

OFF-HIGHWAY VEHICLE CONTROL BYLAW

BEING A BYLAW OF THE COUNTY OF WARNER NO. 5, IN THE PROVINCE OF ALBERTA, TO REGULATE THE OPERATION OF OFF-HIGHWAY VEHICLES IN THE COUNTY OF WARNER NO. 5.

WHEREAS pursuant to the *Traffic Safety Act*, Council may, by bylaw, authorize the use of Off-highway Vehicles on highways under its direction, control and management; and

WHEREAS pursuant to the provisions of the *Municipal Government Act*, Council may pass bylaws for municipal purposes respecting the following matters:

- a) the safety, health and welfare of people and the protection of people and property;
- b) people, activities and things in, on or near a public place or place that is open to the public; and
- c) the enforcement of bylaws.

WHEREAS it is the desire of the Council of the County of Warner No. 5 to regulate the use of Off-Highway Vehicles within the County of Warner No. 5;

NOW THEREFORE the Council of the County of Warner No. 5, in the Province of Alberta, duly assembled enacts as follows:

PART 1 - SHORT TITLE

1. This Bylaw may be cited as the Off-Highway Vehicle Control Bylaw.

PART 2- INTERPRETATION AND APPLICATION

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires;
 - a. **Chief Administrative Officer** means the Chief Administrative Officer of the County of Warner No. 5 or his delegate;
 - b. **Council** means the Council of the County of Warner No. 5;
 - c. **Highway** means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes:
 - i. a sidewalk, including a boulevard adjacent to the sidewalk,
 - ii. if a ditch lies adjacent to and parallel with the roadway, the ditch, and
 - iii. if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be, but does not include a place declared by regulation not to be a highway.
 - d. **Municipality** means the municipal corporation of the County of Warner No. 5 and includes the geographical area within the boundaries of the County of Warner No. 5 where the context so requires;
 - e. **Municipal Property** means any lands owned by the Municipality, or under the direction, control and management of the Municipality, to which members of the public have access by express or implied invitation, but does not include Highways;
 - f. **Off-Highway Vehicle or OHV** means any motorized mode of transportation built for cross-country travel on land, water, snow, ice or marsh or swamp land or on other natural terrain and, without limiting the generality of the foregoing, includes, when specifically designed for such travel,
 - i. 4-wheel drive vehicles,
 - ii. low pressure tire vehicles,
 - iii. motor cycles and related 2-wheel vehicles,
 - iv. amphibious machines,
 - v. all-terrain vehicles,
 - vi. snow vehicles,
 - vii. any other means of transportation that is propelled by any power other than muscular power or wind,but does not include
 - viii. motor boats,
 - ix. miniature vehicles, including but not limited to go carts, golf carts, pocket bikes, riding lawn mowers, scooters, and mopeds that cannot be registered pursuant to the *Operator Licensing and Vehicle Control Regulation*, or
 - x. any other vehicle exempted from being an Off-Highway Vehicle by regulation;
 - g. **Operate or Operating** means to drive, or be in actual physical control of an Off-Highway Vehicle;

- h. **Operator's License** means an operator's license issued pursuant to the *Traffic Safety Act* and includes a license or permit issued in another jurisdiction that permits a Person to operate a motor vehicle of the same class;
- i. **Owner** means the Person named as the registered owner of the Off-Highway Vehicle, or any Person renting an Off-Highway Vehicle, or any Person having the exclusive use of an Off-Highway Vehicle under a lease, or any Person otherwise having the exclusive use of an Off-Highway Vehicle for a period of more than thirty (30) days;
- j. **Peace Officer** means:
 - i. a Bylaw Enforcement Officer appointed pursuant by the *Municipal Government Act*; or
 - ii. a police officer appointed pursuant to the *Police Act*; or
 - iii. a peace officer appointed pursuant to the *Peace Officer Act* whose appointment includes enforcement of the Municipality's bylaws;
- k. **Person** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- l. **Roadway** means that part of a Highway intended for use by vehicular traffic;
- m. **Safety Helmet** means a safety helmet intended for use by an operator or passenger of an Off-Highway Vehicle that meets all the conditions of the *Off-highway Vehicle Regulation, Section 9.1*.
- n. **Violation Ticket** means a violation ticket issued pursuant to the *Provincial Offences Procedures Act*.

