



STAFF REPORT

Title: Bylaw No. 540-PL-14 - Off-Highway Vehicle Bylaw

Meeting Date: September 19, 2023

Executive Summary:

Bylaw No. 540-PL-14, Off-Highway Vehicle Bylaw provides rules and guidelines for the purpose of regulating OHVs within the City. A member of the public has raised question in relation to the City's OHV requirements and whether the provincial helmet exceptions would apply in the City. Additionally, there has been growing concerns raised in the community in relation to unsafe and irresponsible OHV use.

Administration seeks the Committee's feedback on whether they would like to see amendments to the Bylaw in three (3) areas:

1. Exemptions to the Requirement of OHV users to wear a Safety Helmet
2. Additional Operator Requirements & Regulations
3. Increased Fines

Administration has prepared this report for the Corporate Priorities Committee's feedback.

Background:

In Alberta, provincial legislation regulates the use of OHVs: *Traffic Safety Act*, RSA 2000, c T-6 and the *Off-Highway Vehicle Regulation*, Alta Reg 319/2002. Additionally, municipalities can by bylaw regulate OHV use within their jurisdiction. The *Traffic Safety Act*, RSA 2000, c T-6 states that:

Municipal bylaws

128 The council of a municipality may make bylaws that are not inconsistent with this Act, doing the following:

- (a) repealed [2016 c21 s2](#);
- (b) setting maximum speed limits respecting the operation of off-highway vehicles with respect to property that is not a highway that is located within the municipality and to which members of the public have access while operating off-highway vehicles.

RSA 2000 cT-6 s128;[2016 c21 s2](#)

As such, Bylaw No. 540-PL-14, Off-Highway Vehicle Bylaw provides rules and guidelines for the purpose of regulating off-highway vehicles (OHV) within the City of Cold Lake. The City's Bylaw currently states:



6.1. The maximum speed at which an off highway vehicle may travel within the City is 30km/h, or less if posted at a reduced speed.

5.5. No person shall operate an off highway vehicle within the City between the hours of 2200 (10:00 p.m.) and 0700 (7:00 a.m.) the next day

Additional communication strategies could be utilized to increase awareness of this speed limit and operating hours, within the City limits.

Section 2.9 of the Bylaw No. 540-PL-14, Off-Highway Vehicle Bylaw defines OHV as

“Off Highway Vehicle or OHV” means any motorized mode of transportation 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 travel:

- 2.9.1. Four (4) wheel drive vehicles;*
- 2.9.2. Low pressure tire vehicles;*
- 2.9.3. Motor cycles and related 2-wheel vehicles;*
- 2.9.4. Amphibious machines;*
- 2.9.5. All-terrain vehicles,*
- 2.9.6. Miniature motor vehicles;*
- 2.9.7. Snow vehicles;*
- 2.9.8. Mini-bikes; and*
- 2.9.9. Any other means of transportation that is propelled by any power other than muscle power or wind, but does not include:*
- 2.9.10. Motor boats; and*
- 2.9.11. Any other vehicle exempted from being an off-highway vehicle by the regulations under the Traffic Safety Act R.S.A. 2000, Chapter T-6.*

This is the same definition as in the Traffic Safety Act. The types of OHV that the City most often observes in its jurisdiction include:

- Side-by-sides
- Quads
- Snowmobiles
- Dirt Bikes

An electric bicycle and an electric scooter are not considered an OHV for the purpose of the City's bylaw.

Recently, the City has increased communication and advertising of the City's requirements for OHV users. There has been a number of complaints raised related to unsafe OHV use that prompted the increase in communications.

Safety Helmet Requirements - OHV



Section 5.1 and 5.2 of Bylaw No. 540-PL-14, Off-Highway Vehicles Bylaw state that

5.1 No person, including a driver or passenger, shall ride on an off-highway vehicle within the City unless that person is properly wearing an approved safety helmet.

5.2. Where a passenger on an off-highway vehicle is under the age of fourteen (14) it shall be the responsibility of the driver to ensure they are wearing an approved safety helmet.

With increased promotion of the requirement to wear an approved safety helmet when operating an OHV in the City, a member of the public has raised question of whether the City would consider implementing the Provincial Legislative exemptions for helmet use on OHVs, specifically exempting the requirement to wear helmets for OHV with a roll over bar.

