



BYLAW NO. 2015/16/T

Name of Bylaw: Off-Highway Vehicle Bylaw

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;

NOW THEREFORE the Council of the Town of Drayton Valley, duly assembled, hereby enacts as follows:

1. **TITLE**

This Bylaw may be cited as the "Off-Highway Vehicle Bylaw" of the Town of Drayton Valley.

2. **PURPOSE**

The purpose of this Bylaw is to establish regulations for the use Off-Highway Vehicles within the Town of Drayton Valley.

3. DEFINITIONS

In this Bylaw, including this section, unless the context otherwise requires:

- 3.1 *Act* means the *Traffic Safety Act*, R.S.A. 2000, Chapter T-6;
- 3.2 *alley* means a narrow highway intended chiefly to give access to the rear of buildings and parcels of land;
- 3.3 *boulevard* means, that part of a highway that:
- a. is not roadway, and
 - b. is that part of a sidewalk or walkway that is not specifically adapted to the use of, or ordinarily used by, pedestrians;
- 3.4 *Bylaw Enforcement Officer* means an individual or individuals appointed by the Town pursuant to the *Municipal Government Act*, to enforce the Town's Bylaws, and includes a member of the Royal Canadian Mounted police and any Special Constable employed by the Town;
- 3.5 *CAO* means the Town of Drayton Valley Chief Administrative Officer, who may also be referred to as the Town Manager;
- 3.6 *Council* means the Municipal Council for the Town of Drayton Valley;
- 3.7 *highway* means any thoroughfare, street, road, trail, avenue, parkway, viaduct, lane, alley, square, bridge, causeway, trestle-way or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and Includes:
- a. a sidewalk (including a boulevard portion thereof);
 - b. where a ditch lies adjacent to and parallel with the roadway, the ditch; and
 - c. where a highway right-of-way is contained between a property line and one side of the roadway, all land between the property line and the edge of the roadway, as the case may be, but does not include a place declared by the Lieutenant Governor in Council not to be a highway;
- but does not include a place declared by regulation passed pursuant to the *Act* not to be a highway;

3.8 *insured* means an Off-Highway Vehicle which is insured by a policy of insurance approved under Part 7 of the *Insurance Act* and containing the coverage and limits fixed by that Part for automobiles in relation to public liability, property damage and accident benefits in respect of that Off-Highway Vehicle;

3.9 *municipal property or public place* means any highway, parkland, reserve lands, public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, and includes any open space to which the public may have or are permitted to have access whether on payment or otherwise, that is owned by the Town of Drayton Valley;

3.10 *Off-Highway Vehicle (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:

- a. 4-wheel drive vehicles,
- b. low pressure tire vehicles,
- c. motor cycles and related 2-wheel vehicles,
- d. amphibious machines,
- e. all-terrain vehicles (ATV),
- f. snow vehicles, and
- g. any other means of transportation that is propelled by any power other than muscular power or wind;

but does not include:

- a. motor boats,
- b. miniature vehicles, including but not limited to go carts, golf carts and pocket bikes, that cannot be registered pursuant to the *Operator Licensing and Vehicle Control Regulation*, or
- c. any other vehicle exempted from being an off highway vehicle by regulation passed pursuant to the *Act*.

- 3.11 *operate or operating* means to drive, or be in actual physical control of, an Off-Highway Vehicle.
- 3.12 *operator* means a person who drives a vehicle or operates equipment;
- 3.13 *owner* means the person named as the registered owner of the Off-Highway Vehicle, and includes any person renting an Off-Highway Vehicle, or having the exclusive use of an Off-Highway Vehicle under a lease that has a term of more than thirty (30) days or otherwise having the exclusive use of an Off-Highway Vehicle for a period of more than thirty (30) days.
- 3.14 *Peace Officer* means a person appointed as a Peace Officer pursuant to section 7 of the *Peace Officer Act*, S.A. 2006, chapter P-35, and also includes but is not limited to a Police Officer, Royal Canadian Mounted Police Officer, Special Constable, Bylaw Enforcement Officer, or a person designated by Council to enforce the provisions of this Bylaw;
- 3.15 *pedestrian* means:
- a. a person on foot; or
 - b. a person in or on a mobility aid;
- and includes those persons designated by regulation as pedestrians and for the purposes of this Bylaw, includes users of in-line skates, roller skates, and non-motorized scooters;
- 3.16 *person* includes a corporation, partnership, or individual, and the heirs, executors, administrators or other legal representative of an individual, joint venture, proprietorship, association, or society;
- 3.17 *Permit* means written authorization issued by the CAO which evidences the CAO's permission to operate a specified type of vehicle upon a highway or roadway within the Town;
- 3.18 *roadway* means that part of a highway intended for use by vehicular traffic, and for the purposes of this Bylaw, means roadways within the Town;

- 3.19 *sidewalk* means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a highway between:
- a. the curb line; or
 - b. where there is no curb line, the edge of the roadway;
- and the adjacent property line, whether or not it is paved or improved;
- 3.20 *time* as referred to in this Bylaw, shall mean either Mountain Standard Time or Mountain Daylight Savings Time, whichever is proclaimed to be in effect by the Province of Alberta;
- 3.21 *Town* means the municipal corporation of the Town of Drayton Valley;
- 3.22 *vehicle* means a device in, upon, or by which a person or thing may be transported or drawn upon a highway and includes a combination of vehicles but does not include a mobility aid.
- 3.23 *Violation Tag* means a tag or similar document issued by the Town for the purpose of notifying a person that an offence has been committed for which a prosecution may follow;
- 3.24 *Violation Ticket* means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*, RSA 2000 chapter P-34.

4. APPLICATION AND OVERARCHING AUTHORITY

- 4.1 This Bylaw applies to municipal property and highways under the direction, control and management of the Town and nothing in this Bylaw authorizes, or in any way affects, the operation of an Off-Highway Vehicle on any provincial highway.
- 4.2 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 *Act* and all applicable regulations thereunder.
- 4.3 Notwithstanding anything in this Bylaw, no person shall act in contravention of:
- a. the directions of a Peace Officer acting in the course of his or her employment duties; or

- b. in the absence of circumstances set out under subsection a., a traffic control device placed by or under the direction of the Town.

4.4 No Person other than a Peace Officer shall attempt to direct or regulate traffic or place anything resembling a traffic control device other than with the permission or delegation of, and in accordance with any conditions imposed by, the CAO.

5. OPERATING RESTRICTIONS

No person shall operate an OHV on a highway or municipal property, except in accordance with this Bylaw or as otherwise permitted under the *Act*.

6. EXEMPTIONS

6.1 Notwithstanding any other provision of this Bylaw, the following persons may operate an OHV on a highway and municipal property while in the performance of their official duties as:

- a. a Peace Officer, firefighter or other emergency service responder;
- b. an employee or volunteer of the Town; or
- c. an agent or contractor acting on behalf of the Town.

6.2 Notwithstanding section 6.1 of this Bylaw, Council may, at their discretion by resolution, grant permission for the operation of OHVs in any designated area within the Town for a designated time or event.

6.3 During times of high to extreme fire hazard or extreme weather conditions as defined by Alberta Environmental Protection Land and Forest Services, all use of OHVs may be banned within the limits of the Town at the direction of the Drayton Valley-Brazeau County Fire Chief or his designate.

6.4 No person permitted to operate an OHV pursuant to sections 6.1 or 6.2 above shall operate an OHV:

- a. at a speed in excess of thirty (30) kilometres per hour;
- b. which is not insured;
- c. if he/she does not possess a valid Alberta class 5 driver's license;

- d. without using the equipment's built-in safety devices, properly functioning headlights and taillights, and a functioning muffler;
 - e. without due care and attention; or
 - f. without yielding the right of way to pedestrians and other vehicles.
- 6.5 Any OHV being operated pursuant to sections 6.1 or 6.2 above shall be limited to containing only the driver, unless the vehicle is specifically designed to carry a passenger.
- 6.6 Any person operating or present as a passenger on an OHV pursuant to sections 6.1 and 6.2 above, shall be required to wear an approved safety helmet securely attached to his/her head.

7. SIDEWALK SNOW REMOVAL

- 7.1 A person may operate an OHV on a highway for the purpose of sidewalk snow removal provided that:
- a. a Permit has been issued to the person in accordance with this Bylaw;
 - b. the OHV must be:
 - i. properly registered and insured for such use;
 - ii. equipped with a snowblade, bucket or broom attachment; and
 - iii. equipped with a reflective safety flag that projects at least one (1) metre above the seat of the OHV;
 - c. the person operating the OHV for the purposes of sidewalk snow removal must:
 - i. be eighteen (18) years of age or older;
 - ii. wear an approved safety helmet if required as a condition of the Permit;
 - iii. does not carry any passengers;
 - iv. drives with due care and attention;

- v. yields the right of way to pedestrians and other vehicles; and
- vi. not travel at a speed in excess of thirty (30) kilometres per hour;
- d. the OHV shall only be driven on a highway within a one (1) kilometre radius of the address provided to the CAO for the purpose of applying for the Permit; and
- e. the OHV is otherwise operated in accordance with the terms and conditions imposed on the Permit.

8. PERMITS

- 8.1. A permit issued in relation to activities governed by this Bylaw may be issued on such terms and conditions as the CAO deems appropriate.
- 8.2. A person to whom a Permit has been issued pursuant to this Bylaw and any person carrying out an activity otherwise regulated, restricted or prohibited by this Bylaw pursuant to such Permit, shall comply with any terms or conditions forming part of the Permit and shall produce the Permit to a Peace Officer upon request.
- 8.3. A person who contravenes any term or condition of a Permit issued pursuant to this Bylaw is guilty of an offence.
- 8.4. A person who makes any false or misleading statement or provides any false or misleading information to obtain a Permit pursuant to this Bylaw is guilty of an offence.
- 8.5. If any term or condition of a Permit issued pursuant to this Bylaw is contravened, in addition to any other remedy available to the Town, the CAO may immediately cancel the Permit.
- 8.6. The onus of proving a Permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this Bylaw is on the person alleging the existence of such a Permit on a balance of probabilities.

9. REVOKING PERMITS

9.1 The CAO may, in writing, alter, suspend or revoke a Permit issued by him or her in accordance with this Bylaw if it is determined that:

- a. the Permit was issued in error;
- b. the Permit was issued based on incorrect information supplied to the Town;
- c. the Permit issued is in violation of any other Bylaw or resolution; or
- d. circumstances exist whereby the CAO, acting reasonably, determines that the Permit should be altered, suspended or revoked.

9.2 In suspending or revoking the Permit, the CAO may require that the highway be made passable to the satisfaction of the Town.

9.3 In addition to the specified penalty, all work being performed with an OHV without a Permit shall be stopped immediately and the person performing the work shall be liable for costs incurred in making the highway passable.

10. AUTHORITY TO ENFORCE

Any Peace Officer is hereby authorized to enforce this Bylaw.

11. TEMPORARY NOTICES/MARKINGS

A Peace Officer may, in enforcing this Bylaw, place temporary and removable markings or notices on any vehicle or trailer being investigated in relation to a contravention of this Bylaw.

12. DELEGATION OF AUTHORITY

The CAO may delegate his or her authority under this Bylaw to another employee of the Town.

13. REMOVAL AND IMPOUNDMENT OF VEHICLE

- 13.1 A Peace Officer may cause to be removed and/or impounded any vehicle that is in contravention of a provision of this Bylaw.
- 13.2 Notwithstanding that the vehicle may be parked in compliance with this Bylaw, a Peace Officer may cause to be removed and/or impounded any vehicle parked on a highway where emergency conditions require the vehicle's removal from the highway.
- 13.3 A Peace Officer shall notify the owner of a vehicle in the event of the vehicle's removal in accordance with section 13.1 or 13.2.
- 13.4 Any vehicle removed under section 13.1 or 13.2 shall be delivered to an impound facility designated by the CAO, where it will remain impounded until claimed by the owner or his/her authorized agent, or in accordance with applicable provincial laws.
- 13.5 The owner or authorized agent of any vehicle removed as a result of a contravention of this Bylaw shall pay to the Town all storage and removal charges. Such charges shall be in addition to any fine or penalty imposed in respect of any such contravention.
- 13.6 In the event that an owner of a vehicle does not claim such vehicle, the storage and removal charges may be collected pursuant to the provisions of the Act.

14. OFFENCES AND VIOLATION

- 14.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable to:
 - a. payment of the penalty as set out in Schedule "A" hereto; or
 - b. for any offence for which there is no penalty specified, to a penalty of not less than one hundred (\$100.00) dollars and not more than ten thousand (\$10,000.00) dollars;and in default of payment of any penalty, to imprisonment for up to six (6) months.

