

**BYLAW NO. 2012/13**

**BEING A BYLAW OF THE COUNTY OF WETASKIWIN NO. 10, IN THE PROVINCE OF ALBERTA, TO REGULATE THE OPERATION OF OFF-HIGHWAY VEHICLES IN THE COUNTY OF WETASKIWIN NO. 10.**

**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 County of Wetaskiwin No. 10, in the Province of Alberta, duly assembled enacts as follows:

**Title**

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

**Definitions**

- 2** In this Bylaw:

- (a) "Chief Administrative Officer" means the Chief Administrative Officer of the County of Wetaskiwin No. 10 or his delegate;
- (b) "Council" means the Council of the County of Wetaskiwin No. 10;
- (c) "County" means the municipal corporation of the County of Wetaskiwin No. 10 and includes the geographical area within the boundaries of the County of Wetaskiwin No. 10 where the context so requires;
- (d) "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;

- (e) "Municipal Property" means any lands owned by the County, or under the direction, control and management of the County, 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 and pocket bikes, 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) "OHV Special Event" means any race, derby, rally or other organized social or sporting event involving Off-Highway Vehicles being operated on a Highway;
- (h) "Operate" or "Operating" means to drive, or be in actual physical control of an Off-Highway Vehicle;
- (i) "Operator's Licence" means an operator's licence issued pursuant to the *Traffic Safety Act* and includes a licence or permit issued in another jurisdiction that permits a person to operate a motor vehicle of the same class;
- (j) "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;
- (k) "Peace Officer" means
- (i) a member of the Royal Canadian Mounted Police, or
  - (ii) a bylaw enforcement officer appointed by the County;
- (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
- (i) meets one or more of the standards for motor cycle safety helmets adopted in the *Vehicle Equipment Regulation* passed pursuant to the *Traffic Safety Act*, and
  - (ii) has the mark or label CSA, DOT, BSI or the Snell Memorial Foundation indicating that the safety helmet met one or more of the specifications required on the date on which it was manufactured;
- (n) "Violation Ticket" means a violation ticket issued pursuant to

Part II of the *Provincial Offences Procedures Act*.

**Application**

- 3** This Bylaw applies to Highways under the direction, control and management of the County and nothing in this Bylaw authorizes, or in any way affects, the Operation of an Off-Highway Vehicle on any Provincial Highway.
- 4** (1) 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.
- (2) For greater certainty, and without in any way restricting subsection (1), no person shall Operate an Off-Highway Vehicle on a Highway unless the Off-Highway Vehicle is
- a) duly registered and insured pursuant to the *Traffic Safety Act*, and
  - b) equipped with headlamps, tail lamps, an exhaust muffler and such other equipment as required by the *Off-Highway Vehicle Regulation*.

**Operating Restrictions**

- 5** (1) No person shall Operate an Off-Highway Vehicle on Municipal Property.
- (2) 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*.
- 6** No person shall Operate an Off-Highway Vehicle on a Highway unless the person is
- (a) at least 16 years of age and holds a valid Class 1 to Class 6 Operator's Licence, or
  - (b) at least 14 years of age and holds a valid Class 7 Operator's Licence and is supervised by a person who is
    - (i) at least 18 years old and holds a valid Class 1 to Class 6 Operator's Licence, and
    - (ii) either occupying the passenger seat on the Off-Highway Vehicle or is on another Off-Highway Vehicle that is travelling in close proximity to the Off-Highway Vehicle.
- 7** No person shall Operate an Off-Highway Vehicle on a Highway between the hours of 11:00pm and 7:00am.
- 8** 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.
- 9** 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.
- 10** 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;
  - (b) travel in single file;

- (c) travel on the shoulder or parking lane of the Roadway or, where it is safe to do so, in the adjacent ditch, except when making a left-turn onto an adjacent Roadway; and
- (d) travel at a maximum speed not to exceed forty (40) kilometres per hour or the posted speed limit, whichever is lower.

11 No person shall Operate an Off-Highway Vehicle on any Highway where the County has placed a sign or signs prohibiting such operation.

**Authorized Special Events**

- 12 (1) No person shall organize, conduct or take part in an OHV Special Event unless a permit has been issued by the Chief Administrative Officer.
- (2) No person shall organize, conduct or take part in an OHV Special Event contrary to the terms and conditions imposed on the no fee permit issued by the Chief Administrative Officer.

