

BRAZEAU COUNTY

Bylaw 693-09

A BYLAW AUTHORIZING THE OPERATION OF OFF HIGHWAY VEHICLES ON HIGHWAYS, RIGHT-OF-WAYS AND MUNICIPAL PROPERTY IN BRAZEAU COUNTY

WHEREAS, pursuant to the provisions of the Off-Highway Vehicle Regulation AR 319/2002 and/or Traffic Safety Act, being Chapter T-6 Revised Statutes of Alberta, 2000 with amendments thereto, no person shall operate an off-highway vehicle on any portion of a highway.

AND WHEREAS, pursuant to the provisions of Section 120(4)(b) of the aforesaid Statutes, the council of the municipality may by bylaw, with respect to highways under its direction, control and management, authorize persons to operate off-highway vehicles on any portion of any such highway or right of way class thereof and may restrict the hours during which such operation may take place.

NOW THEREFORE, the Reeve and Councillors of Brazeau County in regular meeting duly assembled hereby enact as follows:

IN THIS BYLAW:

1. (a) "All Terrain Vehicle" means any motorized off-highway vehicle travelling on three or more low-pressure tires and having the specifications prescribed by the Off-Highway Vehicle Regulation AR 319/2002 and/or Traffic Safety Act.
- (b) "Amphibious Vehicle" means a wheeled or tracked motor vehicle designed for travel primarily on unprepared surfaces such as open country and marshland, but does not include a snow vehicle, implement of husbandry or construction machinery.
- (c) "County" shall mean Brazeau County.
- (d) "Enforcement Officer" means police officer, peace officer, bylaw officer or any other persons having the authority to enforce this bylaw.
- (e) "Highway" means thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway, or other place within the jurisdiction of Brazeau County 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
 - (1) includes
 - (a) a sidewalk (including a boulevard portion thereof);
 - (b) where a ditch lies adjacent to and parallel with a roadway, the ditch, and
 - (c) where a highway right-of-way contained between fences or between a fence and one side of the roadway, all the land between fences, or all the land between the fence and the edge of the roadway, as the case may be;
- (f) "Motorcycle and mini-bike" means a motorized off-highway vehicle mounted on two wheels and having a seat designed to be straddled by an operator, and includes those motor vehicles known to the trade as motorcycles, scooters and power bicycles, having specifications as prescribed by the Off-Highway Vehicle Act Regulations.

- (g) "Off-Highway Vehicle" means any motorized vehicle designated for cross-country travel on land, water, snow, ice, marsh or swamp land or on other natural terrain and, without limiting the generality of the foregoing, includes when designated for such travel
 - (i) motorcycles and mini-bikes
 - (ii) snow vehicles
 - (iii) all terrain vehiclesbut, does not include motorboats and amphibious machines.
- (h) "Reasonable Rate of Speed" means being able to stop in a reasonable distance when presented with hazards such that losses of life or limb or serious injuries are not incurred.
- (i) "Safety Helmet" means a safety helmet designed, constructed and sold for use with off highway vehicle operation and approved to meet CSA standards.
- (j) "Snow Vehicle" means a motorized off-highway vehicle specifically designed for travel mounted and propelled on one or more tracks and having a seat designed to be straddled by an operator, and intended to be driven exclusively or chiefly on snow or ice or both.
- (k) "Work Related Activity" means for non-recreational use. For the purpose of carrying out the requirements of a contract, maintenance or agriculture related responsibilities such as (but not limited to):
 - (i) Fixing fences
 - (ii) Surveying
 - (iii) Seismic Activities
 - (iv) Road Construction
 - (v) Cattle Drive/Round up,However, not a means of transportation from one property to another or a similar function.
- (l) "Hamlet" means any urbanized area designated by Council as a hamlet and having specific boundaries identified.
- (m) "Country Residential Multi-lot Subdivision" means any Country Residential Subdivision consisting of a minimum of six (6) lots and an internal roadway for lot access.

2. The County hereby allows the operation of off- highway vehicles on road right-of-ways for work related activities under the care, control and management of the County under the following conditions:

- a) Permission may be granted to the registered owner of the off-highway vehicle and his immediate family over the age of 14 for use on County road right-of-ways and related municipal property.
- b) Valid insurance and registration must be in place on the said off-highway vehicle at all times and evidence of this shall be available upon demand of a peace officer or County representative.
- c) Safety helmets must be worn by the operator and passenger(s).
- d) Subject to the regulations under the Off-Highway Vehicle Regulation AR319/2002 Traffic Safety Act, a reasonable rate of speed must be adhered to while on municipal property. "Reasonable Rate" means being able to stop in a reasonable distance when presented with hazards such that losses of life or limb or serious injuries are not incurred.

