

BYLAW NO. 594/06

**BEING A BYLAW OF THE
MUNICIPAL DISTRICT OF MACKENZIE NO. 23
IN THE PROVINCE OF ALBERTA**

**TO REGULATE THE CONTROL, USE AND OPERATION OF OFF-HIGHWAY
VEHICLES WITHIN THE MUNICIPALITY**

WHEREAS the Traffic Safety Act, being Chapter T-6, and the Municipal Government Act, being Chapter M-26.1, both of the Statutes of Alberta, provides that a Municipal Council may enact a Bylaw respecting the safety, health and welfare of people and the protection of people and property; and to regulate the control, use and operation of off-highway vehicles;

AND WHEREAS it is deemed expedient by the Council of the Municipal District of Mackenzie No. 23 to pass a Bylaw to regulate the operation of off-highway vehicles within the Municipal District;

NOW THEREFORE the Council of the Municipal District of Mackenzie No. 23, in the Province of Alberta, in regular session, duly assembled, enacts as follows:

SECTION 1 NAME OF BYLAW

This Bylaw may be cited as the “Off-Highway Vehicles Bylaw”.

SECTION 2 INTERPRETATION

Where there is a conflict between this Bylaw and any other Bylaw pertaining to noise abatement in the Municipal District, the provisions of this Bylaw shall apply.

SECTION 3 DEFINITIONS

In this Bylaw:

- a) “Alley” for the purpose of speed control means a utility laneway intended chiefly to provide utility companies and residents with access to their utilities, rear of buildings, and parcels of land, but not for primary access;

- b) "Council" means the Municipal District of Mackenzie No. 23 Council, duly assembled and acting as such;
- c) "Hamlet" means the area contained within the boundaries of the Hamlets of Fort Vermilion, La Crete, and Zama City in the Province of Alberta;
- d) "Helmet" means a rigid safety helmet with chin strap attached which has been CSA approved for off-highway use;
- e) "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, square bridge, causeway, trestleway, or other place, 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 includes:
 - (i) sidewalks (including the boulevard portion of a 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:
- f) "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 designed for such travel.
 - (i) 4-wheel drive or low pressure tire vehicles,
 - (ii) motor cycles and related 2-wheel vehicles,
 - (iii) amphibious machines,
 - (iv) all terrain vehicles,
 - (v) miniature motor vehicles,
 - (vi) snow vehicles,
 - (vii) minibikes, and
 - (viii) any other means of transportation which is propelled by any power other than muscular power or wind,

but does not include

- (ix) motor boats, or
 - (x) any other vehicle exempted from all of the provisions of the Traffic Safety Act by the regulations;
- g) “Operator” means a person who drives or is on actual physical control of a vehicle;
- h) “Owner” means a person who owns, rents or has the exclusive use of that vehicle under a lease or for any period;
- i) “Peace Officer” means a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or a Special Constable appointed pursuant to the provisions of the Police Act of Alberta;
- j) “Residential Area” means an area within the boundaries of a Hamlet that is zoned for residential use pursuant to the Municipal District’s current Land Use Bylaw;
- k) “Roadway” means that part of a highway intended for use by vehicular traffic;
- l) “Street furniture” means every curb, sidewalk, pole, traffic sign, waste receptacle, tree, plant, grass, or any other property belonging to the Municipality that is capable of being marked, defaced or damaged in any way;
- m) “Municipal District” means the area contained within the boundaries of the Municipal District of Mackenzie No. 23;

Save as herein otherwise provided, the terms and expressions in this Bylaw have the same meaning as in the Traffic Safety Act, the Interpretation Act, and the Municipal Government Act respectively.

SECTION 4 OPERATION OF OFF-HIGHWAY VEHICLES

- a) No person shall operate an off-highway vehicle within the municipal boundaries of the Hamlet, except that
 - i) an operator of an off-highway vehicle is authorized to operate an off-highway vehicle on any alley or roadway to transport the off-highway vehicle by the most direct and shortest route of travel, from a residence to exit and to enter a Hamlet; or
 - ii) the use is for the purpose of acquiring service or maintenance on the off-highway vehicle; or
 - iii) the use is within the areas of a Hamlet zoned for Hamlet General pursuant to the Municipal Land Use Bylaw; or
 - iv) The Council may, upon application from an association or society registered under the Societies Act whose mandate involves the operation of off-highway vehicles, approve the use of off-highway vehicles within the boundaries of the Hamlet for a specific period of time as a special event.

