

BYLAW NO. 433-16
PROVINCE OF ALBERTA
SUMMER VILLAGE OF WEST COVE

A BYLAW OF THE SUMMER VILLAGE OF WEST COVE, IN THE PROVINCE OF ALBERTA, TO REGULATE OFF-HIGHWAY VEHICLES.

WHEREAS the *Traffic Safety Act*, RSA 2000, c. T-6 authorizes a municipal council to pass bylaws respecting the operation of off-highway vehicles within the Village provided that such bylaws are not inconsistent with that Act;

AND WHEREAS the Municipal Government Act, RSA 2000, c. M-26 authorizes a municipal council to pass bylaws respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Council deems it desirable to regulate the operation of Off-Highway Vehicles on public property within the Summer Village of West Cove;

NOW THEREFORE the Municipal Council of the Summer Village of West Cove, duly assembled, hereby ENACTS AS FOLLOWS:

PART 1 SHORT TITLE

1 This Bylaw shall be cited as the “Off-Highway Vehicle Bylaw”.

PART 2 PURPOSE

2 The purpose of this bylaw is to regulate the operation of Off-Highway Vehicles within the Village.

PART 3 DEFINITIONS

3 In this Bylaw:

- (a) “Act” means the *Traffic Safety Act*, RSA 2000, c. T-6 (as amended);
- (b) “All Terrain Vehicle” means a wheeled or tracked motor vehicle designed for travel primarily on unprepared surfaces such as open country or marshland, but does not include a snow vehicle implement of husbandry or construction machinery;
- (c) “Boulevard” means that part of a Highway in an urban area that:
 - (i) is not Roadway, and
 - (ii) is that part of the Sidewalk that is not especially adapted to the use of or ordinarily used by Pedestrians;
- (d) “Bylaw” means a Village bylaw, including any amendments thereto;
- (e) “Bylaw Enforcement Officer” means an individual appointed as such in accordance with Bylaw 235-01, the *“Bylaw Officer Position Bylaw”* (as amended);
- (f) “Chief Administrative Officer” or “CAO” means the Village’s chief administrative officer;

- (g) "Council" means the Village's municipal council;
- (h) "Court" means the Provincial Court of Alberta;
- (i) "Ditch" means that portion of a Highway that does not include the Roadway;
- (j) "Fire Ban" means a provincial ministerial order or an order by the Village cancelling any or all fire permits or prohibiting or restricting the lighting of fires;
- (k) "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 provincial regulation not to be a Highway;
- (l) "Motorcycle" means a motor vehicle, other than a moped, that is mounted on 2 or 3 wheels and includes those motor Vehicles known in the automotive trade as motorcycles and scooters;
- (m) "Municipal Violation Tag" means a Village-issued notice that alleges an offence and provides a person with the opportunity to pay an amount to the Village in lieu of prosecution for the offence;
- (n) "Off-Highway Vehicle" means any motorized vehicle designated 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) Motorcycles and related 2-wheel vehicles;
 - (iv) Amphibious machines;
 - (v) All-terrain vehicles;
 - (vi) Miniature motor vehicles;
 - (vii) Snow vehicles;
 - (viii) Minibikes; and
 - (ix) Any other means of transportation that is propelled by any power other than muscular power or wind, but does not include:
 - (x) Motor boats; or

