

BYLAW 1061

A BY-LAW OF THE VILLAGE OF DELBURNE IN THE PROVINCE OF ALBERTA, TO AUTHORIZE THE OPERATION OF OFF-HIGHWAY VEHICLES WITHIN THE VILLAGE OF DELBURNE.

WHEREAS, the Council of the Village of Delburne considers it desirable and expedient to authorize the use of its road ways for off-highway vehicle travel in accordance with the laws of the Province of Alberta:

NOW THEREFORE, THE COUNCIL OF THE VILLAGE OF DELBURNE in the Province of Alberta, duly assembled, and pursuant to the authority conferred by the Traffic Safety Act, R.S.A. 2000 c.T-6, as amended, enacts as follows:

Section 1 – Short Title

- 1.1 This By-law may be cited as the “Off-Highway Vehicle Use By-law”.

Section 2 – Definitions

- 2.1 For purposes of this By-law all the definitions of the “Traffic Safety Act” being Chapter T-6 of the Revised Statutes of Alberta, 2000, as amended, shall be applicable and have the same meaning except as varied in Subsection 2.2 of this By-law.
- 2.2 In this By-law:
 - 2.2.1 “Council” means the Council of the Village of Delburne;
 - 2.2.2 “Village” means the Village of Delburne;
 - 2.2.3 “By-law Enforcement Officer” shall mean a By-law Enforcement Officer appointed by the Village pursuant to the Municipal Government Act, R.S.A. 2000, c.M-26, as amended to enforce the Village By-laws, and includes a member of the Royal Canadian Mounted Police and, when authorized, Community Peace Officer Level 1 or Level 2;
 - 2.2.4 “Village Engineer” means the Village Engineer appointed by the Council of the Village of Delburne and whatever subsequent title may be conferred on that officer by Council or Statute;
 - 2.2.5 “Director of Disaster Services” means the Director of Disaster Services of the Village and whatever subsequent title may be conferred on that position by Council or Statute;

- 2.2.6 “Highway” means any road or roadway within, and under the direction, control and management of the Village of Delburne;
- 2.2.7 “Owner” with respect to an Off-Highway Vehicle means the person in whose name the vehicle is registered under the Traffic Safety Act; any person renting an Off-Highway Vehicle or having exclusive use of that Off-Highway Vehicle under a lease or otherwise for a period of more than thirty (30) days; any person operating a non-registered off-road vehicle will be considered the owner if a violation occurs;
- 2.2.8 “Violation Tag” means a tag or similar document issued by the Village of Delburne pursuant to Section 110 of the Municipal Government Act, R.S.A., 2000, c. M-26, as amended;
- 2.2.9 “Violation Ticket” means a ticket issued pursuant to Part II of the Provincial Offenses Procedures Act, S.A. 1980, c.P-21.5, as amended, and Regulations thereunder;
- 2.2.10 “Reserves” means any Village owned municipal reserve, environmental reserve or any other land owned by the Village of Delburne;
- 2.2.11 “Off-Highway Vehicle” means any motorized mode of transportation built for cross country travel on land, water, snow, ice or marsh or swampland or on other natural terrain and without limiting the generality of the foregoing, includes, when specifically designed for such travel includes:
- 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. Mini bikes, and
 - ix. Any other means of transportation that is propelled by power other than muscular power or wind, but does not include motorboats or any other vehicle exempted from being an Off-Highway vehicle by regulation.
- 2.2.12 “Qualified Person” (also meaning operator) means a person who is the holder of a valid subsisting operator’s license of any class.

2.2.13 “Peace Officer” means a member of the Royal Canadian Mounted Police, a By-law Enforcement Officer employed or contracted by the Village, or a Community Peace Officer, Level 1 or Level 2.

Section 3 – Application For Highway Use

- 3.1 Off-Highway Vehicle groups, organizations, societies or clubs may apply to the Council for permission for the use of specific highways under the direction, control or management of the Village for specific dates and times and for appropriate purposes as outlined in Schedule “A”, “B”, and “C” as attached hereto and forming part of this By-law.
- 3.2 Council hereby delegates to the By-law Enforcement Officer, or any official designated by the Council, the authority to carry out the terms and conditions of this By-law.
- 3.3 The Chief Administrative Officer or such other person designated under subsection 3.2 may approve or refuse an application, or may grant an application specifying the dates and times for such events, and may impose any such conditions as the Chief Administrative Officer or the designate deems suitable in the circumstances.
- 3.4 If the application is refused by the Chief Administrative Officer or the designate, or if the applicant feels that any condition imposed is unreasonable, the applicant may appeal to Council within five (5) working days of receipt of the written decision of the Chief Administrative Officer or the designate. Any appeal must be made in writing.

Section 4 – Operational Restrictions

- 4.1 Any qualified person may operate an Off-Highway Vehicle on a Highway within Village, provided it is properly registered and insured under the Act, and subject to the following conditions:
 - a) No person shall operate an off-highway vehicle on any highway except as specifically provided for within this by-law;
 - b) Except as provided otherwise in this by-law, an operator of an off-highway vehicle shall be permitted to operate the off-highway vehicle on the extreme right hand side of the roadway or in the ditch and shall travel single file at all times. Off-highway vehicles, when travelling on any highway as permitted in this by-law, shall travel the same direction as vehicles travelling on that side of the roadway closest to the off-highway vehicle;

- c) An operator of an off-highway vehicle on any internal subdivision roadway, within a multi-parcel subdivision, shall use the roadway only and at a maximum speed of ten (10) kilometres per hour;
 - d) The hours of operating any off-highway vehicle on the highway shall be restricted to the period of time between 9:00 a.m. and 9:00 p.m.;
 - e) No person shall operate an off-highway vehicle in any park within the Village;
 - f) No person shall operate an off-highway vehicle within any municipal reserve, environmental reserve, on any school property, or on 20th Street west side of the tracks;
 - g) All off-highway vehicles traveling on a highway shall be equipped with at least one headlight and one tail light and no off-highway vehicle shall operate on a highway unless the headlight and tail light are alight;
 - h) No person shall operate on an off-highway vehicle unless the operator is wearing an “approved for off-highway use” safety helmet securely attached on his or her head;
 - i) No person shall ride as a passenger on an off-highway vehicle unless the passenger is wearing an “approved for off-highway use” safety helmet securely attached to his or her head; and
 - j) 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;
 - k) No person shall operate an off-highway vehicle on any highway within a subdivision within the Village where Council has authorized by resolution, the erection of a sign or signs prohibiting such operation;
 - l) And, travel will be from the owners residence using the shortest route out of town;
- 4.2 The provisions of the by-law do not apply to a Peace Officer, or agents or employees of the Village while operating an off-highway vehicle in the performance of their official duties.
- 4.3 During an emergency, disaster, or search and rescue operation within Red Deer County, the provisions of this by-law may be waived, suspended or varied, by the Director of Disaster Services, or his or her designate.
- 4.4 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 that Peace Officer.

Section 5 – Penalties

- 5.1 The owner of the off-highway vehicle who contravenes any provision of this by-law is guilty of an offence.

- 5.2 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 by-law is guilty of an offence.
- 5.3 Any person who contravenes a provision of this by-law is guilty of an offense and is liable to a penalty as follows:
 - 5.3.1 First offense of this by-law will be a fine of \$150.00;
 - 5.3.2 Second offense of this by-law by the same individual will be \$300.00, plus a tow bill, impound charges, and any other related charges.
 - 5.3.3 Third and subsequent offenses of this bylaw on Summary conviction to a fine not exceeding twenty-five hundred dollars (\$2500.00), plus a tow bill, impound charges, and any other related charges, exclusive of costs relating to the conviction.

Section 6 – Violation Tags

- 6.1 A By-law Enforcement Officer is hereby authorized and empowered to issue a violation tag to any person who the By-law Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this by-law.
- 6.2 A violation tag may be issued to such person either personally or by mailing a copy to such person at his or her last known post office address.
- 6.3 The violation tag shall be in a form approved by the Council of the Village of Delburne and shall state the name of the person; the offense; the appropriate penalty for the offence as specified in Section 5 of this by-law; that the penalty shall be paid within thirty (30) days of the issuance of the violation tag; and any other information as may be required by the Village.
- 6.4 Where a violation tag is issued pursuant to this by-law, the person to whom the violation tag is issued may, in lieu of being prosecuted for the offense, pay to the Village Office the penalty specified in the violation tag.
- 6.5 Nothing in this by-law shall prevent a By-law Enforcement Officer from immediately issuing a violation ticket.

Section 7 – Violation Ticket

- 7.1 If the penalty specified on a violation tag is not paid within the prescribed time period then a By-law Enforcement Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, c. P-21.5, as amended.

Section 8 – Severability

- 8.1 Should any provision of this by-law be invalid, then such provision shall be severed and the remaining by-law shall be maintained.

Section 9 – Effective Date

- 9.1 This by-law shall come into effect upon third and final reading.