- 14.2 a. Where a Peace Officer has reasonable grounds to believe that any person has committed a breach or contravention of any provision of this Bylaw the Peace Officer may issue such persons a Violation Tag pursuant to this Bylaw, a Violation Ticket in accordance with the provisions of the *Provincial Offences Procedure Act*, R.S.A. 2000, Chapter P-34, and the regulations thereunder, or both.
- b. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues and any person guilty of such an offence is liable to a fine in an amount not less than that established by the Bylaw for each such day.
- c. For the purposes of this Bylaw, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred in the course of the employee's employment with the person, or in the course of the agent's exercising the powers of performing the duties on behalf of the person under their agency relationship.
- d. When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- e. If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
- f. The Violation Ticket or Violation Tag must specify the date of the offence, the time of the offence, the place where the offence occurred and the Section of the Bylaw which was contravened. If a Violation Tag is issued in respect of an offence, the Violation Tag must also specify the fine amount established by this Bylaw for the offence.

15. SERVICE OF A NOTICE OR VIOLATION TICKET OR BYLAW VIOLATION TAG

15.1 A Violation Tag or Violation Ticket shall be deemed to be sufficiently served when it is:

- a. served personally on the accused;
- b. mailed to the address of the registered owner of the vehicle concerned or to the person concerned; or
- c. attached to or left upon the vehicle allegedly involved in the offense.

16. PAYMENT

Upon production of any Violation Ticket or Violation Tag within fourteen (14) days from the date of service of such Ticket or Tag, together with the payment of the sum specified in the attached Schedule "B", to a person authorized by the Town to receive such payment, an official receipt for such payment shall be issued, and subject to the provisions of this section, such payment shall be accepted in lieu of prosecution.

17. PENALTIES

17.1 The specified penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in the attached Schedule "A" in respect of that provision.

17.2 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than ten thousand (\$10,000.00) dollars and in default of payment is liable to imprisonment for a term not exceeding six (6) months.

17.3 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a person from the necessity of paying any fees, charges or costs from which he is liable under the provisions of this Bylaw.

18. INTERPRETATION

18.1 Words used in the singular include the plural and vice-versa.

18.2 When a word is used in the masculine or feminine it will refer to either gender.

18.3 Words used in the present tense include the other tenses and derivative forms.

19. SEVERABILITY

If any provision of this Bylaw is held be invalid by a court of competent jurisdiction, that decision will not affect the validity of the remaining provisions of the Bylaw.

AND THAT this Bylaw shall rescind Part 2, Section 210 of Bylaw No. 2000-09 of the Town of Drayton Valley, and shall have force and come into effect from and after the date of third reading thereof.

Read a first time this 20th day of April, 2016, A. D.

Read a second time this 1st day of June, 2016, A. D.

Read a third and final time this 1st day of June, 2016, A. D.

MAYOR

Acting CAO

SCHEDULE "A"
FINES AND PENALTIES

Section	Violation	Penalty		
		First Offence	Second Offence	Third Offence
5	Operate OHV on a highway or municipal property	\$150.00	\$300.00	\$600.00
6.2	Operate OHV outside of a designated area or time or event	\$150.00	\$300.00	\$600.00
6.3	Operate OHV during banned period	\$200.00	\$400.00	\$800.00
6.4 a.	Operate OHV in excess of 30 km/hour	\$200.00	\$400.00	\$800.00
6.4 b.	Operate uninsured OHV	\$250.00	\$500.00	\$1,000.00
6.4 c.	Not possess a valid Alberta class 5 driver's license	\$150.00	\$300.00	\$600.00
5 6 6.4 d.	Operate OHV without using the equipment's built-in safety devices, properly functioning headlights and taillights, and a functioning muffler	\$200.00	\$400.00	\$800.00
6.4 e.	Operate OHV without due care and attention	\$200.00	\$400.00	\$800.00
6.4 f.	Fail to yield the right of way to pedestrians and other motor vehicles	\$200.00	\$400.00	\$800.00
6.5	Carry passenger in OHV not designed for passengers	\$200.00	\$400.00	\$800.00
6.6	Fail to wear safety helmet	\$150.00	\$300.00	\$600.00
7.1 a.	Operate OHV for snow removal without Permit	\$100.00	\$200.00	\$300.00
7.1 b.	Fail to meet requirements of an OHV for snow	\$100.00	\$200.00	\$300.00

	removal			
7.1 c.	Contravene requirements for OHV operator	\$150.00	\$300.00	\$600.00
7.1 d.	Operate OHV for snow removal outside of 1 km radius indicated in Permit	\$100.00	\$200.00	\$400.00
7.2 e., 8.2 & 8.3	Contravene term or condition of Permit	\$200.00	\$400.00	\$800.00
8.4	Provide false or misleading information in Permit application	\$200.00	\$400.00	\$800.00

1575462; June 1, 2016