

**TOWN OF CARBERRY**  
BY-LAW 09/2022

**BEING A BY-LAW** of the Town of Carberry to regulate the operation of Off-Road Vehicles in the municipality.

**WHEREAS** Section 232(1)(g) and 236(1) of *The Municipal Act*, CCSM c M225 provides authority for the Town of Carberry to pass a by-law respecting the operation of Off-Road Vehicles on public or private property;

**AND WHEREAS** Section 45 of *The Off-Road Vehicle Act*, CCSM c O31 (“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 the Act or regulations made thereunder permitting and prohibiting and 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 n 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** Section 46 of the Act, authorizes the Town of Carberry 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 the year, during which designated off-road vehicles shall not be operated, prescribing the maximum speed above which 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 violation of by-laws passed under that Section

**AND WHEREAS** Section 38(1) of the Act, authorizes the Town of Carberry, where a storm or blizzard renders a roadway impassable to vehicular traffic, 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 may operate off-road vehicles on the roadways or shoulders

**NOW THEREFORE** the Council of the Town of Carberry enacts as a by-law the following:

**1. SHORT TITLE**

1.1 This By-law may be cited as the **Off-Road Vehicles By-law**.

**2. DEFINITIONS**

2.1 In this By-law:

(a) **"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;

(b) **“CAO”** means the Chief Administrative Officer of the Town of Carberry or his or her designate;

(c) **“Municipal Road Allowance”** means any road allowance that is under the jurisdiction of the Town of Carberry whether developed as a roadway or undeveloped;

(d) **“Municipal Roadway”** means a roadway constructed within a Municipal Road Allowance and includes the shoulders of such roadways;

(e) **"ORV"** 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 side-by-side atv,

- (e) a miniature vehicle such as a dune or sport buggy,
- (f) an off-road maintenance machine,
- (g) an amphibious vehicle, and
- (h) 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;

**(f) "Public utility"** means a company supplying electric power, natural gas or telecommunications services to the public.

**(g) "Restricted Area"** means any lands dedicated as Public Reserve and the following areas: Carberry Plains Community Center, Day Lilly Garden, Art Sear Park, CP Park, Carberry Ball Park any other area designated as a green space or public park;

**(h) "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;

### **3. OPERATION OF OFF-ROAD VEHICLES BANNED WITHIN RESTRICTED AREAS**

3.1 Subject to section 4, no person shall operate an Off-Road Vehicle anywhere within 30 meters of the boundaries of any Restricted Area within the Town of Carberry.

### **4. EXCEPTIONS TO BAN WITHIN RESTRICTED AREAS**

4.1 Section 3.1 does not apply to the operation of an Off-Road Vehicle

4.1.1 by the RCMP or any other Peace Officer;

4.1.2 by employees or agents of the Town of Carberry or of a public utility while the vehicle is engaged in work on behalf of the Town of Carberry or a public utility which requires the use of the Off-Road Vehicle;

4.1.3 in accordance with a declaration regarding the operation of snowmobiles as part of a snow emergency declared by the municipality;

4.1.4 on property owned or occupied by the Municipality if the operator can provide evidence that the Chief Administrative Officer has authorized the operation and the operation is in compliance with that authorization.

4.1.5 By the Carberry North Cypress-Langford Fire Department members or those ordered by the Fire Chief or designate.

### **5. OPERATON OF ORV'S ON MUNICIPAL ROADWAYS**

5.1 Subject to section 6 of this By-Law, Off-Road Vehicles may be operated upon Municipal Roadways within the Town of Carberry.

### **6. CONDITIONS FOR OPERATION OF ORV'S ON MUNICIPAL ROADWAYS**

6.1 Operation of ORV's on Municipal Roadways shall be subject to the following conditions:

- 6.1.1 it is the most direct route to and from the residence or other place of origin and the destination residence or other destination within the limits of the Municipality, or the limits of the Town of Carberry; and
- 6.1.2 does not exceed a speed of 30 kilometers per hour, and
- 6.1.3 is operated by a person over the age of 16 years, and the Off-Road Vehicle is licensed and registered under *The Off-Road Vehicle Act*, and
- 6.1.4 is operated by a person wearing on their head a properly adjusted and securely fastened helmet in compliance with the requirements contained in the regulations under *The Off-Road Vehicle Act*, and
- 6.1.5 is not operated in a careless manner or without due care and attention, and
- 6.1.6 is not operated without reasonable consideration for other persons and property or in a manner likely to cause damage or injury to other persons and property.

## **7. CAO MAY PERMIT ORV OPERATION ON MUNICIPAL LAND**

- 7.1 The Chief Administrative Officer is empowered to authorize the operation of off-road vehicles on Recreational Lands within the Town of Carberry after taking into account:
  - 7.1.1 The risks to people and wildlife posed by the operation of the Off-Road Vehicle on the land; and
  - 7.1.2 The likelihood that the operation of the Off-Road Vehicle on the land will prove to be a cause of annoyance or inconvenience to residents and others.

## **8. CONDITIONS ORV PERMIT ON MUNICIPAL LAND**

- 8.1 The authorization given to the CAO under section 7.1 of this By-Law may be qualified or conditional and, without restricting the generality of the foregoing, may be granted:
  - 8.1.1 to all Off-Road Vehicles, specific types of Off-Road Vehicles, or specific Off-Road Vehicles;
  - 8.1.2 to specific types of operators of Off-Road Vehicles or particular individual operators of Off-Road Vehicles;
  - 8.1.3 for specific times of day or specific times of the year;
  - 8.1.4 on condition that the operator take steps to minimize the risks of harm or annoyance resulting from the operation of the Off-Road Vehicle;
  - 8.1.5 on condition that the operator obtain liability insurance of a type and in an amount sufficient, in the opinion of the Chief Administrative Officer, to protect the operator, the Municipality and others from any harm or damage resulting from the operation of the Off-Road Vehicle; or
  - 8.1.6 on condition that the operator provide the Municipality with an indemnity, sufficient in the opinion of the Chief Administrative Officer to save the Town of Carberry harmless from any harm or damage resulting from the operation of the Off-Road Vehicle.

## **9. ENFORCEMENT, CONTRAVENTION AND FINES**

- 9.1 The Municipality and/or the Officer may take whatever action or measures are necessary to remedy a contravention of this by-law in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
- 9.2 Any person who contravenes or disobeys or refuses or neglects to obey or comply with any provision of this by-law or any order made under this by-law

and/or the Municipality's General Enforcement By-law, as amended from time to time, is guilty of an offence and is liable to fines and penalties as set out in the Municipality's General Enforcement By-law, as amended from time to time.

#### **10. SEVERABILITY**

- 10.1 If any provision of this by-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

#### **11. REPEAL**

- 11.1 By-Law 4-99 and any amendments hereto is hereby repealed in its entirety.

**DONE AND PASSED** by the Council of the Town of Carberry in Council duly assembled, at the Town of Carberry, Manitoba, this 12<sup>th</sup> day of July, 2022.

#### **TOWN OF CARBERRY**

Original signed by Stuart Olmstead  
Mayor

Original signed by Grady Stephenson  
Chief Administrative Officer

Reading a First time this 14<sup>th</sup> day of June, 2022

Reading a Second time this 12<sup>th</sup> day of July, 2022

Reading a Third time this 12<sup>th</sup> day of July, 2022