

BRAZEAU COUNTY

Bylaw 841 - 14

A BYLAW AUTHORIZING THE OPERATION OF OFF HIGHWAY VEHICLES ON HIGHWAYS, RIGHT-OF-WAYS AND MUNICIPAL PROPERTY IN BRAZEAU COUNTY

WHEREAS pursuant the provisions of the Traffic Safety Act, RSA 2000, c.T-6, as amended and the Off-Highway Vehicle Regulation AR 319/2002 as amended, prevent a person from operating an Off-Highway Vehicle on any portion of a highway;

AND WHEREAS pursuant to Section 120(4)(b) of the Traffic Safety Act, the council of the municipality may by bylaw, allow persons to operate Off-Highway Vehicles on any portion of any such highway or right of way, therefore, with respect to highways under its direction, control and management, may restrict operating hours;

AND WHEREAS the provisions of the Traffic Safety Act, and the Off-Highway Vehicle Regulation set out requirements for the operation of Off-Highway Vehicles;

NOW THEREFORE, the Reeve and Councillors of Brazeau County in regular meeting duly assembled hereby enact as follows:

1. In this Bylaw:
 - a. "Act" means the Traffic Safety Act, RSA 2000, c.T-6, as amended;
 - b. "All Terrain Vehicle" means any motorized Off-Highway Vehicle travelling on three or more low-pressure tires and having the specifications prescribed by the Act or the Regulation;
 - c. "Amphibious Vehicle" means a wheeled or tracked motor vehicle designed for travel primarily on unprepared surfaces such as open country and marshland, but does not include a snow vehicle, implement of husbandry or construction machinery;
 - d. "County" means Brazeau County;
 - e. "Country Residential Multi-lot Subdivision" means any Country Residential Subdivision consisting of a minimum of six (6) lots and an internal roadway for lot access;
 - f. "Enforcement Officer" means police officer, peace officer, bylaw officer or any other persons having the authority to enforce this bylaw;
 - g. "Hamlet" means any urbanized area designated by Brazeau County Council as a hamlet and having specific boundaries identified; and

- h. "Highway" means thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway, or other place within the jurisdiction of Brazeau County 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. a sidewalk (including a boulevard portion thereof);
 - ii. where a ditch lies adjacent to and parallel with a roadway, the ditch, and
 - iii. where a highway right-of-way contained between fences or between a fence and one side of the roadway, all the land between fences, or all the land between the fence and the edge of the roadway, as the case may be;
- i. "Motorcycle and mini-bike" means a motorized Off-Highway Vehicle mounted on two wheels and having a seat designed to be straddled by an operator, and includes those motor vehicles known to the trade as motorcycles, scooters and power bicycles, having specifications as prescribed by the Act or Regulation;
- j. "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 designated for such travel:

 - i. motorcycles and mini-bikes;
 - ii. snow vehicles;
 - iii. all terrain vehicles;

but does not include motorboats and Amphibious Vehicles;
- k. "Reasonable Rate of Speed" means the speed at which an operator is able to stop in a reasonable distance when presented with hazards such that losses of life or limb or serious injuries do not occur;
- l. "Regulation" means the Off-Highway Vehicle Regulation AR 319/2002, as amended from time to time;
- m. "Safety Helmet" means a safety helmet designed, constructed and sold for use with Off-Highway Vehicle operation and approved to meet CSA standards; and

- n. "Snow Vehicle" means a motorized Off-Highway Vehicle specifically designed for travel mounted and propelled on one or more tracks and having a seat designed to be straddled by an operator, and intended to be driven exclusively or chiefly on snow or ice or both.
2. Prohibitions:
- a. A person who is less than 14 years old shall not drive an Off-Highway Vehicle on a highway.
 - b. A person who is less than 14 years old shall not drive an Off-Highway Vehicle on public property unless:
 - i. The person is supervised by a person who is occupying the passenger seat on the Off-Highway Vehicle or is in or on a vehicle that is travelling in close proximity to the Off-Highway Vehicle, and
 - ii. The person supervising is 18 years old or older.
 - c. No person shall permit a person who is less than 14 years old to drive an Off-Highway Vehicle in a public place except in accordance with subsection (2).
3. No person shall operate an Off-Highway Vehicle:
- a. in any park or Country Residential Multi-lot Subdivision;
 - b. on any Highway within the County, where the County has placed a sign or signs prohibiting such operation; or
 - c. in any environmental reserve area.
4. Subject to sections 2 and 3, the County hereby allows the operation of Off-Highway Vehicles on road right-of-ways under the following conditions:
- a. The operator of the Off-Highway Vehicle must abide by the requirements of the Act and the Regulation;
 - b. The operator of the Off-Highway Vehicle must have valid insurance and registration for the Off-Highway Vehicle during the operator of the Off-Highway Vehicle, and must present evidence of insurance and registration if an Enforcement Officer makes a demand for it;
 - c. The operator of the Off-Highway Vehicle and any passengers accompanying the operator must wear Safety Helmets while operating or being a passenger in the Off-Highway Vehicle;

