

**MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9
IN THE PROVINCE OF ALBERTA
BYLAW No. 1321-20**

BEING a Bylaw of The Municipal District of Pincher Creek No.9 to regulate the operation of Off-Highway Vehicles.

WHEREAS pursuant to the *Traffic Safety Act*, Council may, by bylaw, authorize of the 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 bylaw for municipal purposes respecting the safety, health and welfare of people, and the protection of people and property, on or near a public place and enforcement of bylaws;

NOW THEREFORE, the Council of the Municipal District of Pincher Creek No. 9, in the Province of Alberta, duly assembled, enacts as follows:

Part 1 - Short Title

1. This bylaw may be cited as the “Off-Highway Vehicle Control Bylaw”.

Part 2 - Interpretation and Application

Definitions

2. In this Bylaw, unless the context otherwise requires:

(a) “Highway” means any thoroughfare, street, road, trail, avenue, parkway, driveway, lane, alley, bridge, or causeway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily 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 on 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;

(b) “Municipality” means the Municipal District of Pincher Creek No. 9;

(c) “Off-Highway Vehicle” or “OHV” means any motorized form of transportation built for cross country travel on land, snow, ice, or marsh land such as:

i) all-terrain vehicles;

ii) snow machines;

but does not include:

- i) golf carts;
- ii) riding lawn mowers;
- iii) scooters or mopeds; or
- iv) any other vehicle which cannot be registered pursuant to the *Operator Licensing and Vehicle Control Regulation*;

(d) “Operate” means to drive, or be in actual physical control of an Off- Highway Vehicle;

(e) “Operator” means the person operating or in physical control of an Off-Highway Vehicle;

(f) “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 operator a motor vehicle of the same class:

(g) “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;

(h) “Peace Officer” means:

- a) A Bylaw Enforcement Officer appointed pursuant to the *Municipal Government Act*;
- b) A Police Officer appointed pursuant to the *Police Act*; or
- c) A Peace Officer appointed pursuant to the *Peace Officer Act* whose appointment includes enforcement of municipal bylaws.

(i) “Violation Ticket” means a violation ticket issued pursuant to the *Provincial Offences Procedure Act*.

Part 3 - Application and Operating Off-Highway Vehicles

3.1 This Bylaw applies to highways under the direction, control and management of the Municipality.

3.2 A person may only operate an OHV in the municipality:

- a) on the extreme right side of the Highway;
- b) at a maximum speed of fifty (50) kilometers per hour;
- c) traveling in single file with other OHVs;

- d) that is duly registered, insured and displays a valid license;
- e) that is equipped with headlights, tail lights, exhaust muffler and such other equipment required by the *Off-Highway Vehicle Regulation*;
- f) if an Operator possesses a valid Alberta driver's license;
- g) if the Operator and their passengers are wearing regulation safety helmets, subject to the *Traffic Safety Act*, Section 128.1(4);
- h) No person shall operate an OHV in a manner that constitutes a nuisance or a danger to public safety; and
- i) No person shall operate an OHV in a subdivision or hamlet except only to leave from and return to their residence via the most direct route, while remaining on the road surface and at no more than thirty (30) kilometers per hour;
- j) between the hours of 8:00 AM and 10:00 PM

Part 4 - Exemptions

- 4.1** A Peace Officer shall not be in contravention of this Bylaw if operating an OHV while in the performance of their official duties.
- 4.2** During an emergency, disaster, or search and rescue operation within the Municipality, the provisions of this Bylaw may be waived, suspended or varied by Council, or the Chief Administrative Officer or his/her designate, or the Director of Emergency Services.

Part 5 - Authority of Peace Officers and Enforcement

- 5.1** A Peace Officer is hereby authorized and empowered to issue a Violation Ticket to any person the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw.
- 5.2** A Violation Ticket may be served:
 - a) in person to the accused; or
 - b) mailed to the address of the registered Owner of the OHV, or the Operator of the OHV if they are not the registered Owner.
- 5.3** The Violation Ticket shall be as specified in Schedule "A" of this bylaw, or by a provincial ticket authorized to be issued by a Peace Officer or Police Officer.
- 5.4** The penalty for an offence covered under the Violation Ticket shall be as specified in Schedule "A" of this bylaw or under provincial statute.
- 5.5** A person who commits an offence under this bylaw 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.

- 5.6** A person who commits an offence under this bylaw shall have fourteen (14) days from the date of the issuance of the Violation Ticket to pay the fine to avoid prosecution.
- 5.7** Where a Violation Ticket has been issued and the penalty specified on the ticket has not been paid within the prescribed time, a Peace Officer is hereby authorized and empowered to apply to the Courts to have the matter heard.

Part 6 - Penalties

- 6.1** A person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and is liable to a fine in an amount of not less than that established in this bylaw and not exceeding \$10,000.00.
- 6.2** Without restricting the generality of Section 6.1, the fine amounts established for Violations Tickets if a voluntary payment option is offered are set out in Schedule "A" of this bylaw.

Part 7 - Owner Liability

- 7.1** If an OHV is involved in an offence under this Bylaw, the Owner is guilty of an offence.
- 7.2** Section 7.1 does not apply if the Owner satisfies the court that, at the time the OHV was involved in the offence:
- i) the Owner of the OHV was not driving the OHV; and
 - ii) the person operating or otherwise in control of the OHV was operating or in control of the OHV without the Owner's consent.

Part 8 - Enforceability of the Bylaw

- 8.1** If any portion of this bylaw is found to be unenforceable or ultra vires, the remainder of this bylaw shall remain in force.

received a first reading this ____ day of _____, 20____.

received a second reading this ____ day of _____, 20____.

received a third and final reading this ____ day of _____, 20____.

Reeve Brian Hammond

Chief Administrative Officer Troy MacCulloch

**Off-Highway Vehicle Control Bylaw
Schedule "A"**

1. All Violation Ticket shall be by a provincial ticket authorized to be issued by a Peace Officer or Police Officer.
2. Fines and Penalties

<u>Section No.</u>	<u>Description</u>	<u>Specified Penalty</u>
Part 3 (2) (a)	Failure to Operate OHV in rightmost lane	\$100.00
Part 3 (2) (b)	Operate OHV in excess of 50 kilometers/hour	\$100.00
Part 3 (2) (c)	Failure to travel in single file	\$100.00
Part 3 (2) (d)	Unregistered OHV	\$200.00
Part 3 (2) (d)	Uninsured OHV	\$200.00
Part 3 (2) (d)	Failure to display license plate on OHV	\$200.00
Part 3 (2) (e)	Operate OHV without equipment required by regulations such as headlights, tail lights and exhaust muffler	\$100.00
Part 3 (2) (f)	Unlicensed Operator	\$100.00
Part 3 (2) (g)	Operator or passenger failure to wear a helmet Subject to the <i>Traffic Safety Act</i> , Section 128.1(4)	\$100.00
Part 3 (2) (h)	Operate OHV causing a nuisance or danger to public safety	\$250.00
Part 3 (2) (i)	Operate OHV in municipal park or hamlet	\$250.00
Part 3 (2) (j)	Operate OHV before 8:00 AM and after 10:00 PM	\$100.00

First time offences are enforced with the above listed rates, while second offences within a calendar year are double (x2) the amount listed above and third offences within a calendar year are triple (x3) the amount listed above.