

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA**

BYLAW 16/2010

OFF HIGHWAY VEHICLE BYLAW

A BYLAW OF THE TOWN OF MORINVILLE, IN THE PROVINCE OF ALBERTA, TO PROHIBIT THE USE OF OFF HIGHWAY VEHICLES WITHIN THE TOWN LIMITS.

WHEREAS, the Municipal Government Act gives the Municipalities the power to enact bylaws and impose fines and penalties for infractions of their bylaws;

WHEREAS pursuant to the provisions contained in Sections 120 (5) and 128 of the Traffic Safety Act, the Council of a municipality, by law is given certain powers to regulate and control the operation of off highway vehicles on highways which are subject to the direction, control and management of the municipality and on property that is not a highway and is located within the municipality; and

WHEREAS pursuant to the provisions contained in Section 120(4)(b) of the Traffic Safety Act, RSA2000c. T-6, the Council of a municipality may by bylaw authorize or issue a permit authorizing persons to drive off highway vehicles along any portion of a highway that is under the direction, control and management of the municipality.

NOW THEREFORE, the municipal Council of the Town of Morinville, Alberta, duly assembled, hereby enacts as follows.

1.0 This bylaw may be cited as the Off Highway Vehicle Bylaw.

2.0 Definitions

2.1 **"ACT"** means the Traffic Safety Act RSA 2000c Chapter T-6 and Off Highway Vehicle Regulations 319/2002 Amendments Alberta Regulations 148/2003 and any amendments and changes so.

2.2 **"BOULEVARD"** means, in an urban area, that part of a highway that:

- is not a roadway; and
- is part of the sidewalk that is not especially adapted for the use of or ordinarily used by pedestrians.

2.3 **"CAO"** means the Chief Administrative Officer of Morinville, Alberta, appointed by Council, or the Director(s) or Department(s) designated by the Chief Administrative Officer.

2.4 **"COUNCIL"** means the municipal Council of Morinville, Alberta.

2.5 **"MINIATURE MOTOR VEHICLE"** means a motor vehicle other than a motorcycle, having specifications prescribed by the regulations.

2.6 **"MINI-BIKE"** means a motorcycle having specifications prescribed by the regulations.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010**

OFF HIGHWAY VEHICLE BYLAW

Page -2-

- 2.7 **"MORINVILLE"** means the Town of Morinville, Alberta.
- 2.8 **"MOTORCYCLE"** means a motor vehicle mounted on two or three wheels and includes those motor vehicles known to the trade as motorcycles, scooters, and powered bicycles.
- 2.9 **"OPERATOR"** means a person who drives or is in actual physical control of an off highway vehicle.
- 2.10 **"OWNER"** means the person who owns an off highway vehicle and includes any person renting a vehicle or having the exclusive use of a vehicle under a lease that has a term of more than 30 days or otherwise having the exclusive use of a vehicle for a period of more than 30 days.
- 2.11 **"OFF HIGHWAY VEHICLE"** means any motorized mode of transportation built for cross-country travel on land, water, snow, ice, marsh, swamp land, or on natural terrain and, without limiting the generality of the foregoing, includes the following:
- four-wheel drive vehicles;
 - low pressure tire vehicles;
 - motorcycles and related two-wheel vehicles;
 - amphibious machines;
 - all terrain vehicles;
 - miniature motor vehicles;
 - snow vehicles;
 - mini-bikes;
- any other means of transportation that is propelled by any power other than wind or muscular power, excepting motor boats and any vehicle exempted by regulation.
- 2.12 **"PEACE OFFICER"** means a member of the Royal Canadian Mounted Police (RCMP), a Community Peace Officer of Morinville Enforcement Services, or a Sheriff pursuant to the Public Security Peace Officer Program and the Peace Officer Act of Alberta.
- 2.13 **"PARK"** means those reserve lands, recreational lands, and other lands within Morinville which are owned by or controlled by Morinville which do not form part of a highway.
- 2.14 **"SAFETY HELMET"** means a safety helmet as prescribed in the regulations made pursuant to the Act, as per the Off Highway Vehicle Regulations and the Traffic Safety Act and any amendments directed therein.
- 2.15 **"VEHICLE"** means a device in, upon, or by which a person or thing may be transported or drawn upon a highway.
- 2.16 **"VIOLATION TICKET"** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, RSA, 2000 c. P-34.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010**

OFF HIGHWAY VEHICLE BYLAW

Page -3-

3.0 Provisions and Infractions

3.1 Operating Restrictions

3.1.1 No person shall operate an off highway vehicle within Morinville limits.

3.1.2 An operator of an off highway vehicle shall immediately, on being signalled; or requested to stop by a Peace Officer, bring his or her vehicle to a stop, and furnish any information respecting the driver or the vehicle that the Peace Officer requires and shall not start his or her vehicle until he or she is permitted to do so by the Peace Officer.

4.0 Exemptions and Allowances

4.1 Permissions granted by the CAO

4.1.1 No person shall be in contravention of a specific provision of this bylaw if written permission has been granted for the contravention by the CAO in advance.

4.1.2 Permits can also be provided for those private individuals who, for the purpose of snow removal, travel from sidewalk to sidewalk in the spirit of community service (see suggested fees for permitting in Schedule 2).

4.1.3 Permits and special permissions may be granted by the CAO for the use of off highway vehicles for special events, parades run by organizations.

4.2 Employees, Servants, and Agents

4.2.1 The employees, servants, and agents Morinville, while acting in the course of their employment and duties, are exempt from the provisions of this bylaw.