- (xi) Any other vehicle exempted from being an off-highway vehicle by the regulations to the Traffic Safety Act, RSA 2000, c. T-6.
- (o) "Operator" means a Person who drives a vehicle or operates is in actual physical control of a vehicle;
- (p) "Operator's License" means an operator's license issued by the Registrar of Motor Vehicle Services;
- (q) "Owner" means the Person who owns the vehicle and includes a Person renting the vehicle or having the exclusive use of that vehicle under a lease or otherwise for a period of more than thirty (30) days;
- (r) "Park", when prohibited, means the act of allowing a Vehicle to remain stationary in one place, except
 - (i) while actually engaged in loading or unloading passengers, or
 - (ii) when complying with a direction given by a Peace Officer or Traffic Control Device;
- (s) "Parkland" means any developed or undeveloped property that is owned, controlled or maintained by the Village, is intended to be used by members of the public for recreation purposes, and is
 - (i) preserved as a natural area,
 - (ii) designated or districted as park or park corridor land;
 - (iii) dedicated as municipal reserve, environmental reserve or a public utility lot property pursuant to the *Municipal Government Act* R.S.A. 2000, Ch.M-26 (as amended), or
 - (iv) a Boulevard contiguous with, partially within or fully within the property referenced under subsections (i), (ii) or (iii);
- (t) "Peace Officer" means a Person employed for the purposes of preserving and maintaining the public peace, and includes:
 - (i) a member of the Royal Canadian Mounted Police;
 - (ii) A Community Peace Officer;
 - (iii) a provincially-appointed Special Constable, and
 - (iv) a Bylaw Enforcement Officer authorized to enforce this Bylaw in accordance with his or her appointment;
- (u) "Person" includes any individual, corporation, society, association, partnership or firm, trustee, executor, administrator or other legal representative;
- (v) "Public Place" means any Highway, parkland, public bridge, roadway, lane, footway, square, court, alley, passageway, and includes any open space to which the public have or are permitted to have access, whether by payment or otherwise, to Village land;

- (w) “Qualified Person” means an Operator that is licensed under the Act (including a document or information and other data contained in an electronic form that is recognized under the Act as an Operator’s License), who is at least 14 years of age who has a valid Operator’s License (Class 7 or higher);
- (x) “Roadway” means that portion of a Highway intended for use by vehicular traffic;
- (y) “Safety Helmet” means a safety helmet that is approved under Part 6 Division 5 of the Vehicle Equipment Regulation AR 122/2009 (as amended);
- (z) “Schedule” means a schedule attached to and forming part of this Bylaw;
- (aa) “Snow Vehicle” means any motor vehicle designed or intended to be driven exclusively or chiefly upon snow or ice, or both;
- (bb) “Stop” means
 - (i) when required, a complete cessation from vehicular movement, and
 - (ii) when prohibited, any halting even momentarily of a Vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a direction given by a Peace Officer or Traffic Control Device;
- (cc) “Time” means either Mountain Standard Time or Mountain Daylight Savings Time, whichever is proclaimed to be in effect in Alberta;
- (dd) “Traffic Control Device” has the meaning defined in the Village Traffic Bylaw (as amended);
- (ee) “Village” means the Sumer Village of West Cove, a municipal corporation of the Province of Alberta, and includes, where the context so requires, the area contained within the boundaries of the Summer Village of West Cove;
- (ff) “Violation Ticket” means a violation ticket issued in accordance with the *Provincial Offences Procedure Act* R.S.A. 2000, c.P-34 (as amended).

PART 4 OPERATION OF OFF-HIGHWAY VEHICLES

4 Off-Highway Vehicles may be operated on Village Highways. All operations of Off-Highway Vehicles on Village Highways, must conform with all provisions of this Bylaw, the Act, and all other Provincial legislation and regulation that relates to the operation of Off-Highway Vehicles.

5 No Person shall operate an Off-Highway Vehicle unless that Person is a Qualified Person, or they are otherwise permitted to operate an Off-Highway Vehicle pursuant to the Act.

6 No Person shall operate an Off-Highway Vehicle unless the Off-Highway Vehicle is registered.

7 No Person shall operate an Off-Highway Vehicle unless the Off-Highway Vehicle is insured.

8 No Person shall operate an Off-Highway Vehicle if the license plate is not securely attached, legible, and clearly visible.

9 Except as otherwise provided in this Bylaw, an Operator of an Off-Highway Vehicle is permitted to operate the Off-Highway Vehicle on the extreme side of the Roadway and shall travel in single file at all times.

Off-Highway Vehicles, when travelling on any Highway as permitted by this Bylaw, shall travel in the same direction as vehicles travelling on that side of the Roadway closest to the Off-Highway Vehicle.

10 All Off-Highway Vehicles travelling on a Highway shall be equipped with at least one headlight and one tail light that must be illuminated at all times.

11 No Person shall operate an Off-Highway Vehicle within the Village between the hours of 12:00 AM (midnight) and 6:00 AM the following day.