RULES OF INTERPRETATION

- 3. Any heading, sub-headings, or tables of contents in this Bylaw are included for guidance purposes and convenience only and shall not form part of this Bylaw.
- 4. Any reference to a statute is a statute of the Province of Alberta unless otherwise stated and includes reference to any regulations enacted thereunder.
- 5. Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefore.
- 6. This Bylaw is gender-neutral and, accordingly, any reference to one gender includes another.
- 7. Every provision of this Bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.

APPLICATION

- 8. This Bylaw applies to Highways under the direction, control and management of the Municipality and nothing in this Bylaw authorizes, or in any way affects, the Operation of an Off-Highway Vehicle on any Provincial Highway.
- 9. Nothing in this Bylaw relieves any Person from complying with any provision of any federal or provincial legislation affecting Off-Highway Vehicles, including without restriction, the *Traffic Safety Act* and all applicable regulations thereunder.

PART 3 – OPERATING OFF-HIGHWAY VEHICLES

- 10. A Person may only Operate an Off-Highway Vehicle on highways under the direct control of the Municipality:
 - in the parking lane of the Roadway; or
 - a. where the Roadway does not include a parking lane or where the parking lane is obstructed, in the rightmost lane of the Roadway; and
 - b. at a maximum speed not to exceed fifty (50) kilometers per hour, or where a lower speed limit has been prescribed, in excess of the prescribed limit.
- 11. For greater certainty, and without in any way restricting Section 9, a Person may Operate an Off-Highway Vehicle on a Highway provided that at all times the Person shall:
 - a. travel in the same direction as vehicles travelling upon the Roadway; and
 - b. travel in single file with any other Off-Highway Vehicles, and
 - c. the operator of an off-highway vehicle may cross any highway, including the roadway, the parking lane or sidewalk portion of the highway, as the case may require, if
 - i. the operator stops the off-highway vehicle before entering onto the highway or portion of the highway to be crossed,

- ii. all passengers disembark from the off-highway vehicle and any vehicle or thing attached to it before the driver commences to drive the off-highway vehicle across the highway,
 - iii. the operator yields the right of way to all other vehicles and persons on the highway,
 - iv. the operator drives the off-highway vehicle across the highway or portion of the highway to be crossed
 1. by the most direct and shortest route of travel available or
 2. if the most direct and shortest route of travel available to the driver is not the safest route, with reasonable care and caution by the safest and most direct route available to the driver,
- d. the driver waits to proceed across the highway until the condition of the traffic on the highway being entered on and crossed is such that the off-highway vehicle can enter on and cross the highway in safety.

PART 4 • OPERATIONAL RESTRICTIONS

12. Without restricting the generality of section 9, no Person shall Operate an Off-Highway Vehicle in the Municipality unless:
- a. the Off-Highway Vehicle is duly:
 - i. registered;
 - ii. insured; and
 - iii. displays a valid license plate,

pursuant to the *Traffic Safety Act*. and
 - b. the Off-Highway Vehicle is equipped with headlamps, tail lamps, an exhaust muffler and such other equipment as required by the *Off-Highway Vehicle Regulation*; and
 - c. the Person Operating the Off-Highway Vehicle has a valid Operator's License.
13. Section 11 above does not apply to the Operation of an Off-Highway Vehicle on land:
- a. owned by the Person Operating the Off-Highway Vehicle; or
 - b. on land owned by some other Person if that other Person has expressly or impliedly consented to the Operation of that Off-Highway Vehicle on that land.
14. No Person shall Operate an Off-Highway Vehicle on Municipal Property.
15. No Person shall Operate an Off-Highway Vehicle on a Highway, except in accordance with this Bylaw or as otherwise permitted under the *Traffic Safety Act*.
16. No Person shall Operate an Off-Highway Vehicle in the Municipality unless the Person is at least 14 years of age.
17. No Person shall Operate an Off-Highway Vehicle on a Highway between the hours of 11:00 p.m. and 8:00 a.m.
18. No Person shall Operate or ride as a passenger on an Off-Highway Vehicle unless that Person is wearing a Safety Helmet securely attached on the Person's head unless the Person is a bona fide member of the Sikh religion and wears a turban.
19. No Person shall Operate or ride as a passenger on an Off-Highway Vehicle where the number of Persons on the Off-Highway Vehicle exceeds the number of Persons that the Off-Highway Vehicle is designed to carry.
20. No Person shall Operate an Off-Highway Vehicle on any Highway where the Municipality has placed a sign or signs prohibiting such operation.
21. No Person shall operate an Off-Highway Vehicle within the Municipality in a manner that constitutes a nuisance as reasonably determined by a Peace Officer in his sole discretion.
22. Operators of Off-Highway vehicles with Hamlets and Subdivisions within the County shall use the highways of the County within the said Hamlets and Subdivisions only to leave and to return to the Hamlet or Subdivision by the most direct route possible to and from their residence.