4.2.2 During an emergency, disaster or search and rescue operation with Morinville, the provisions of this bylaw may be waived, suspended or varied by the Director of Emergency Management or their designate

5.0 Powers of Peace Officers

5.1 Violation Ticket

5.1.1 A Peace Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, RSA, 2000, C. P-34 to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provisions of this bylaw.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010**

OFF HIGHWAY VEHICLE BYLAW

Page -4-

5.1.2 Any person who is issued a violation ticket for contravention of this bylaw shall immediately discontinue creating noise to avoid prosecution for a second offence.

5.2 Ticket Evidence of Service

5.2.1 A violation ticket shall be deemed to be sufficiently served if:

(a) in compliance with the Provincial Offences Procedure Act 2000 Ch P-34 S32 (1) if an offence notice is served by the Peace Officer who issued it, the Peace Officer shall complete and sign a certificate of service on the violation ticket that the Peace Officer personally served the offence notice on the person charged and the Peace Officer shall indicate the date of service;

(b) in compliance with the Provincial Offences Procedure Act 2000 Ch P-34 S 30(1-2) 31(1-6) and 32(1) a violation ticket under this part must include:

- a certificate of offence; and
- an offence notice;

(c) a certificate of offence:

- shall be completed and signed by a Peace Officer who believes on reasonable and probable grounds that an offence has been committed;
- shall be filed with a clerk prior to the initial appearance date indicated on the violation ticket; and
- does not need to be sworn.

5.2.2 An offence notice shall:

(a) indicate the specified penalty for the offence;

(b) how and when the defendant may respond to the offence notice; and

(c) that the defendant may be convicted in the defendant's absence without a hearing if the defendant fails to respond to the violation ticket by the initial appearance date indicated on the offence notice or if the defendant pleads not guilty and fails to appear in court in person or by an agent on the defendant's trial date.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010**

OFF HIGHWAY VEHICLE BYLAW

Page -5-

- 5.2.3 An offence notice shall be served on a defendant:
- (a) In the case of a defendant who is an individual, by delivering it personally to the defendant;
 - (b) in the case of a defendant that is a municipality by delivering it personally to the chief elected official or CAO of the municipality;
 - (c) in the case of a defendant that is a Metis settlement, by delivering it personally to the settlement chair or the settlement administrator,
 - (d) in the case of a defendant that is a corporation other than a municipality or Metis settlement:
 - by sending it by single registered mail to the registered office of the corporation; or
 - by delivering it personally to the manager, secretary, or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address.
- 5.2.4 Where an offence notice is mailed to a defendant and the date of the mailing of the offence notice is set out in the related certificate of offence.
- 5.2.5 That offence notice is in the absence of evidence to the contrary deemed to have been served on the defendant on the seventh day from the date of mailing as set out in the certificate of offence.
- 5.3 Evidence of Service
- 5.3.1 If an offence notice is served by the Peace Officer who issued it, the Peace Officer shall complete and sign a certificate of service on the violation ticket that the Peace Officer personally served the offence notice on the person charged and the Peace Officer shall indicate the date of service;
- 5.3.2 a certificate of service does not need to be sworn; and
- 5.3.3 service is posted in a conspicuous place on the land referred to on the notice.

6.0 Duty to Enforce

- 6.1 Each Peace Officer is hereby charged with the duty of enforcing the provisions of this bylaw.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010**

OFF HIGHWAY VEHICLE BYLAW

Page -6-

7.0 Penalty Provisions

- 7.1 Any person who contravenes a provision of this bylaw is guilty of an offence and is liable to a fine of \$150 for a first offence, and \$250 for a second or subsequent offence in the same calendar year.
- 7.2 The operator of an off highway vehicle that is involved in a contravention of this bylaw is guilty of an offence and liable upon summary conviction to a fine specified in Section 7.1 of this bylaw and in default of payment is liable to imprisonment for a term not exceeding six months.
- 7.3 Notwithstanding Section 7.1, where any person contravenes the same provision of this bylaw twice within one, twelve month period, the specified penalty payable in respect of the second contravention is double the amount shown in Section 7.1 of this bylaw in respect of that provision.
- 7.4 Notwithstanding Section 7.1, where any person contravenes the same provision of this bylaw three times within one, twelve month period, the specified penalty payable in respect of the third contravention is triple the amount shown in Section 7.1 of this bylaw in respect of that provision.
- 7.5 Any person who contravenes the same provisions of this bylaw on three or more occasions may be issued a compulsory notice, and upon conviction will be subject to a fine of triple the amount shown in Section 7.1 of this bylaw in respect of that provision.
- 7.6 An owner who permits another person to operate the owner's off highway vehicle or an off highway vehicle of which the owner has exclusive use, in contravention of this bylaw is guilty of an offence.
- 7.7 An owner of a property from which an off highway vehicle has been used in contravention of this Act or any other Provincial Act is in contravention of this bylaw is guilty of an offence.

8.0 Severability

- 8.1 If any section or parts of this bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such section or parts shall be deemed to be severable and all other section or parts of this bylaw shall be deemed to be separate and independent there from and to be enacted as such.

TOWN OF MORINVILLE
PROVINCE OF ALBERTA
BYLAW 16/2010

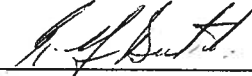
OFF HIGHWAY VEHICLE BYLAW
Page -7-

That Bylaw 20/2008 is hereby rescinded when Bylaw 16/2010 receives third and final reading.

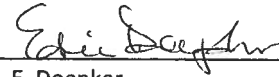
READ a first time the 13th day of July, 2010

READ a second time the 24th day of August, 2010

READ a third time and finally passed the 24th day of August, 2010



R. Lloyd Bertschi
Mayor



E. Doepker
CAO