



**THE CORPORATION OF THE TOWN OF FOX CREEK, ALBERTA
BY-LAW 745-2014
OFF HIGHWAY VEHICLE BYLAW**

A BYLAW OF THE TOWN OF FOX CREEK, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE REGULATION, CONTROL AND MANAGEMENT OF OFF HIGHWAY VEHICLES WITHIN IN THE TOWN OF FOX CREEK.

WHEREAS the Traffic Safety Act authorizes a municipal council to pass bylaws pertaining to general traffic regulation in that municipality, which bylaws shall not be inconsistent with that Act,

WHEREAS the Council of the Town of fox Creek, deems it desirable to regulate traffic within the Town of Fox Creek,

NOW THEREFORE the Council of the Town of Fox Creek, in the Province of Alberta, duly assembled, hereby enacts as follows:

PART 1 – DEFINITIONS

1. This Bylaw may be referred to as “The Off-Highway Vehicle Bylaw”.
2. In this Bylaw:
 - a) **“Alley”** means a narrow Highway intended chiefly to give access to the rear of buildings and parcels of land;
 - b) **“Approved Helmet”** means a safety helmet that is approved under Part 6 Division 4 of the Vehicle Equipment Regulation AR 122/2009 (as amended);
 - c) **“Bylaw”** means a Town bylaw, including any amendments thereto;
 - d) **“Bylaw Enforcement Officer”** means an individual appointed as such in accordance with the Town’s Bylaws.
 - e) **“Town”** means the Town of Fox Creek, a Municipal Corporation of the Province of Alberta, and includes, where the context so requires, the area contained within the boundaries of the Town of Fox Creek;
 - f) **“CAO”** means the Town’s Chief Administrative Officer;
 - g) **“Court”** means the Provincial court of Alberta;
 - h) **“Curb”** means the actual roadway curb or, if there is no curb in existence, the division of a Highway between the Roadway and the Sidewalk or Boulevard, as the case may be;
 - i) **“Highway”** means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle way 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 of parking of vehicles and includes:
 - a. A sidewalk, including a boulevard adjacent to the sidewalk,
 - b. If a ditch lies adjacent to and parallel with the roadway, the ditch, and

- c. 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,
 - d. But does not include a place declared by Provincial regulation not to be a highway;
- j) **“Municipal Violation Tag”** means a town-issued notice that alleges an offence and provides a Person with the opportunity to pay an amount to the Town in lieu of prosecution for the offence;
- k) **“Off-Highway Vehicle”** means any motorized mode of transportation not intended for normal roadway use, but built 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 non-roadway travel:
- a. 4-wheel drive vehicles,
 - b. Low pressure tire vehicles,
 - c. Motorcycles and related 2-wheel vehicles,
 - d. Amphibious machines,
 - e. All-terrain vehicles,
 - f. Miniature motor vehicles
 - g. Snow vehicles,
 - h. Mini bikes
 - i. Any other means of transportation that is propelled by any power other than muscular power or wind, but does not include;
 - j. Motor boats, or
 - k. Any other vehicle exempted from being an off-highway vehicle by Provincial regulation;
- l) **“Owner”** means the Person who owns an Off-Highway Vehicle including the registered owner and including any person renting a vehicle or having the exclusive use of an Off-Highway Vehicle under a lease that has a term of more than 30 days or otherwise having the exclusive use of an Off-Highway vehicle for a period of more than 30 days, or if the context dictates, a duly registered land titleholder of land where the Of-Highway Vehicle is stored or operated;
- m) **“Parkland”** means any developed or undeveloped property that is owned, controlled or maintained by the Town, is intended to be used by members of the public for recreation purposes, and is either:
- a. Preserved as a natural area,
 - b. Designated or districted as park or public recreation,
 - c. 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
 - d. A Boulevard contiguous with, partially within or fully within the property referenced under subsections (i), (ii) or (iii);
- n) **“Peace Officer”** means a person employed for the purposes of preserving and maintaining the public peace, and includes:
- a. A provincially-appointed Community Peace Officer,
 - b. A Bylaw Enforcement Officer authorized to enforce this Bylaw in accordance with his or her appointment; and
 - c. A member of the Royal Canadian Mounted Police;
- o) **“Pedestrian”** means:
- a. A person on foot; or