- d. The operator of the Off-Highway Vehicle must operate the Off-Highway Vehicle at a Reasonable Rate of Speed. In any event, the operator must not travel greater than 30 km per hour in a Hamlet, nor greater than 50 km per hour on the Highway;
 - e. The operator operates the Off-Highway Vehicle at his or her own risk;
 - f. The operator is permitted to operate the Off-Highway Vehicle only between the hours of 8:00 am to 10:00 pm AND
 - g. The operator must not:
 - i. cause damage to rights of way, ditches or road surfaces,
 - ii. cause damage to or destroy erosion control measures;
 - iii. remove signs, posts or barriers, which serve as a warning or control measure.
5. Except as otherwise provided in this Bylaw, an Operator of an Off-Highway Vehicle:
- a. is only permitted to operate the Off-Highway Vehicle on the extreme right hand side of the roadway or in the ditch;
 - b. shall travel single file at all times; and
 - c. shall travel in the same direction as vehicles travelling on that side of the roadway closest to the Off-Highway Vehicle.
6. An operator of an Off-Highway Vehicle within a Hamlet or Country Residential Multi-lot Subdivision within the County shall use the roadway within the Hamlet or Country Residential Multi-lot Subdivision only to leave from and return to the Hamlet or Country Residential Multi Parcel Subdivision by the most direct and safest route possible to and from his or her residence.
7. An Enforcement Officer who, on reasonable and probable grounds, believes that an offence under this Bylaw has been committed may seize and detain any Off-Highway Vehicle in respect of which the offence was committed for a seven (7) day period. All costs for impounding and storage of the vehicle will be borne by the owner of the Off-Highway Vehicle.
8. Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, on summary conviction, to pay a penalty as set out in Schedule "A" herein.
9. An Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

10. A Violation Tag shall be served upon such a Person personally, or in the case of a corporation, by serving the Violation Tag personally upon the Manager, Secretary or other Executive Officer, or Person apparently in charge of a branch office, by mailing a copy to such Person by registered mail, or the case of an individual, by leaving it with a Person on the premises who has the appearance of being at least eighteen (18) years of age.
11. The Violation Tag shall be in a form approved by the County and shall state:
 - a. the name of the Operator of the Off-Highway Vehicle;
 - b. the offence;
 - c. the appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;
 - d. that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tags; and
 - e. any other information as may be required by the County.
12. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by an Enforcement Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
13. Where a Violation Tag is issued pursuant to this Bylaw, the Person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the County Treasurer the penalty specified on the Violation Tag.
14. In those cases where a Violation Tag has been issued and the penalties specified on the Violation Tag have not been paid within the prescribed time, then an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34, as amended or repealed and replaced from time to time.
15. Notwithstanding Section 14 of this Bylaw, an Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any person whom the Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
16. The conviction of a person under the provisions of this Bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this Bylaw, or conditions, orders, or permits, issued in accordance with this Bylaw.

17. Except where otherwise expressly provided, everyone who is convicted of an offence against this Bylaw is liable to a fine of not less than Two Hundred and fifty dollars (\$250.00) or not more than twenty-five hundred dollars (\$2,500.00) or to imprisonment of not more than six (6) months or to both fine and imprisonment.
18. Any fine or penalty imposed under this bylaw inures to the benefit of the County.
19. Bylaw 693-09 is hereby repealed.

READ a first time 2nd day of July, 2014

READ a second time this 20th day of January, 2015.

READ a third time and finally passed this 20th day of January, 2015

Reeve

Chief Administrative Officer

Schedule "A"
PENALTIES

1. Any Person contravening certain sections of this Bylaw shall liable for the penalties set out below

Offence	Penalty
Operating an Off-Highway Vehicle not using Reasonable Rate of Speed	a fine of up to \$500.00.
Operators or passengers not wearing Safety Helmets	a fine of up to \$250.00
Operating an Off-Highway Vehicle where prohibited	a fine of up to \$500.00
Operating an Off-Highway Vehicle in the ditch on the wrong side of a road at night	a fine of up to \$250.00
Operating an Off-Highway Vehicle outside the approved hours of operation	a fine of up to \$500.00
Causing damage to rights of way, ditches or road surfaces	a fine of up to \$2,500.00
cause damage to or destroy erosion control measures	a fine of up to \$2,500.00
remove signs, posts or barriers, which serve as a warning or control measure	a fine of up to \$2,500.00