12 No Person shall operate an Off-Highway Vehicle unless the Off-Highway Vehicle is equipped with an exhaust muffler that complies with the following:

- (1) An exhaust muffler must cool and expel the exhaust gases from the engine without excessive noise and without producing flames or sparks;
- (2) The exhaust muffler must not have been widened;
- (3) The exhaust muffler must not have been modified to increase the noise made by it or that allows the gases leaving the exhaust system to be ignited; and
- (4) The exhaust muffler must not have been cut out or disconnected, or have had a baffle plate or other part removed.

13 No Person shall tow a trailer, sleigh or other vehicle behind an Off-Highway Vehicle unless the hitch or attachment used:

- (1) Is designed so that the vehicle being towed substantially follows in the tracks of the towing vehicle;
- (2) Is strong enough to safely control the vehicle being towed;
- (3) Is not more than 1.83 meters long; and
- (4) Prevents the towed vehicle from colliding with the towing vehicle during travel downhill and when the towing vehicle stops.

14 No Person shall operate or be a passenger on an Off-Highway Vehicle without wearing a Safety Helmet securely attached to his or her head.

15 No Person shall operate or be 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.

16 No Person shall operate an Off-Highway Vehicle on Parkland or on a Public Place other than a Highway within the Village.

17 No Person shall park or place an Off-Highway Vehicle where such parking is prohibited by a Traffic Control Device or otherwise.

18 No Person shall operate an Off-Highway Vehicle in a careless manner. For the purposes of this section, driving carelessly includes, without limitation the following:

- (1) Without due care and attention; or
- (2) Without reasonable consideration for other persons or property.

19 An Operator of an Off-Highway Vehicle shall immediately, on being signaled by a Peace Officer, bring his or her Off-Highway Vehicle to a stop and furnish any information respecting the operator or the Off-Highway Vehicle that the Peace Officer requires and shall not start his or her Off-Highway Vehicle until he or she is permitted to do so by that Peace Officer.

PART 5 SPEED LIMIT FOR OFF-HIGHWAY VEHICLES

20 The maximum speed at which Off-Highway Vehicles are permitted to travel within the Village is 30 km/hr.

PART 6 ADDITIONAL RESTRICTIONS DURING FIRE BANS

21 When a Fire Ban is in place, no Person shall operate an Off-Highway Vehicle other than on a paved Roadway.

PART 7 NON-APPLICATION OF BYLAW

22 This Bylaw does not apply to:

- (1) A Peace Officer while operating an Off-Highway Vehicle in the performance of official duties;
- (2) Employees of the Village while operating an Off-Highway Vehicle in the performance of official duties;
- (3) Off-Highway Vehicles owned and operated by the Department of National Defence.

23 Council may, by resolution, waive any of the provisions contained in this Bylaw for a specific situation, subject to whatever conditions Council deems necessary to apply.

PART 8 ENFORCEMENT

Offence

24 A person who contravenes any provision of this Bylaw is guilty of an offence.

25 When a Vehicle is operated or Parked or Stopped in contravention of any provision of this Bylaw, the Owner shall be deemed to have committed the corresponding offence.

Continuing Offence

26 In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence with respect to each day, or part of a day, during which the contravention continues, and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such separate offence.

Fines and Penalties

27 A Person who is guilty of an offence under this Bylaw is liable:

- (1) to a fine as prescribed in Schedule A; or
- (2) on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than 6 months, or both.

Municipal Violation Tag

28 A Peace Officer may issue, with respect to an offence under this Bylaw, a Municipal Violation Tag specifying the fine amount established by this Bylaw.

29 Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

Violation Ticket

30 A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket:

- (1) specifying the fine amount established by this Bylaw; or
- (2) requiring an appearance in court without the option of making a voluntary payment.

31 Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

Service of Notice in respect of Violation Ticket

32 A Violation Ticket issued to any Person in respect of this Bylaw shall be deemed to be sufficiently served if:

- (1) Served personally on the accused Person;
- (2) Mailed by registered or other mail to the last known address of the accused Person; or
- (3) Left at the residence of the accused Person in care of a person who appears to be at least 18 years of age.

PART 9 GENERAL

Power of the Chief Administrative Officer

33 Without restricting any other power, duty or function granted by this Bylaw the CAO may:

- (1) Carry out any inspections to determine compliance with this Bylaw;
- (2) Take any steps or carry out any actions required to enforce this Bylaw;
- (3) Take any steps or carry out any actions required to remedy a contravention of this Bylaw;
- (4) Establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;
- (5) Establish forms for the purpose of this Bylaw; and
- (6) Delegate any powers, duties or functions under this Bylaw to an employee or contractor of the Village.

Severability

34 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remainder of the Bylaw shall remain in force.

Number and Gender References

35 All references in this Bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female Person, or a corporation or partnership.

Liability

36 The Village, any Designated Officer or any Person who inspects any Property under this Bylaw, or any Person who performs any work on behalf of the Village to remedy a contravention of this Bylaw is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work set out in the order.

Enforcement of this Bylaw

37 The Village is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the Village may take into account any practical concerns, including available municipal budget and personnel resources.

Bylaw Coming into Effect

38 This Bylaw takes effect on the final passing thereof and, on such final passing, Bylaw 255-04, is hereby repealed.

READ A FIRST TIME IN COUNCIL	THIS 15 th DAY OF December, 2016
READ A SECOND TIME IN COUNCIL	THIS 15 th DAY OF December, 2016
READ A THIRD TIME IN COUNCIL	THIS 15 th DAY OF December, 2016

SUMMER VILLAGE OF WEST COVE

Ren Giesbrecht
Mayor

Wendy Wildman
Chief Administrative Officer

SCHEDULE A

TO OFF-HIGHWAY VEHICLE BYLAW 433-16

Offence	Section	Specified Penalty (Dollars)
PART 4		
Operate Off-Highway Vehicle in a manner contrary to this Bylaw	4	150
Operate Off-Highway Vehicle without Operator's License	5	150
Operate Off-Highway Vehicle without registration	6	150
Operate Off-Highway Vehicle without insurance	7	300
Operate Off-Highway Vehicle without license plate security attached/legible/visible	8	57
Failure to operate Off-Highway Vehicle on right side of road or travel in correct direction	9	150
Failure to operate Off-Highway Vehicle with headlight/taillight	10	57
Operate Off-Highway Vehicle outside of prescribed hours	11	150
Operate Off-Highway Vehicle without proper exhaust muffler	12	57
Exhaust Muffler excessively noisy / produces fumes or sparks	12(1)	57
Operate Off-Highway Vehicle with Exhaust Muffler widened	12(2)	57
Operate Off-Highway Vehicle if exhaust muffler modified to increase noise/allow gases to be ignited	12(3)	57
Operate Off-Highway Vehicle if exhaust muffler cut or disconnected or has baffle plate or other part removed	12(4)	57
Tow a trailer/sleigh vehicle behind an Off-Highway Vehicle where hitch/attachment not designed so that vehicle being towed follows in tracks	13(1)	57
Tow a trailer/sleigh vehicle behind an Off-Highway Vehicle where hitch/attachment not designed so that vehicle being towed safely controlled	13(2)	57

Offence	Section	Specified Penalty (Dollars)
Tow a trailer/sleigh vehicle behind an Off-Highway Vehicle where hitch/attachment more than 1.83 m long	13(3)	57
Tow a trailer/sleigh vehicle behind an Off-Highway Vehicle where hitch/attachment does not prevent vehicle from colliding with the towing vehicle	13(4)	57
Operator/Passenger fails to wear a Safety Helmet	14	150
Operator/Passenger exceeds number of persons that Off-Highway Vehicle is designed to carry	15	150
Operate an Off-Highway Vehicle on Parkland or other Public Place	16	150
Park Off-Highway Vehicle in a prohibited location	17	150
Carelessly operate an Off-Highway Vehicle	18	400
Failure to stop for a Peace Officer	19	400
PART 5		
Exceed maximum speed	20	100
Fail to comply with restrictions on Off-Highway Vehicle operation during Fire Ban	21	150