as schedule "A".

(c) Where an all terrain vehicle has been detained it shall be subject to the fees and charges set out as provided herein:

- i) storage charges as set out in Highway Traffic Act of \$5.50 per day
- ii) hook-up - \$35.00
- iii) towing charges and \$1.50 per kilometre

## **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 "All Terrain Vehicles" By-Law.

7. That By-Law 16/08 be rescinded.

Done and passed as a by-law of the Rural Municipality of La Broquerie in the Province of Manitoba this 28<sup>th</sup> day of September, 2011.

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Claude Lussier  
Reeve  
Rural Municipality of La Broquerie

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Roger A. Bouvier  
Chief Administrative Officer  
Rural Municipality of La Broquerie

Read a first time this 14<sup>th</sup> day of September, 2011

Read a second time this 28<sup>th</sup> day of September, 2011

Read a third time this 28<sup>th</sup> day of September, 2011.

