

THE RURAL MUNICIPALITY OF EAST ST. PAUL

BY-LAW NO. 2020-05

Being a By-law to regulate the operation of All Terrain/Off Road Vehicles in the Rural Municipality of East St. Paul

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 off road vehicles on public or private property;

AND WHEREAS Section 46 of The Off-Road Vehicles Act authorizes the Rural Municipality of East St. Paul 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 East St. Paul is the traffic authority;

NOW THEREFORE the Rural Municipality of East St. Paul deems it expedient to enact a By-Law regulating the operation of off road vehicles in the Rural Municipality of East St. Paul 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 East St. Paul;

“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) an all-terrain vehicle,
- b) a mini-bike, dirt-bike and trail-bike,
- c) a miniature vehicle such as a dune or sport buggy,
- d) an off-road maintenance machine,
- e) an amphibious vehicle, and
- f) 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;

“Peace Officer” means;

- (i) any member of the Royal Canadian Mounted Police.
- (ii) any designated officer for bylaw enforcement of the Rural Municipality of East St. Paul appointed by council resolution.

“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;

2. EXCEPT IN ACCORDANCE WITH THIS BY-LAW:

- a) No person shall operate an off road vehicle upon any land within the territorial boundaries of the R.M. including without limiting the generality of the foregoing, public reserves, park areas, 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 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.
- c) No person shall operate an off road vehicle in the R.M. of East St. Paul within 30 meters 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 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.
- e) 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.
- f) 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, 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 an off road vehicle a fire hazard or when Manitoba declares fires are not permitted.

3. REQUIREMENT TO STOP

- a) A Peace Officer, in the lawful execution of his or her duties and responsibilities, may require the driver of an off road vehicle to stop, and the driver of the off road vehicle, when signaled or requested to stop by a Peace Officer who is readily identifiable as such, shall immediately come to a safe stop and remain stopped until permitted by the Peace Officer to depart.
- b) Without limiting the generality of subsection 3a), a Peace Officer may, at any time when a driver and/or operator is stopped, require the driver and/or operator of the off road vehicle to give his or her name, date of birth and address to the officer.

4. 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 offence and liable to a fine set out in "**Schedule A**" of this bylaw as well as the Rural Municipality of East St. Paul's Provincial Offences Act (POA) Bylaw.
- b) Where an offence, 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 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 under *The Provincial Offences Act* to the penalty herein provided for that offence unless the owner satisfied the Judge or Justice that at the time of the violation, the off road vehicle was in the possession of a person other than the owner or an immediate family member without the consent of the owner.

5. DETENTION OF ALL TERRAIN VEHICLES

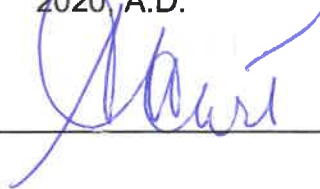
- a) Where a Peace Officer has reason to believe that an offence has been committed by means of, or in relation to, an off road vehicle, he may detain the vehicle for 5 clear days but the vehicle may be released sooner if security in an amount as determined by a Justice is provided on the first offence unless otherwise ordered by the Provincial Court.
- b) Where a Peace Officer has detained an off road vehicle he shall provide to the owner a seizure notice in the form attached as "**Schedule B**".
- c) Where an off road vehicle has been detained it shall be subject to the current fees, charges and storage of that set out in the Highway Traffic Act:

6. 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.

This By-Law may be cited as the "**Off Road Vehicle**" By-Law.

DONE AND PASSED as a by-law of The Rural Municipality of East St. Paul in the Province of Manitoba, this 9th day of June 2020, A.D.



Mayor



Chief Administrative Officer

Read a first time this 26th day of May, 2020

Read a second time this 9th day of June, 2020

Read a third time this 9th day of June, 2020

**“SCHEDULE A”
To By-Law 2020-05**

PRESET FINES

Fine Category	Preset Fine	Court Costs (45%) Rounded to nearest dollar	Justice Services Surcharge	TOTAL FINE
A	\$40	\$18	\$50	\$108
B	\$58	\$26	\$50	\$134
C	\$76	\$34	\$50	\$160
D	\$94	\$42	\$50	\$186
E	\$118	\$53	\$50	\$221
F	\$150	\$68	\$50	\$268
G	\$262	\$118	\$50	\$430
H	\$394	\$177	\$50	\$621
I	\$780	\$351	\$50	\$1,181
J	\$1,524	\$686	\$50	\$2,210

SECTION	OFFENCE	FINE AMOUNT
2(a)	Operate an off road vehicle where not permitted	\$268.00
2(b)	Drive imprudently	\$621.00
2(c)	Operate an off road vehicle within 30 metres of a dwelling between the hours of 11:00pm-7:00am	\$160.00
2(d)	Drive carelessly	\$621.00
2(e)	Operate off road vehicle under 14 years of age	\$160.00
2(f)	As the owner, allow a person under 14 years of age to operate an off road vehicle	\$268.00
2(g)	Carry more passengers than the number for which it was designed	\$134.00
2(h)	Fail to wear helmet	\$108.00
2(i)	Fail to wear seatbelt	\$108.00
2(j)	Operate off road vehicle during municipal and or provincial fire ban	\$621.00
3(a)	Fail to stop and remain stopped when signaled by Peace Officer	\$621.00
3(b)	Fail to provide identification when requested by a Peace Officer	\$134.00



**“SCHEDULE B”
To By-Law 2020-05**

NOTICE OF SEIZURE AND IMPOUNDMENT

PART 1 – IDENTIFICATION					
1. VEHICLE IDENTIFICATION					
MAKE	MODEL	YEAR	COLOR	LIC PLATE #	
VIN #					
2. REGISTERED OWNER			3. VEHICLE OPERATOR		
NAME (surname, given, middle initial)			NAME (surname, given, middle initial)		
ADDRESS (street, house or apartment #)			ADDRESS (street, house or apartment #)		
D.O.B (yyyy/mm/dd)			D.O.B (yyyy/mm/dd)		
CITY	PROV	POSTAL CODE	CITY	PROV	POSTAL CODE
PART 2 - DESCRIPTION					
4. REASON FOR IMPOUNDMENT (<i>x all that apply</i>)			5. DAMAGE TO VEHICLE (<i>Describe any and all damage to the vehicle</i>)		
<input type="checkbox"/> Fail To Stop When Signaled By Peace Officer <input type="checkbox"/> Fail To Wear Helmet <input type="checkbox"/> Fail To Wear Seatbelt <input type="checkbox"/> Drive Imprudently <input type="checkbox"/> Drive Carelessly <input type="checkbox"/> Other (Specify section underneath) X					
7. LOCATION OF VEHICLE					
8. REMARKS					
PART 3 - DISPOSITION					
9. DATE IMPOUNDED (yyyy/mm/dd)		10. TIME IMPOUNDED		13. AUTHORIZING OFFICER	
14. TOWED BY:		AGENCY	RANK	BADGE NO	