

# TOWN OF RAINBOW LAKE

## BYLAW NO. 2008-01

### A BYLAW OF THE TOWN OF RAINBOW LAKE IN THE PROVINCE OF ALBERTA, TO REGULATE THE CONTROL, USE, AND OPERATION OF OFF-HIGHWAY VEHICLES WITHIN THE TOWN OF RAINBOW LAKE.

#### WHEREAS;

Council has received requests to permit the use of Off-Highway Vehicles within the Town under certain conditions; and

#### WHEREAS;

Pursuant to the Traffic Safety Act, R.S.A. 2000, Chapter T-6, and amendments thereto, the Town of Rainbow Lake may by bylaw authorize the use of Off-Highway Vehicles on highways under its direction, control and management;

#### NOW THEREFORE;

The Council of the Town of Rainbow Lake, in the Province of Alberta, duly assembled enact as follows:

#### SHORT TITLE

1. This Bylaw may be cited as the "Off-Highway Vehicles Bylaw".

#### DEFINITIONS

2. In this Bylaw:
  - a) "**Alley**" means a narrow highway or trail intended chiefly to provide access to the rear of buildings or parcels of land;
  - b) "**Council**" means the Municipal Council of the Town of Rainbow Lake, duly assembled and acting as such;
  - c) "**Ditch**" means any excavated or natural depression in the land designed or used primarily for the draining of water and debris from the roadways and properties within the Town, and includes, but is not limited to, those ditches located adjacent to a roadway;
  - d) "**Highway**" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, bridge, causeway, trestle 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) boulevards;
    - ii) a ditch, if the ditch lies adjacent to and parallel with the roadway;
    - 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.
  - e) "**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) 4 wheel drive or low pressure tire vehicles;
    - ii) motorcycles and related 2 wheel vehicles;
    - iii) amphibious machines;
    - iv) all-terrain vehicles;
    - v) miniature motor vehicles;
    - vi) snow vehicle;
    - vii) minibikes; and
    - viii) any other means of transportation which is propelled by power other than muscular power or wind.

But does not include:

- ix) Motor boats
  - x) Traffic Safety Act, R.S.A. 2000, Chapter T-6 and Regulations thereto;
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- g) **Traffic Safety Act** means the Traffic Safety Act, R.S.A. 2000, Chapter T-6, associated regulations, and all amendments thereto;
  - h) **Operator** means a person who drives or is in actual physical control of a vehicle;
  - i) **Owner** means a person who is the registered owner, legal owner, person renting an Off-Highway Vehicle, or person having the exclusive use of that vehicle under a lease or otherwise for any period;
  - j) **Peace Officer** means a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer or Special Constable appointed pursuant to the provisions of the Police Act or the Municipal Government Act, Statutes of Alberta;
  - k) **Roadway** means that part of a highway intended for normal use by vehicular traffic, limited to the paved asphalt or gravel portion of the highway;
  - l) **Town** means the Town of Rainbow Lake, a Municipal Corporation in the Province of Alberta, and includes the area contained within the boundaries of the town where the context so requires;
  - m) **Trail** means any man made or natural thoroughfare on public land normally created and used for the passage of vehicles.
  - n) **Watercourse** means any stream or water flow area where, during the spring or following a rain, water normally sits or flows and through which the water flows en route to the Town's water reservoir or water intake points or which supply the water source for the Town's raw water intake.