Section 9 and 10 of the *Off-Highway Vehicle Regulation, Alberta Regulation 319/2002* provide guidance for wearing helmet and some exemptions while operating OHVs:

Safety helmet

- 9.1(1) *This section applies to a safety helmet that is intended for the use of a driver or operator of an off-highway vehicle or of a person riding in or on, or being towed by, an off-highway vehicle.*
- (2) *A safety helmet must meet one or more of the standards adopted under section 108(2) of the Vehicle Equipment Regulation (AR 122/2009) in effect on the date on which it was manufactured.*
- (3) *A safety helmet must have the mark or label of an organization referred to in section 108(2) of the Vehicle Equipment Regulation (AR 122/2009) indicating that the safety helmet met one or more of the standards adopted under section 108(2) of that Regulation in effect on the date on which it was manufactured.*
- (4) *A safety helmet must be free of damage or modification that would reduce its effectiveness.*
- (5) *A safety helmet must be constructed so that it*
(a) has a hard, smooth outer shell, and
(b) is capable of absorbing energy on impact.
- (6) *No person shall buy, sell or offer for sale a safety helmet intended for the use of a person driving, operating, riding in or on, or being towed by, an off-highway vehicle unless it complies with subsection (2).*
- (7) *No adult shall permit a person under the age of 14 who is not properly wearing a safety helmet to ride in or on or be towed by an off-highway vehicle driven or operated by the adult.*
- (8) *No parent or guardian of a person under the age of 14 shall authorize or knowingly permit the person under the age of 14 to drive, operate, ride in or on or be towed by an off-highway vehicle without properly wearing a safety helmet.*



In addition to the requirement to wear a safety helmet, the *Off-Highway Vehicle Regulation, Alberta Regulation 319/2002* provides exemptions while operating OHVs. There are essentially four (4) exceptions where safety helmets are not required:

1. Worker Exemption

- (9) *Subject to subsection (11), section 128.1(2) of the Act and subsections (2) to (5), (7) and (8) do not apply*
- (a) *if a person driving, operating, riding in or on, or being towed by, an off-highway vehicle is*
 - (i) *a worker as defined under the Occupational Health and Safety Act, and*
 - (ii) *is not required under the Occupational Health and Safety Act or a regulation or code of rules made under that Act to wear a helmet while driving, operating, riding in or on, or being towed by a vehicle that is an off-highway vehicle;*

2. Seatbelt Exemption

- (b) *if a person is wearing a seat belt and is driving, operating or riding in the occupant compartment of a motor vehicle that*
 - (i) *is not a motorcycle,*
 - (ii) *is designed for use on a roadway,*
 - (iii) *at the time of its manufacture, met all standards prescribed under the Motor Vehicle Safety Act (Canada) and the regulations made under that Act for a motor vehicle, and*
 - (iv) *has seat belt assemblies as defined in section 80(e) of the Vehicle Equipment Regulation (AR 122/2009) that are maintained in compliance with Part 5 of that Regulation;*

3. Sikh Religious Exemption

- (c) *to a person driving, operating, riding in or on, or being towed by an off-highway vehicle where the person*
 - (i) *is a bona fide member of the Sikh religion, and*
 - (ii) *wears a turban;*

4. Rollover Protective Structure Exemption

- (d) *to a person who is driving, operating or riding in an off-highway vehicle designed with rollover protective structures where the person is wearing a properly adjusted and securely fastened seat belt assembly.*
- (10) *In subsection (9)(d),*
 - (a) *“rollover protective structures” means a cab or frame that is capable of supporting an off-highway vehicle in an overturned position, regardless of the direction in which the off-highway vehicle overturns, and that is installed by the manufacturer;*
 - (b) *“seat belt assembly” means a device or assembly that*



- (i) is securely fastened to the vehicle,
- (ii) is composed of straps, webbing or similar material and includes a pelvic restraint or an upper torso restraint or both,
- (iii) is capable of restraining the movement of a person in order to prevent injury to the person, and
- (iv) is supplied by the manufacturer.

Currently the City's OHV Bylaw does not include safety helmet exemptions. The City can choose to have more restrictive requirements for safety helmet use in the City than the provincial requirements. However, the exemption for Sikh Religious purposes, would most likely be upheld if challenged as a Constitutionally protected right to religious freedoms in the specific circumstance.

It is Administration's recommendation that streamlining of the OHV safety helmet bylaw requirements could be achieved by adopting the same exemptions as provincial regulations. This would simplify enforcement efforts and public confusion.

OHV Operator Requirements

The *Traffic Safety Act* provides additional operator requirements and regulation related to OHVs. These regulations would apply to all OHV operation within the City.