- b. A person in or on a mobility aid, and includes those persons designated by regulation as pedestrians and for the purposes of this bylaw, includes users of in-line skates, roller skates, skateboards and non-motorized scooters;
- p) **“Person”** includes any individual, corporation, society, association, partnership or firm;
- q) **“Roadway”** means that part of a highway intended for use by vehicular traffic, and for the purposes of this Bylaw, means roadways within the Town;
- r) **“Sidewalk”** means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a highway between:
 - a. The curb line, or
 - b. Where there is no curb line, the edge of the roadway, and the adjacent property line, whether or not it is paved or improved;
- s) **“Stop”** means:
 - a. When required, a complete cessation from vehicular movement, and
 - b. 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;
- t) **“Street Furniture”** includes every curb, sidewalk, utility pole, traffic control device, waste receptacle, tree, plant, grass, utility service equipment or any other property authorized for placement on a public place by the Town;
- u) **“Traffic Control Device”** means any sign, signal, marking or device placed, marked or erected under the authority of this Bylaw for the purpose of regulating, warning or guiding traffic;
- v) **“Undeveloped Land”** means land that has not been subdivided and/or has had improvements made to the land. Improvements include but are not inclusive of; paved roads, above and/or underground services, landscaping, pedestrian trail/walkway or land designated for a specific purpose such as an environmental reserve.
- w) **“Violation Ticket”** means a violation ticket issued in accordance with the Provincial Offences Procedure Act S.A. 2009, c. 52.

PART 2-RULES FOR THE OPERATION OF VEHICLES

- 3. Subject to any other restriction and provisions that may be contained in this bylaw, no Person shall operate an Off High-Way Vehicle anywhere within the municipal boundaries of the Town; a) Between the hours of eleven (11) o'clock in the evening (p.m) and six (6) o'clock of the next morning (a.m)

LICENSING, REGISTRATION AND INSURANCE

- 4. (1) No Person shall drive an Off-Highway Vehicle on any portion of a highway within the municipal boundaries of the Town unless:
 - a. They are a holder of a valid driver's license or learners permit and are abiding by the rules of that license or permit as per the provisions of the Traffic Safety act RSA 200 Chapter T-6

(2) No Person shall permit another Person who is not a holder of a valid license or permit as noted in subsection (1) to drive an Off-Highway Vehicle on any portion of a highway within the municipal boundaries of the Town, as per the provisions of the Traffic Safety Act RSA 2000; Chapter 6.

5. (1) No person under the age of 14 years shall operate an Off-Highway Vehicle in a public place.

(2) Notwithstanding subsection (1), a person under the age of 14 years shall not be considered in contravention of this section if he is supervised by an adult person seated next to him on the Off-Highway Vehicle, or otherwise in close proximity, while giving instruction, if that instruction is not given on a highway.

6. No Person who is the Owner of an Off-Highway Vehicle may operate or permit any other Person to operate an Off Highway Vehicle on any public property when there is:
- a. No subsisting certificate of registration issued to that vehicle and
 - b. The license plate if not properly affixed to the vehicle.
7. No Person who is the Owner of an Off-Highway Vehicle shall operate or permit any other Person to operate an Off-Highway Vehicle when there is no subsisting certificate of insurance issued to that vehicle.

DESIGNATED AREAS & SPEED

8. No Person shall operate an Off Highway Vehicle on any portion marked on Schedule "A" which includes but not limited to:
- a. Parkland area,
 - b. School ground,
 - c. Developed or landscaped area, or
 - d. Recreation area, including horse pastures and riding trails, or
 - e. Private property without permission of the owner or occupant of such property.
9. No Person shall operate an Off-Highway Vehicle within the boundaries of the town in excess of:
- a. Twenty (20) kilometers per hour on an alley, and
 - b. Thirty (30) kilometers per hour on all highways within the boundaries of the town except an alley;
10. The operator of an Off-Highway Vehicle is authorized to operate an Off-Highway Vehicle on any alley or roadway as well as Town owned undeveloped land as approved by Council from time to time, by the most direct and shortest route of travel through Town or for service or maintenance
- a. Notwithstanding anything in this bylaw, the operator of an Off-Highway Vehicle is authorized to operate an Off-Highway Vehicle within the boundaries of the Town of fox Creek for the purposes of landscaping, street maintenance, snow clearing activities, enforcement purposes and emergency services.
 - b. The CAO may, upon application from an association or society registered under the Societies Act whose mandate involves the operation of Off-Highway Vehicle, approve the use of Off-Highway Vehicle within the boundaries of the Town for a specific period of time as a special event at which occasion the maximum speed limit and routes shall not apply.

11. The operator of an Off-Highway Vehicle shall yield to all other traffic on any highway in the Town and to all Pedestrian at all times and places.
12. No Person shall operate an Off-Highway Vehicle without due care and attention; or without reasonable consideration for other Persons or property.

TOWING

13. No Person shall tow behind an Off-Highway Vehicle any trailer, sleigh, cutter or other vehicle unless the hitch or attachment employed:
 - a. Is so designed as to control the vehicle being towed so that it will substantially follow in the tracks of the towing vehicle,
 - b. Is of sufficient strength to safely control the vehicle being towed,
 - c. Does not exceed 1.83 m in length, and
 - d. Adequately prevents the towed vehicle from colliding with the towing vehicle in the case of a downhill travel or a stop.
14. When crossing any highway, roadway, sidewalk, or parking lane the operator of an Off-Highway Vehicle must:
 - a. Stop the Off-Highway Vehicle before entering onto the highway or portion thereof to be crossed,
 - b. Ensure all passengers disembark from the Off-Highway Vehicle and any vehicle or thing attached thereto before he commences to cross,
 - c. Yield to the right of way to all other vehicles and Persons on the highway, and
 - d. Cross over the highway or portion thereof to be crossed from the most direct and shortest route of travel available
15. The operator of, and passengers being carried or towed by, an Off-Highway Vehicle within the Town shall at all times wear a protection helmet, which has been CSA approved, when the Off-Highway Vehicle is in motion.