### **OPERATION OF OFF-HIGHWAY VEHICLES**

3. No person shall operate an Off-Highway Vehicle within the municipal boundaries of the town.
4. Notwithstanding Section 3, the operator of an Off-Highway Vehicle is authorized to operate an Off-Highway Vehicle on any alley, roadway, or trail for the purpose of traveling from one place to another within the boundaries of the Town.
5. Operators shall use Off-Highway Vehicles within the town as a mode of transportation, and not for recreational use.
6. No operator or owner of an Off-Highway Vehicle shall operate or permit the operation of an Off-Highway Vehicle in a manner that creates a nuisance, or excessive or repetitive noise.
7. No person shall operate an Off-Highway Vehicle on any portion of a ditch or watercourse within the municipal boundaries between the dates of April 1<sup>st</sup> and October 31<sup>st</sup> of each year.
8. No person shall operate an Off-Highway Vehicle within the boundaries of the town in excess of:
  - a) 30 kilometres per hour within the boundaries of the town; and
  - b) In the ditches adjacent and parallel to Highway 58, the posted speed limit for Highway 58.

9. Operators of Off-Highway Vehicles on a roadway shall travel on the extreme right hand side of the road and shall travel single file at all times.
10. No person shall operate an Off-Highway Vehicle on any portion of a:
  - a) Recreation area - including, but not limited to, the golf course, baseball diamond, basketball court and tennis court;
  - b) School grounds;
  - c) Park area or children's playground specifically designated as such,
  - d) Pedestrian, walking or ski trail as designated by the Town; and
  - e) Private property without the permission of the owner, resident, or occupant of such property.
11. No person shall operate an Off-Highway Vehicle on the roadway of Highway 58 except to cross in accordance with the provisions of the Traffic Safety Act.
12. No person shall operate an Off-Highway Vehicle while not wearing a Canadian Standards Association, or U.S. Department of Transport approved safety helmet.
13. Traffic Safety Act and Regulations issued thereto shall apply to the operation of Off-Highway Vehicles within the Town boundaries.
14. A Peace Officer shall not be in contravention of this Bylaw if operating an Off-Highway Vehicle while in the performance of duty.

#### **ENFORCEMENT**

15.
  - a) A person who contravenes any provision of this Bylaw is guilty of an offence
  - b) The owner of an Off-Highway Vehicle that is involved in a contravention of this Bylaw is guilty of an offence unless the owner proves beyond a reasonable doubt that at the time of the offence the motor vehicle was not being driven or was not parked or left by the owner or by any other person with consent, expressed or implied, of the owner.
  - c) Notwithstanding sub-section b), if the owner was not driving the Off-Highway Vehicle at the time the offence was committed, the owner is not in any event liable to imprisonment.
16. 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:
  - a) For a first offence to a fine of not more than \$50.00 and in default of payment to imprisonment for a term of not more than 30 days; and
  - b) For a second or subsequent offence to a fine of not more than \$100.00 and in default of payment to imprisonment for a term of not more than 60 days
17. Nothing in Sections 14 and 15 shall:
  - a) Prevent a person from exercising his right to defend any charge of contravening any provisions of this bylaw, or
  - b) Prevent a Peace Officer from laying an information or complaint in lieu of serving a voluntary payment ticket.
18. Where a Peace Officer believes that a person has contravened any provisions of this bylaw, he may serve upon such a person a voluntary violation ticket allowing payment of the penalty specified in Section 15 of this bylaw and such payment shall be accepted by the Town in lieu of prosecution for the offense.

**SEIZURE**

19. A Peace Officer who on reasonable and probable grounds believes that an offence under the provisions of this Bylaw has been committed may seize and detain the Off-Highway Vehicle in respect of which the offence was committed until the final disposition of any proceedings that may be taken under this Bylaw.

**REPEALS OF PREVIOUS BYLAWS**

20. This bylaw hereby repeals **Bylaw NO. 01-01** any other existing bylaws, agreements or memoranda in respect to the operation of Off-Highway Vehicles within the municipal boundaries of the Town of Rainbow Lake.

**COMMENCEMENT**

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

**READ A FIRST TIME** this 17<sup>th</sup> day of March, 2008.

**READ A SECOND TIME** this 17<sup>th</sup> day of March, 2008.

**READ A THIRD TIME AND FINALLY PASSED** this 17<sup>th</sup> day of March, 2008.

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Mayor

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Chief Administrative Officer