FIRST READING of Bylaw No. 1061 granted this 10th day of February, 2009.
CARRIED UNANIMOUSLY

SECOND READING of Bylaw No. 1061 granted this 24th day of February, 2009.
CARRIED UNANIMOUSLY

THIRD AND FINAL READING of Bylaw No. 1061 granted this 10th day of March, 2009.
CARRIED UNANIMOUSLY

Bob Manning, Mayor

Karen Fegan, C.T.
Chief Administrative Officer

Schedule “A”

Guidelines for Applications and Approval for Use of Highways for Off-Highway Vehicle Events

1. Written applications will be received for specific rides or events from groups, organizations, societies or clubs which intend to raise funds for a “charitable purpose” as defined in the Public Contributions Act, R.S.A. 1992, C. P-26, as amended, and who meet the requirements of the said Act; or wish to hold a recreational ride or event to encourage or promote their membership or group activities.
2. A group, organization, society or club shall be allowed only two rides or events, as set out in (1) above, per year.
3. A Statutory Declaration (Schedule “B”) shall be provided certifying that a responsible person within the group, organization, society or club has: a) determined that all members or participants who take part in the ride or event hold a current financial responsibility card for liability insurance which indicates that it remains in force during the ride or event, and all off-highway vehicles are properly licensed as per Motor Vehicles Administration Act, R.S.A 1980, c.M-22, as amended and b) checked the highways or portion of the highways to be used, and is satisfied themselves that the ditches and highway sides to be used are satisfactory and, in his or her opinion, safe for the intended purpose.
4. A Waiver or Release, Schedule “C” signed by each member or participant involved in the ride or event shall be provided and shall release the Village of any responsibility which may arise from the use of the highways or portions of highways for the intended purpose.
5. The application shall specify the highways or portions of highways to be used.
6. The application shall be submitted to the Chief Administrative Officer at least three (3) weeks prior to the time of the proposed ride or event and shall include the date and time of the ride or event together with the name, address, and telephone number of a contact person.
7. Upon application, the Chief Administrative Officer shall be authorized by Council to allow, if he/she deems necessary, a pre-ride or pre-event run by representatives of the group, organization, society or club to certify the safety of the route or to mark the route or any hazards in relation to the highways or portions of highways as specified for use in the applications.
8. Prior to the placing of markers for the route or for hazards along the proposed route approval must be obtained from the Public Works Foreman or the designate.
9. All signs or markings which have been placed along the route shall be removed within twenty-four (24) hours following the completion of the ride or event.
10. Failure to comply with any of the requirements of the by-law, the attached schedules or any conditions of the approval, as granted, may result in cancellation of the approval and the refusal of future applications.

CANADA) I, _____
 Province of Alberta) of the _____ of _____
 To wit) in the Province of Alberta

DO SOLEMNLY DECLARE, that I have on behalf of the _____
 Checked the Village of Delburne Highways or portion of the highways to be used for
 _____, which will be held by the _____
 on the dates of _____:

and have satisfied myself that the highways or portions of the highways to be used for the said
 event or ride are satisfactory and safe for the intended use by the members or participants of such
 event or ride.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is
 Of the same force and effect as if made under oath and by virtue of "The Canada Evidence
 Act".

Declared before me at the _____
 of _____
 in the Province of Alberta, this _____
 day of _____, 20_____

 Declarant

 Commissioner for Oaths

Schedule "C"
RELEASE, WAIVER, AND INDEMNITY AGREEMENT
Group Members
Re: Village of Delburne
Off-Highway Vehicle Use By-law

This is to certify that, we, the members of the _____ of _____ in the Province of Alberta who have attached our signatures hereto, intend to participate, at our own risk, in the event or ride being the _____ held by the _____ on the date(s) of _____, 20_____.

And in consideration of using the Village of Delburne highways or a portion of highways as authorized for the said event or ride and further good and valuable consideration, the receipt whereof being hereby acknowledged, I do hereby freely and voluntarily release the Village of Delburne, the Council of the Village of Delburne, and the Councillors of the Village of Delburne past, present and future, its officers, employees, servants, independent contractors and agents (hereinafter collectively referred to as "the Village of Delburne") from all liability and do hereby waive as against the Village of Delburne all recourses, claims, causes of action and demands of any kind whatsoever, which I, my heirs, executors, and assigns might have against the Village of Delburne, and I do hereby agree to indemnify and hold harmless the Village of Delburne from any claims, demands, causes of action of any kind whatsoever, including those involving negligence on the part of the said Village of Delburne, that may be made against the Village of Delburne, arising out of or connected with my preparation or participation in any of the programs or activities referred to above.

In confirmation of the above we have attached our signatures hereto.

Dated at _____, in the Province of Alberta, this ____ day of _____, 20_____.

SIGNATURES OF MEMBERS

Please print name

Signature

Print Name of Witness

Signature of Witness

Address of Witness