DAMAGE

16. No Person shall in any way damage any Street Furniture on any Highway or public place within the Town;
 - a. Any cost to repair shall be in addition to any charge laid under this section.
17. Operation of Off-Highway Vehicle in the Town is at the operators own risk and the Town does not warrant any area as being suitable for the use of Off-Highway Vehicle.

PART 3-ENFORCEMENT

Seizure and Impoundment of Vehicle

18. A Peace Officer who on reasonable and probable grounds believes that an offense under any section of this Bylaw has been committed may seize and detain any Off-Highway Vehicle in respect of which the offence was committed for a period of 21 days or;
 - a. Notwithstanding section 18, in the event a plea of guilty is entered before the 21 day period and disposition of all proceedings against the Owner or operator of that Off-Highway Vehicle is completed before the 21 day period, the Off-Highway Vehicle may be returned to the Owner.
19. When seizure and detainment occurs, the Owner of the Off High-Way Vehicle shall be responsible for all storage fees, towing, and all other associated fees.

20.(1) A Peace Officer shall notify the owner of a vehicle in the event of the vehicles seizure in accordance with section 18.

(2) Any vehicle seized under section 18 shall be delivered to an impound facility where it will remain impounded until claimed by the owner or in accordance with applicable Provincial laws.

OFFENCE

21.(1) A Person who contravenes any provision of this Bylaw is guilty of an offence and liable to a fine or fines and/or seizure and detainment of the Off High-Way Vehicle as set out in Schedule 1.

(2)When a vehicle is operated in contravention of any provision of this Bylaw, the owner or operator shall be deemed to have committed the corresponding offence.

FINES AND PENALTIES

22.A person who is guilty of an offence under this Bylaw is liable;

- a. To a fine as prescribed in Schedule 1; or
- b. On summary conviction, to a fine not exceeding \$10, 000.00 but not less than specified in Schedule 1 or to an order of imprisonment for not more than 1 year, or both.

MUNICIPAL VIOLATION TAG

23.(1)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.

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

VIOLATION TICKET

24.(1) A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket;

- a. Specifying the fine amount established by the Bylaw; or
- b. Requiring an appearance in court without the option of making a voluntary payment.

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

SERVICE OF MUNICIPAL VIOLATION TAG

25.A Municipal Tag is deemed to have been properly served if;

- a. It is served personally on the Owner or operator of the vehicle or accused Person,
- b. It is affixed to a conspicuous place on the vehicle.

SERVICE OF A VIOLATION TICKET

26.A Violation Ticket is deemed to have been properly served if served in accordance with the Provincial Offences Procedures Act.

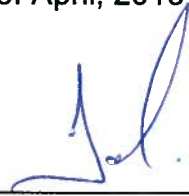
PART 4- BYLAW COMING INTO EFFECT

27. Bylaw 731-2014; S.2.12 through to S.2.13 and associated amendments are here by repealed.

READ A FIRST TIME this 8TH day of DECEMBER, 2014

READ A SECOND TIME this 9th day of FEBRUARY, 2015

READ A THIRD AND FINAL TIME this 13th day of April, 2015



James Ahn
Mayor



Roy Dell
Chief Administrative Officer

Schedule 1 – PENALTIES

DESCRIPTION	BYLAW SECTION	PENALTY
Operate OHV during restricted hours or dates	3	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Operate OHV w/o valid operators license	4(1) (a)	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Allow others to operate OHV w/o license	4(2)	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Underage operation of OHV	5(1)	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Fail to hold valid registration	6(a)	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Fail to display valid license plate	6(b)	\$100 1 st offence \$200 2 nd offence \$300 and/or court 3 rd and subsequent offences
Fail to hold valid insurance	7	\$500 1 st offence \$750 2 nd offence \$1000 and/or court 3 rd and subsequent offences
Operate OHV in restricted area	8(a-e)	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Speeding (+20 km/hr in alley)	9(a)	\$100 1 st offence
Speeding (+30 km/hr on highway)	9(b)	\$200 2 nd offence \$300 and/or court 3 rd and subsequent offences
Fail to take most direct route	10	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Fail to yield to traffic/pedestrian	11	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Operate without due care and attention	12	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Improper towing	13	\$100 1 st offence \$200 2 nd offence \$300 and/or court 3 rd and subsequent offences
Improper crossing	14	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Fail to wear helmet	15	\$250 1 st offence \$375 2 nd offence \$500 and/or court 3 rd and subsequent offences
Damage to street furniture	16	\$250 plus cost of repair