**Permits**

- 13 The Chief Administrative Officer may issue permits in relation to activities governed by this Bylaw on such terms and conditions as the Chief Administrative Officer deems appropriate.
- 14 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.
- 15 A person shall not make any false or misleading statement or provide any false or misleading information to obtain a permit pursuant to this Bylaw.
- 16 If any term or condition of a permit issued pursuant to this Bylaw is contravened or if a false or misleading statement or false or misleading information was provided to obtain the permit, in addition to any other remedy available to the County, the Chief Administrative Officer or a Peace Officer may immediately cancel the permit.
- 17 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.

**Exemptions**

- 18 (1) 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.
- (2) Despite section 5(2), the following persons may operate an OHV on Municipal Property while in the performance of their official duties:
  - (a) an employee or volunteer of the County; or
  - (b) an agent or contractor acting on behalf of the County.

**Offence and Penalties**

- 19 (1) A person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine in an amount not less than that established in this section and not exceeding \$10,000.00.
- (2) Without restricting the generality of subsection (1), the fine amounts established for use on a Violation Ticket if a voluntary payment option is offered are as set out in Schedule "A" of this Bylaw.

**Owner Liable**

- 20 (1) If an Off-Highway Vehicle is involved in an offence under this Bylaw, the Owner is guilty of an offence.
- (2) Subsection (1) does not apply if the Owner satisfies the court that, at the time that the Off-Highway Vehicle was involved in an offence:
- (a) the Owner of the Off-Highway Vehicle was not driving the Off-Highway Vehicle, and
  - (b) no other person was driving the Off-Highway Vehicle with the Owner's expressed or implied consent.
- (3) An Owner who is guilty of an offence under this section is not liable to imprisonment in respect of that offence or in respect of a default of a fine imposed in respect of that offence.

**Violation Tickets**

- 21 (1) A Peace Officer is hereby authorized and empowered to issue a Violation Ticket to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- (2) A Violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
- 22 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- (a) specify the fine amount established by this Bylaw for the offence in Schedule "A"; or
  - (b) require a person to appear in court without the alternative of making a voluntary payment.
- 23 A person who commits an offence may:
- (a) if a Violation Ticket is issued in respect of the offence; and
  - (b) if a Violation Ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment equal to the specified fine.

- 24 When a clerk records in the Court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, that act of recording constitutes acceptance of the guilty plea and also constitutes the conviction and the imposition of a fine in the amount of the specified penalty.

**Severability**

- 25 Should any provision of this Bylaw be declared invalid by a court of competent jurisdiction, then such provision shall be severed and the remaining Bylaw shall be maintained.

**Repeal**

- 26 Bylaw No. 2010/04, the Off Highway Vehicle By-law, as amended, is repealed.

**Effective Date**

- 27 This Bylaw shall come into force and effect upon receiving third and final reading and being duly signed.



**Expiry**

**28** For the purposes of ensuring that this Bylaw is reviewed for on-going relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Bylaw shall expire on the third anniversary of this Bylaw taking effect.

Read a first time this 17<sup>th</sup> day of April, 2012.

Read a second time this 17<sup>th</sup> day of April, 2012.

Read a third and final time this 1<sup>st</sup> day of May, 2012.

  
REEVE

  
CHIEF ADMINISTRATIVE OFFICER

**Schedule "A"**  
**Specified Penalties**

Section No.	Description	Specified Penalty
5	Operate OHV on Municipal Property	\$230.00
6	Underage/Unlicensed Operator	\$230.00
7	Operate OHV between 11:00 p.m. and 7:00 a.m.	\$500.00
8	Fail to wear Safety Helmet	\$230.00
9	Passenger(s) in Excess of Designed Capacity for OHV	\$230.00
10(a)	Operate OHV on Highway Facing Oncoming Traffic	\$230.00
10(b)	Fail to Travel in Single-File	\$230.00
10(c)	Fail to Operate OHV on Shoulder to Ditch	\$230.00
10(d)	Operate OHV in excess of posted speed limit or 40 km/hr	\$230.00
11	Operate OHV Contrary to Posted Sign	\$230.00
12(1)	Unauthorized Special Event	\$1,000.00
12(2)	Fail to comply with OHV Special Event Permit	\$500.00
15	False/Misleading Statement on Permit Application	\$500.00
20	Owner of OHV involved in contravention of Bylaw	Specified penalty shall be equal to underlying bylaw provision contravened