- b) No person shall operate an off-highway vehicle on any portion of a:
 - i) Recreation area,
 - ii) School ground,
 - iii) Park area,
 - iv) Developed or landscaped area,
 - v) Municipal airport including runway, airstrip, apron or other portion of the airport used for the movement of aircraft, or
 - vi) Private property without permission of the owner or occupant of such property, within the municipal boundaries of the Hamlet.

- c) No person shall operate an off-highway vehicle anywhere within the municipal boundaries of the Hamlet between the hours of eleven (11) o'clock in the evening (p.m.) and seven (7) o'clock of the next forenoon (a.m.).
- d) No person shall operate an off-highway vehicle within the boundaries of the Hamlet in excess of:
 - i) Twenty (20) kilometers per hour (12.4 miles per hour) on any alley, and
 - ii) Thirty (30) kilometers per hour (18.6 miles per hour) on all highways within the boundaries of the Hamlet except an alley.
- e) No person shall in any way damage any street furniture on any highway or public place.
- f) The operator of, and passengers being carried or towed by, an off-highway vehicle within the Hamlet shall at all times wear a protection helmet, which has been CSA approved, when the off-highway vehicle is in motion.
- g) No person shall operate an off-highway vehicle in a manner that creates unnecessary noise.
- h) All off-highway vehicles must come to a complete stop before crossing a highway.
- i) All off-highway vehicles must adhere to all provincial and federal legislation.

SECTION 5

ENFORCEMENT PROVISIONS

- a) A person who contravenes any provision of this Bylaw is guilty of an offense.
 - i) The owner of an off-highway vehicle that is involved in a contravention of this Bylaw is guilty of any offense unless he or she proves to the satisfaction of the Judge that at the time of the offense the off-highway vehicle was not being driven or was not parked or left

by him or any other person with his consent, express or implied.

- ii) Notwithstanding sub-section b), if the owner was not driving the off-highway vehicle at the time the offense was committed, he is not in any event liable to imprisonment.
- b) A person who is guilty of an offense under Section 4 Subsection e), of this Bylaw is guilty of an offense and is liable on summary conviction to a fine of not less than one thousand (\$1,000.00) dollars plus reparations and in default of payment to imprisonment for a term not exceeding six (6) months.
- c) Except as otherwise provided in this Bylaw, a person who is guilty of an offense under this Bylaw for which a penalty is not otherwise provided is liable:
- d) For a first offense to a fine of not more than fifty (\$50.00) dollars and in default of payment to imprisonment for a term of not more than thirty (30) days, and
- e) For a second or subsequent offense, to a fine of not more than one hundred (\$100.00) and in default of payment to imprisonment for a term of not more than sixty (60) days.
- f) Nothing in Section 5, shall:
 - i) Prevent a person from exercising his right to defend any charge of contravening any provisions of this Bylaw, or
 - ii) Prevent a Peace Officer from laying an information or complaint in lieu of serving a voluntary payment ticket.
- g) Where a Peace Officer believes that a person has contravened any provisions of this Bylaw other than Section 7, he may serve upon such a person a voluntary violation ticket allowing payment of the penalty specified in Section 5 Subsection f) of this Bylaw and such payment shall be accepted by the Municipality in lieu of the offense.

SECTION 6 SEIZURE OF OFF-HIGHWAY VEHICLE

- a) A Peace Officer who, on reasonable and probable grounds, believes that an offense under the provisions of this Bylaw has been committed may seize and detain an off-highway vehicle in respect of which the offense was committed until the final disposition of any proceedings that may be taken under this Bylaw.

SECTION 7 REPEAL

- a) This Bylaw shall replace Bylaw 076/97 and Bylaw 241/00.

The provisions of this Bylaw shall become into full force and effect upon receiving third and final reading.

First reading given on the 23rd day of August, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant

Second reading given on the 23rd day of August, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant

Third reading given on the 12th day of September, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant