

**THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE**

**BY-LAW NO. 2009-34**

**Being a By-law to repeal By-Law No. 94-01 and to regulate the operation of motorized snow vehicles within in the Township of Manitowadge.**

**WHEREAS** Section 8 subsection (1) of the *Municipal Act, 2001*, states the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** Section 7 subsection (2) of the *Motorized Snow Vehicles Act*, R.S.O. 1990, c.M.44 as amended, provides that a municipality may pass by-laws regulating, governing or prohibiting the operation of motorized snow vehicles within the municipality including any highways therein or any part or parts thereof.

**AND WHEREAS** the Council of The Corporation of the Township of Manitowadge deems it desirable and expedient in the interest of public safety to regulate, govern and prohibit the operation of motorized snow vehicles within the Townsite of Manitowadge.

**AND WHEREAS** the Manitou Sno-Drifters Inc. has requested of Council permission to provide access routes and trails for motorized snow vehicles within the Townsite of Manitowadge;

**AND WHEREAS** the Manitou Sno-Drifters Inc. has committed itself and its membership to the observance of certain restrictions and general rules of conduct while operating their snow machines within the Townsite of Manitowadge and the limits of the Township;

**AND WHEREAS** Subsection 425(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence;

**AND WHEREAS** Subsection 429(1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for offences under a by-law passed under the *Municipal Act, 2001*;

**AND WHEREAS** Section 4(2) of the *Trespass to Property Act*, R.S.O. 1990, c T.21 provides that an occupier may by notice prohibit a particular activity in respect of its lands and premises;

**NOW THEREFORE** the Council of The Corporation of the Township of Manitowadge enacts as follows that:

**1. DEFINITIONS:**

- (a) **"Council"** means the Council of The Corporation of the Township of Manitowadge.
- (b) **"Designated Parking Area"** means a parking area intended for the use of motorized snow vehicles (See Schedule "A").
- (c) **"Highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles; as defined in Section (1) of the *Motorized Snow Vehicle Act*, R.S.O., 1990, Chapter M.44.
- (d) **"Motorized Snow Vehicle"** means a self-propelled vehicle designed to be driven primarily on snow, as defined in Section 1 of the *Motorized Snow Vehicle Act*, R.S.O. 1990, Chapter M.44.

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- (e) **“Occupier”** means the Manitou Sno-Drifters Inc. who has responsibility for and control over the condition of the trails or the activities there carried on, from the 1<sup>st</sup> day of October and until the 30<sup>th</sup> day of April in each year.
- (f) **“Operator”** means the person having care and control of a motorized snow vehicle, “Operate” and “operating” shall have the same meaning.
- (g) **“Townsite”** means the built up area of The Corporation of the Township of Manitouwadge as indicated in Schedule “A”.
- (h) **“Trail”** means a track, passage, path, course, route or pathway made by continual tracking of a motorized vehicle and “trails” as outlined in Schedule “A” attached hereto and forming part of this By-law, which trails are classified as Ontario Federation Snowmobile Clubs (OFSC) trails and Trans-Ontario Provincial (TOPS) trails, established and maintained by the occupier.

**2. Operation of Motorized Snow Vehicles:**

The rules, regulations and provisions governing the operation of motorized snow vehicles as set out in the said *Motorized Snow Vehicles Act*, R.S.O., 1990, Chapter M.44, as amended from time to time, shall apply to the operation of motorized snow vehicles within the Township of Manitouwadge.

**3. Prohibited Areas:**

No person shall operate or permit the operation of a motorized snow vehicle or permit a motorized snow vehicle to stop, stand or park in, on, or upon those areas described on Schedule “B”, except for designated parking areas attached to Schedule “A” and attached hereto and forming part of this By-law.

**4. Designated Parking Area(s):**

Designated area for motorized snow vehicles will be provided for in the:

- 1. Manitouwadge Community Recreation Centre, west side of rear parking lot;
- 2. Parking lot adjacent to Huron Walk, located on the south side which is across from the Canada Post Building; and,
- 3. Kiwissa Ski Hill parking lot is unserviced and located to the east of the main vehicle parking area which is south of the Kiwissa Ski Hill Chalet building.

Designated parking signs will be posted.

No person shall permit a motorized snow vehicle to stop, stand or park in, on or upon any other area of the Manitouwadge Community Recreation Centre, the Downtown Core area which is bordered by Huron Walk and Shebandowan Avenue, or at the Kiwissa Ski Hill.

