

**KINGSCLEAR BAND**

**BY - LAW # 12**

**BY - LAW Regulating the use of Motorcycles**

**All Terrain Vehicles and Snowmobiles**

**Within the Kingsclear Indian Reserve**

**WHEREAS:** Paragraphs **81(1)(b)(q)** and **(r)** of the Indian Act empowers the Council of the Kingsclear Band to enact by-laws respecting the regulation of traffic, with respect to any matter arising out of ancillary to the exercise of powers under **Section 81**, and to impose a penalty for the violation of a by-law made under **Section 81**;

**AND WHEREAS:** the Council of the Kingsclear Band is of the opinion that the indiscriminate use of motor vehicles, motorcycles, all terrain vehicles and snowmobiles is contrary to the welfare of band and other persons on the reserve, and that it is therefore in the best interests of the residents on the Kingsclear reserve, to regulate motorcycles, all terrain vehicles and snowmobiles within the Kingsclear Reserve;

**NOW THEREFORE:** the Council of the Kingsclear Band enacts a by-law therefore as follows:

**SHORT TITLE**

1. This by-law may be cited as the "All Terrain Vehicles By-law".

**INTERPRETATION**

2. In this by-law,

"access road" means a driveway

- a) that is situated on leased land, on land that is subject to a certificate of possession, or on land that is otherwise in private occupation, and

- b) that leads from a public road or a reserve road and is used to provide access from such road to such land, and in respect of which no invitation to pass has been extended to the general public by the person in possession or occupation thereof;

**"All terrain vehicle"** means a self propelled vehicle that:

- a) is designed primarily for the movement of people or goods on unprepared surfaces; and
- b) has wheels or tracks in contact with the ground;

**and includes:**

- c) a restricted use motorcycle,
- d) a mini-bike; and
- e) an all terrain cycle;

**but does not include;**

- f) a golf cart,
- g) a snowmobile as defined in the by-law, or
- h) any vehicle that is required to be registered pursuant to the Highway Traffic Act of the Province of **New Brunswick**;

**"highways"** means a road, parkway, driveway, square or place designated and intended for or used by the general public for the passage of motor vehicle.

**"motorcycle"** means a motor vehicle that

- a) is propelled or driven by any means other than by muscular power,
- b) has two or more wheels, and
- c) does not have a cab for a driver;

- "motor vehicle"** includes an all terrain vehicle, motorcycle or snowmobile;
- "operator"** means a person who uses, operates or is actually in physical control of a motor vehicle;
- "officer"** means any police officer, police constable, or other person charged with the duty of preserve and maintain the public peace, and a by-law enforcement officer;
- "power train"** means to manoeuvre a motor vehicle in such a manner causing the rear of the vehicle to depart from its ordinary line of progress by the sudden use of acceleration or braking;
- "public road"** means a road on which **provincial law** applies;
- "snowmobile"** means a motor vehicle that;
- a) is not equipped with wheels but is equipped with tractor treads alone or with skis or with skis and propeller,
  - b) is designed primarily for operating over snow and is used exclusively for that purpose, and
  - c) is designed for that purpose;
- "towed conveyance"** includes any sled, cutter, trailer, toboggan or carrier that may be towed by a snowmobile;
- "u-turn"** means the turning of motor vehicle as to cause it to proceed in the opposite direction from which it was proceeding immediately prior to the commencement of such turn;
- "reserve"** means the tract of land, the **legal** title of which is vested in **Her Majesty** for the use and benefit of the **Kingsclear Band**;
- "reserve road"** means a road or other way over which vehicles are accustomed to pass, other than a public road or an access road;
- "road"** includes a reserve road, access road, public road or highway;

"vehicle" means a device by which a person or thing is or may be transported or drawn, other than a device designed to be moved by human power alone and without restricting the generally of the forgoing, includes a motor vehicle.

### **GENERAL PROHIBITIONS**

3. No person shall drive a motorcycle, all terrain vehicle or snowmobile on any reserve road or access road at a speed greater than **30** kilometres per hour.
  4. No operator of a motorcycle, all terrain vehicle or snowmobile shall execute a power turn on any reserve road or access road on the reserve.
  5. No person shall cause a motorcycle, all terrain vehicle or snowmobile to make a **u-turn** at any intersection between two roads.
  6. No person shall operate a motorcycle, all terrain vehicle or snowmobile without due care and attention or without reasonable consideration for other persons or property upon the reserve.
  7. No person shall operate a snowmobile, all terrain vehicle, or motorcycle on the reserve between the hours of **10:00 p.m.** and **6:00 a.m.**.
  8. No operator, while operating a motorcycle, an all terrain vehicle or a snowmobile shall permit more than one passenger to ride.
  9. No person shall operate a snowmobile on the reserve roads or access road which tows a conveyance unless the towed conveyance is connected to the snowmobile by a rigid drawbar that is so constructed and connects the snowmobile and the towed conveyance so that a distance of no more than **one** metre separates the extreme rear point of the snowmobile and the extreme front part of the towed conveyance.
- 10(1)** No person who is or, in the absence of evidence to the contrary, appears to be under the age of sixteen years, shall operate a snowmobile, an all terrain vehicle or motorcycle on any road.
- (2)** Notwithstanding **subsection (1)** any person who is or, in the absence of evidence to the contrary, appears to be under the age of sixteen years, may operate a snowmobile, an all terrain vehicle or a motorcycle upon a road provided he or she is under the direction of a parent, custodian or guardian and is using the vehicle in the performance of domestic or household duties.

**EXEMPTIONS**

- 12(1) No person commits an offence under this by-law he or she acts with legal justification or excuse.
- (2) No officer commits an offence under this by-law while operating a motorcycle, or a snowmobile in such a manner and at such time so as to properly exercise his lawful duties or employment.

**PENALTY**

- 13. Any person who violates any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand (\$1000.00) or to imprisonment for a term not exceeding (30) days or both.

**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the **Council of the Kingsclear Band** this 18<sup>th</sup> day of May, 1993

The quorum of the Council is 3 members

  
CHIEF

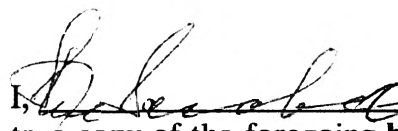
  
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 Chief of the **Kingsclear Band**, do hereby certify that a true copy of the foregoing by-law was **mailed** to the **Minister of Indian Affairs and Northern Development** at the **Regional Office** pursuant to **Subsection 82(1)** of the **Indian Act** this 19<sup>th</sup> day of May, 1993.

