

BYLAW 683/10
TOWN OF ELK POINT #043

A BY-LAW OF THE MUNICIPALITY OF THE TOWN OF ELK POINT IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL THE OPERATION OF "OFF-HIGHWAY VEHICLES" WITHIN THE CORPORATE LIMITS OF THE TOWN OF ELK POINT AND TOWN-OWNED PROPERTY IN THE COUNTY OF ST. PAUL.

PURSUANT to the provisions of Division 1, Section 7 of the Municipal Government Act being Chapter M-26.1 and amendments thereto provides that a Council may pass bylaws for the safety, health and welfare of the people and the protection of people and property;

AND WHEREAS, under the provisions of the Off-Highway Vehicle Act, Chapter Q-4, R.S.A. 1980 Section 18, Subsection 2B, the Council of the Municipality may, by bylaw, with respect to highways under the direct control and management, authorize persons to operate off-highway vehicles on any portion of any such highway or class of highway and may restrict the hours which that operation may take, and prescribe maximum and minimum rates of speed for off-highway vehicles.

AND WHEREAS, the Council of the Town of Elk Point, in the Province of Alberta, deems it necessary to pass such a bylaw;

NOW THEREFORE, the Council of the Town of Elk Point, in the Province of Alberta, in session duly assembled, enacts as follows:

1. SHORT TITLE

This bylaw shall be cited as the "Off-Highway Vehicle Bylaw".

2. DEFINITIONS

- a) "Council" shall mean the Municipal Council of the Town of Elk Point, in the Province of Alberta.
- b) "Highway" shall mean any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle-way 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.
- c) "Off-Highway Vehicle" shall mean any motorized vehicle designed 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. Four-wheel drive or low pressure tire vehicles,
 - ii. Motorcycles and related two-wheel vehicles,
 - iii. Amphibious machines,
 - iv. All-terrain vehicles,
 - v. Miniature motor vehicles,
 - vi. Minibikes,
 - vii. Snow vehicles, 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 this Act by the regulations;

- d) "Insured Off-Highway Vehicles" shall mean an off-highway vehicle the owner of which is insured by a policy of insurance approved under Part 7 of the Insurance Act and containing the coverage and limits fixed by that part for automobiles in relation to the public liability, property, damage and accident benefits in respect of that off-highway vehicle.
- e) "Operator" shall mean a person who drives or operates an off-highway vehicle as the owner thereof, or as an agent, employee or servant of the owner.
- f) "Owner" shall mean the registered owner of the off-highway vehicle.
- g) "Person" shall mean all those defined under "Operator" as set out in section 2 (e) above.
- h) "Parkland" shall mean every recreational area owned or controlled by the Town that lies within the limits of the Town whether such parkland is improved in whole or in part or remains in its natural state, but shall include other neighbourhood beautification areas and publicly maintained areas administered by the Town.
- i) "Peace Officer" shall mean a member of the Royal Canadian Mounted Police.
- j) "Bylaw Enforcement Officer" means a Bylaw Enforcement Officer appointed pursuant to Section 555 (1) and (2) of the Municipal Government Act, being Chapter M26.1 with amendments in force as of July 15, 1996 and any amendments thereto.
- k) "School Grounds" shall mean all that area legally described as Lot E, Plan 584MC; Lot 1, Block 22, Plan 2130HW, and; Lot 3, Block 22, Plan 2130HW.
- l) "Town" shall mean the municipality of the Town of Elk Point in the Province of Alberta, and the Corporate limits thereof.

3) REGULATIONS

- a) The owner shall at all times be held responsible for the actions of the operator with respect to infractions of this Bylaw and the Off-Highway Vehicle Act.
- b) No person shall operate an Off-Highway Vehicle in contravention of the Alberta Off-Highway Vehicles Act.
- c) No person shall operate an Off-Highway Vehicle in the Town except for the purpose of proceeding by the most direct route from his/her place of residence to enter or exit the Town, bearing in mind the provisions contained in 2 (b) above, the operator may proceed at their own risk.
- d) No person shall operate an Off-Highway Vehicle upon any parkland within the Town or on the Recreation Land in the County of St. Paul legally described as NE ¼ of Section 35, Twp 56, West of the 4th, SE ¼ of Section 35, Twp 56, West of the 4th, and the NW ½ of the NW ¼ of Section 35, Twp 56, West of the 4th, commonly known as the Elk Point Golf Course.
- e) i. No person under the age of 14 years shall operate an Off-Highway Vehicle in a public place.
ii. 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.



- f) No Off-Highway Vehicle shall be operated within the Town limits between the hours of 11:00 pm of one day and 9:00 am of the following day.
- g) No person shall operate an Off-Highway Vehicle in the Town, whether on Town or private property, so as to unduly disturb residents of the surrounding area.
- h) No person shall operate an Off-Highway Vehicle within the boundaries of the Town at a speed in excess of 20 km/h, obeying all the traffic regulations, stop signs, cross walks, etc.
- i) i. No person shall operate an Off-Highway Vehicle that is not equipped with an exhaust muffler consisting of a series of pipes or chambers that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise and without emission of any flame or sparks.
ii. No person shall drive or operate an Off-Highway vehicle when the muffler with which the vehicle is required to be equipped
 - a. is cut or is disconnected from the engine,
 - b. has had a baffle plate or other part removed,
 - c. has been altered by having the exhaust outlet opened or widened, or
 - d. has been altered by having an attachment or device attached that
 - i. increases the noise of the expulsion of the gases from the engine, or
 - ii. allows a flame to be ignited from the exhaust system.

4. PENALTIES

- a) Every person who contravenes this bylaw shall be guilty of an offense and shall be liable on summary conviction;
 - i. For a first offense to a fine of fifty dollars (\$50.00) and in default of payment to imprisonment for a term of not more than thirty (30) days, and
 - ii. For a second or subsequent offence, to a fine of five hundred dollars (\$500.00) and in default of payment to imprisonment for a term of not more than sixty (60) days.

5. This bylaw shall come into effect on the date of final passing thereof, signed and sealed by the Mayor and Town Manager. *Repeal #579*

READ a **FIRST** time in Council this 13th day of December A.D., 2010.

READ a **SECOND** time in Council this 13th day of December A.D., 2010.

READ a **THIRD** time in Council and **FINALLY PASSED** this 13th day of December A.D., 2010.

Mayor

Chief Administrative Officer