**5. Responsibilities of the Occupier:**

The occupier is responsible for the signing, maintaining and policing of the OFSC and TOPS trails as outlined in the attached Schedule “A”, all to the acceptable minimum standards set by the Ontario Federation of Snowmobile Clubs (OFSC). Failure by the occupier to honour its commitment to the Township in this By-law, shall be sufficient cause for Council, on notice by regular mail to the said occupier at its address of record, to repeal this by-law at any time.

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**6. Notice Requirements:**

In accordance with Section 5(1) of the *Trespass to Property Act*, R.S.O. 1990, c. T.11, Notice of Prohibitions set out in paragraphs 2, 3, 4 and 5 is hereby given. In addition, the Township of Manitouwadge shall publish the prohibitions at least on one (1) occasion in the local newspaper and on the Township Website.

**7. Exemptions:**

Sections 3 through 6 inclusive of this by-law shall not apply to any member of a Law Enforcement Agency, By-Law Enforcement Department, Fire Department or other Emergency Service Department or any employee of the Township of Manitouwadge, Public Utility Company, Cable Television Company or any service group or individual upon written approval of the Township of Manitouwadge while operating a motorized snow vehicle during the lawful execution of their duties.

**8. Owner May Be Convicted:**

The owner of a motorized snow vehicle may be charged with and convicted of an offence under this municipal by-law regulating, governing or prohibiting the operation of motorized snow vehicles, for which the driver of the motorized snow vehicle is subject to be charged unless, at the time of the offence, the motorized snow vehicle was in the possession of a person other than the owner without the owner's consent and on conviction the owner is liable to the penalty prescribed for the offence.

**9. Amendments:**

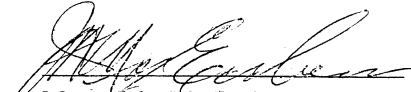
Notwithstanding any other provisions of this by-law, under special circumstances Council may, from time to time by way of a By-law, amend any provision of this bylaw.

**10. Penalties:**

Every person who contravenes the provisions of this By-law is guilty of an offence and upon conviction is subject to a penalty in accordance with the provisions of the *Provincial Offences Act*, R.S.O. 1990, Chapter P33 as amended from time to time.

- 11.** That this By-law comes into full force and effect upon receipt of the approval of the Set Fines Schedule as issued by the Regional Senior Judge of the Ontario Court, Criminal Division, Thunder Bay. At which time By-law Number 94-01 will be repealed and By-law Numbers 2009-03, 2001-10, 2000-29, 2000-05, 98-25 and 94-12 Amending By-laws are all hereby repealed.

**READ A 1ST AND 2ND TIME** this 9<sup>th</sup> day of December, 2009 and **READ A THIRD TIME AND FINALLY ENACTED** this 9<sup>th</sup> day of *December*, 2009

  
Mayor John MacEachern

  
Cecile Kerster, Municipal Manager Clerk



SCHEDULE "B" TO BY-LAW No. 2009-34

**AREAS PROHIBITED**

1. Pedestrian ways, including any sidewalk, pathway, footpath, or any other public facility intended for or used by the general public or set apart for the use of pedestrians and forming part of any highway or bridge, boulevard or other means of public communication;
2. Perry Lake Trail;
3. Any public park in the Township of Manitowadge, including Prospector Park;
4. Within a 10 meter radius of the Lion's Beach Playground Area as identified on attached Schedule "A";
5. Any ballpark or recreation field;
6. Any municipal gravel pits;
7. Community Centre grounds and property *except* designated motorized snow vehicle parking area.
8. Kiwissa Ski Hill, *except* the designated motorized snow vehicle parking area.
9. Cross Country Ski Trails.
10. Manitowadge Cemetery.
11. Municipal Golf Course.
12. Municipal Airport Property.
13. Municipal Landfill site.
14. Downtown Core bordered by and including Huron Walk and Shebandowan Street, as well as all parking areas therein, *except* the designated parking lot adjacent to and south of Huron Walk, across from the Canada Post Building;
15. Warbler Ditch;
16. Easement at rear of Otter Avenue and Beaver Drive from Station Road to Deer Avenue.
17. The Ditch adjacent to Manitou Road West and Graham Drive.