PART 5 • EXEMPTIONS

23. The provisions of this Bylaw shall not apply so as to restrict in any way the operation of an OHV by a Peace Officer or firefighter while in the performance of their official duties.
- a. An operator may drive an Off-Highway Vehicle on Municipal Property where the Person, while in the performance of their official duties, is:

- i. an employee or volunteer of the Municipality;
- ii. an agent or contractor acting on behalf of the Municipality.

PART 6 • PENALTIES

24. A Peace Officer, who on reasonable and probable grounds believes that an offence under this Bylaw has been committed, may seize and detain any off-highway vehicle in respect of which the offence was committed until the final disposition of any proceedings that may be taken under this Bylaw or the Traffic Safety Act or any other regulations pertaining to off-highway vehicles.
25. The owner of an off-highway vehicle that is involved in a contravention of this Bylaw is guilty of an offence unless he or she proves to the satisfaction of any judicial proceedings that at the time of the offence the off-highway vehicle was not being driven or left parked by him/her or any other person with his/her consent, expressed or implied.
26. Any person who permits another person to operate an off-highway vehicle in contravention of this Bylaw is guilty of an offence.
27. Every person who contravenes the provisions of this Bylaw is guilty of an offence and liable on summary conviction to a penalty as prescribed in Schedule "A" of this Bylaw.

Bylaw 910-14 and all amendments are hereby repealed.

This Bylaw shall come into force and have effect upon it being read a third time and passed.

READ A FIRST TIME THIS 22nd day of May 2018.

READ A SECOND TIME THIS 22nd day of May 2018.

READ A THIRD TIME and PASSED 22nd day of May 2018.

Reeve – Ross Ford

Administrator – Shawn Hathaway

SCHEDULE 'A'

WHEREAS under the provisions of the Traffic Safety Act Revised Statutes of Alberta 2000 Chapter T-6, by the Provincial Offences Procedures Act R.S.A. 2000, c. P-34, pursuant to Part 2 and 3; and amendments thereto and under the provisions Section 568 of the Municipal Government Act Revised Statutes of Alberta 2000 Chapter M-26 and amendments thereto, the Council of a municipality may, by bylaw provide for the payment of traffic tickets or summons out of court.

A notice or form (commonly called a traffic tag or a violation ticket) may be issued by a Peace Officer or Bylaw Enforcement Officer appointed by Council to any person charged with a breach of any of the provisions of this bylaw and hereto mentioned acts shall apply in regards to the payment.

A person found guilty of an offence against this bylaw of the County of Warner No.5 where no penalty has been specifically provided is liable on summary conviction to a fine not exceeding three hundred dollars (\$300.00) exclusive of costs and in default of payment to imprisonment for a period not exceeding six months, unless the fine and cost including the costs of the committal are sooner paid.

| SECTION | OFFENCE | PENALTY |
|---------|---|----------|
| 10b | Exceeding Speed Limit | \$50.00 |
| 11a | Travel same direction | \$50.00 |
| 11b | Travel Single File | \$50.00 |
| 11c | Cross highway contrary to conditions | \$100.00 |
| 12 | Improper equipment or no equipment (lights, muffler, etc) | \$50.00 |
| 14 | Operate on municipal property | |
| 16 | Operate under age 14 | \$50.00 |
| 18 | Operate while not wearing a helmet | |
| 19 | Exceeding passenger limit | |
| 20 | Operate in posted area | |
| 22 | Operate in Hamlet or Subdivision | \$100.00 |
| 26 | Permit others to operate in contravention | \$75.00 |