3. Ditches, culvert ends, culvert markers, pipeline markers, NG markers, survey markers, power poles, power pole anchors, pipeline risers, fence lines (parallel) are to be considered risks associated with operating an off-highway vehicle in ditches and road allowances and property.
4. Serious risk would include open excavations, washouts, drop-offs, natural or man-made ie: bridge ditches to be guard railed or sloped into river, fence lines crossing road allowance improved or not.
5. Off-highway vehicles will not be allowed to travel on a highway surface, gravel or pavement at any time, except to cross such highway, or to cross a bridge, railway, another highway by means of an overpass. Such travel must be done with extreme caution and allow normal highway users the right of way. Such travel must be as short in distance as possible and at a speed that allows safe travel on the road surface without causing harm to the operator, passengers or other road users.
6. Off-highway vehicles operated pursuant to permission granted pursuant to this bylaw shall be limited to the hours of 8:00 am in the forenoon and 10:00 pm in one day.
7. Off-highway vehicles may not operate in municipal road right-of-ways or properties inside the boundaries of a designated Hamlet, except for the purpose of work related activities.
8. Off-highway vehicles may not operate in:
 - a) municipal road right of ways or properties inside the boundaries of any County residential multi-lot subdivision, or

The exception to the above is off-highway vehicles may be used for the purpose of work related activities.
9. Off-highway vehicles shall travel to the extreme right hand side of the road and/or in the right ditch at least 2.5 metres minimum from the road surface and travel single file at all times.
10. In this bylaw, no peace officer or an employee of the County shall be deemed to have committed an offence if the act done was relative to construction, transportation, maintenance for or of highways or other places for the enforcement of this bylaw.
11. 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 for a seven (7) day period in respect of which the offence was committed. All costs for impounding and storage of the vehicle will be borne by the owner.
12. Any person who contravenes this bylaw is guilty of an offence.
13. Persons contravening certain sections of this bylaw shall be liable for the penalties set out below.
 - a) Operators not using reasonable speed are liable to a fine of up to \$500.00.
 - b) Operators or passengers not wearing safety helmets are liable to a fine of up to \$250.00.
 - c) Operating an off-highway vehicle where prohibited are liable to a fine of up to \$500.00

- d) Operating an off-highway vehicle in the ditch on the wrong side of a road at night are liable to a fine of up to \$250.00.
 - e) Operating an off-highway vehicle outside the approved hours of operation in areas of country residential/farming residences or Hamlets are liable to a fine of up to \$500.00.
 - f) Willful damage to right of way/ditches or road surface such as: spinning, destruction of erosion control measures, removal of signs, posts or barriers, which serve as a warning or control measure, are liable for a fine up to \$2,500.00.
14. (a) A notice of form commonly called an Offence Notice/Summons/ or Violation Tag having printed wording approved by the County, may be issued by a Peace Officer or a Bylaw Enforcement Officer to any person alleged to have contravened any provision of this bylaw, and the said notice shall require the payment to such official in the amount specified in this bylaw, as amended, or the regulations pursuant to the *Provincial Offences Procedure Act, (Alberta)*, as amended;
- (b) A Violation Tag shall be deemed to be sufficiently served:
- (i) if served personally on the accused; or
 - (ii) if mailed to the address of the registered owner of the off-highway vehicle concerned; or to the Person concerned;
 - (iii) if attached to or left securely and visibly upon the off-highway vehicle in respect of which the offence is alleged to have been committed.
15. The conviction of a person under the provisions of this bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this bylaw, or conditions, orders, or permits, issued in accordance with this bylaw.
16. Except where otherwise expressly provided, everyone who is convicted of an offence against this bylaw is liable to a fine of not less than fifty dollars (\$50.00) or not more than twenty-five hundred dollars (\$2,500.00) or to imprisonment of not more than six (6) months or to both fine and imprisonment.
17. Any fine or penalty imposed under this bylaw inures to the benefit of the County.

READ a first time this 30th day of June, 2009.

READ a second time this 21st day of July, 2009.

READ a third time and finally passed this 21st day of July, 2009.

Reeve

County Manager