Requirement to have registration and insurance:

119(1) Except as otherwise permitted under this Act, a person shall not do any of the following:

- (a) *drive or permit another person to drive an off-highway vehicle unless there is a subsisting certificate of registration issued in respect of that vehicle;*
- (b) *drive an off-highway vehicle unless the vehicle is an insured motor vehicle;*
- (c) *where a person is the registered owner of an off-highway vehicle, permit another person to drive the vehicle unless the vehicle is an insured motor vehicle;*
- (d) *unless an off-highway vehicle is an insured motor vehicle*
 - (i) *apply for the registration of the off-highway vehicle, or*
 - (ii) *obtain the registration of the off-highway vehicle.*

(2) Subsection (1)(a), (b) and (c) do not apply to the driving of an off-highway vehicle while the off-highway vehicle is being driven

- (a) *on land owned by the person driving the off-highway vehicle, or*
- (b) *on land owned by some other person if that other person has expressly or impliedly consented to the driving of that off-highway vehicle on that land.*

Prohibited operation – Careless Operation

120(1) For the purposes of this section, a driver of an off-highway vehicle is driving carelessly if that driver drives the off-highway vehicle



- (a) *without due care and attention, or*
- (b) *without reasonable consideration for other persons or property.*

(2) *A person shall not do any of the following:*

- (a) *drive an off-highway vehicle on any property, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use, in a manner that constitutes driving carelessly;*
- (b) *except as permitted under this Act, drive an off-highway vehicle on any portion of a highway;*
- (c) *permit another person to drive an off-highway vehicle in contravention of this Act.*

Prohibited operation – Driving across Roadway

(3) *A driver of an off-highway vehicle may drive the off-highway vehicle across any highway, including the roadway, parking lane or sidewalk portion of the highway, as the case may be, if*

- (a) *the driver stops the off-highway vehicle before driving it on the highway or portion of the highway to be crossed,*
- (b) *all passengers disembark from the off-highway vehicle and any vehicle or thing attached to it before the driver commences to drive the off-highway vehicle across the highway,*
- (c) *the driver yields the right of way to all other vehicles and persons on the highway,*
- (d) *the driver drives the off-highway vehicle across the highway or portion of the highway to be crossed*
 - (i) *by the most direct and shortest route of travel available to the driver,*
 - or*
 - (ii) *if the most direct and shortest route of travel available to the driver is not the safest route, with reasonable care and caution by the safest and most direct route available to the driver,*
- (e) *the driver waits to proceed across the highway until the condition of the traffic on the highway being entered on and crossed is such that the off-highway vehicle can enter on and cross the highway in safety.*

Currently, Municipal Enforcement can issue fines for contravention of the *Traffic Safety Act* for operating an OHV without insurance, registration or careless operation.

OHV Bylaws from a sampling of municipalities were reviewed and it was noted that these municipalities had additional regulations that the City's bylaw does not currently speak to. It has been identified that there would be value in adding additional regulation into the City's OHV Bylaw in relation to:

- Operating OHVs without holding a valid operator license
- Fail to hold valid registration
- Fail to hold valid license
- Fail to display valid license plate
- Fail to wear seat belt (driver/passenger)
- Improper towing



- Improper crossing
- Carelessly drive Off-Highway Vehicle where permitted

It is Administration's recommendation that adding the above requirements into the OHV bylaw including adopting the provincial regulation requirements for insurance and registration in particular would be beneficial.

OHV Fines

Administration canvassed municipalities across the province to determine if the City's fines are in line with other comparable municipalities. The municipalities reviewed included:

- Yellowhead County
- Parkland County
- Town of High Level
- Lacombe County
- County of Wetaskiwin
- Town of Legal
- Sturgeon County

Off Highway Vehicle Bylaw - BYLAW #540-PL-14			
	Current City Fines	Research and Average	Recommend
Fail to wear helmet	\$100	Average: \$220 (range: \$150-\$250)	\$200
Fail to wear helmet – under 14 yr passenger	\$100	Average: \$200 (range: \$200-\$250)	\$250
Operate OHV where prohibited	\$200	Average: \$100 (range: \$30-\$250)	No changes
OHV in prohibited area	\$550	Average: \$245 (range: \$100-\$500)	No changes
Operate OHV between 2200 and 0700 hours	\$150	Average: \$250 (range: \$100-\$500)	\$250
Allow persons under 14 to operate OHV	\$200	Average: \$250 (range: \$250-\$250)	\$250
Operate OHV with too many passengers	\$250		
Operate OHV without proper head/tail lights	\$100		
Operate OHV causing loud/unnecessary/ noise	\$200		
Speeding	\$200		
Fail to operate in single line	\$100	Average: \$190 (range: \$115-\$250)	\$150
Fail to obey traffic control device	\$200		
Fail to yield right-of-way to others	\$200	Average: \$250 (range: \$250-\$250)	\$250
Obstruct an Officer	\$500		



It was determined that a number of the City's fines were lower than the average and could be increased.

Alternatives:

The Corporate Priorities Committee may consider:

1. Directing administration to prepare an amendment to Bylaw No. 540-PL-14, Off-Highway Vehicles Bylaw for Council's consideration.
2. Accept this report as information.

Recommended Action:

Direct Administration to prepare an amendment to Bylaw No. 540-PL-14, being the Off-Highway Vehicle Bylaw, for Council's consideration at a future regular meeting of Council.

Budget Implications (Yes or No):

No

Submitted by:

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