

**SUMMER VILLAGE OF BIRCH COVE
IN THE PROVINCE OF ALBERTA
BYLAW No. 127-13**

BEING A BYLAW OF THE SUMMER VILLAGE OF BIRCH COVE, IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL THE OPERATION OF ALL OFF-HIGHWAY VEHICLES WITHIN THE BOUNDARIES OF THE SUMMER VILLAGE OF BIRCH COVE.

WHEREAS pursuant to the provisions of section 118(1)(2) of the Traffic Safety Act, (Alberta) and amendments thereto;

WHEREAS pursuant to the provisions of section 128(a)(b) of the said Statute, the council of a municipality may, by bylaw, with respect to highways under its direction, control and management, authorize such persons to operate Off-Highway Vehicles on any portion of any such highway or class thereof and may restrict the hours during with such operation may take place, and prescribe maximum and minimum rates of speed; and

WHEREAS the Council of the Summer Village of Birch Cove, in the Province of Alberta, considers it desirable and expedient to restrict the operation of Off-Highway Vehicles within its boundaries in accordance with the regulations specified in Part 6 of the Traffic Safety Act (Off-Highway Vehicle Regulation) (Alberta), as amended and regulations thereto, the Council of the Summer Village of Birch Cove, in the Province of Alberta, duly assembled, enacts:

SECTION 1 - CITATION

This bylaw may be cited as the Summer Village of Birch Cove "Off-Highway Vehicles Bylaw"

SECTION 2 - DEFINITIONS

In this bylaw:

1. "All terrain 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;
2. "Financial responsibility card" means a card issued or authorized pursuant to the Insurance Act;
3. "Highway" means a highway as defined in the Traffic Safety Act;
4. "Insured off-highway vehicle" means an Off-Highway Vehicle 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 public liability, property damage and accident benefits in respect of that Off-Highway Vehicle;
5. "Insurer" means a person licensed under the Insurance Act to carry on the business of automobile insurance of Alberta;

6. "Alley" means a narrow highway intended chiefly to give access to the rear of buildings and parcels of land;
7. "Motor cycle" means a motor vehicle mounted on 2 or 3 wheels and includes those motor vehicles known to the trade as motor cycles, scooters and power bicycles;
8. "Off-highway vehicle" means any motorised 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, mini bikes, mini ATV's,
 - vi. Motorized go-carts,
 - vii. Snow vehicles, Snowmobiles,
 - viii. Motorized Golf Carts,
 - ix. And other means of transportation which is propelled by any power other than muscular power or wind that is set out under the Off-Highway Vehicle Regulations;

But does not include:

- x. Motor boats,
 - xi. Any other vehicle exempted from all of the provisions of this bylaw by the regulations.
9. "Park land" shall mean every recreational area owned or controlled by the Summer Village of Birch Cove that lies within the limits of the Summer Village whether such park land is improved in whole or in part or remains in its natural state but shall include other neighbourhood beautification areas and publicly maintained area administered by the Village;
 10. "Permitted Area" shall mean any area inside of the Summer Village limits where Off-Highway Vehicles may operate;
 11. "Snow Vehicle" shall mean a motor vehicle designed or intended to be driven exclusively or chiefly upon snow or ice or both;
 12. "Act" means the Part 6 of the Traffic Safety Act of the Revised Statutes of Alberta 2000 and amendments thereto;
 13. "Council" means the Summer Village of Birch Cove Council;
 14. "Current season" means the current calendar year;
 15. "Highway" means a highway as defined in the Traffic Safety Act;
 16. "Operator" means a person who drives or is in actual physical control of a vehicle;

17. "Owner" includes a person renting an Off-Highway Vehicle or having the exclusive use of that vehicle under a lease or otherwise for a period of more than 30 days;
18. "Roadway" means that part of a highway intended for use by vehicular traffic;
19. "Unrestricted public property" shall mean land leased to the Summer Village or under the Village's management and control within The Summer Village Birch Cove;
20. "Restricted parking" means parking or permitting to park any vehicle within the limits of Summer Village of Birch Cove where a traffic control device is present or at any other place where a traffic control device prohibits stopping or parking, during the times stopping or parking is so prohibited, or as described in the Traffic Safety Act and revised statutes and amendments thereto,
21. "Peace officer" means a member of the Royal Canadian Mounted Police, a member of a municipal police force, a member of the patrol division of the Department of the Solicitor General, a forest officer, a park officer or a wildlife officer or a Special Constable appointed by the Municipal Council.

SECTION 3 - POWERS OF A PEACE OFFICER

1. A peace 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 until the final disposition of any proceedings that may be taken under this bylaw or the Traffic Safety Act, and section 170 applies to that Off-Highway Vehicle as if it were a vehicle to which section 169 applies;
2. The provisions of Section 170 of the Traffic Safety Act shall apply with regard to the recovery by the Summer Village of Birch Cove of the costs for removal and storage of any Off-Highway Vehicle seized and detained, pursuant to Section 3 Part 1 of this bylaw.

SECTION 4 - PENALTIES - VOLUNTARY PAYMENTS

SUMMARY CONVICTIONS

1. Every person who contravenes the provisions of this bylaw is guilty of an offence and liable to summary conviction to a penalty as prescribed in Schedule "B" of this bylaw attached hereto and forming a part of this bylaw.
2. A notice or form commonly called an Offence Ticket may be issued by a Peace Officer to any person alleged to have breached any provision of this bylaw, and the amount specified in this bylaw or the regulations pursuant to the Provincial Offences Procedure Act, (Alberta) as amended.
3. An Offence Ticket shall be deemed to be sufficiently served:
 - i. If served personally on the accused; or

- ii. If mailed to the address of the registered owner of the property concerned, or the vehicle concerned, or to the person concerned;
- iii. Except as otherwise provided in this bylaw, a person who is guilty of an offence under this bylaw for which a penalty is not otherwise provided, is liable to a fine of not more than five hundred dollars (\$500.00) and in default of payment, is liable to imprisonment for a term not exceeding six (6) months or to imprisonment for a term not exceeding six (6) months without the option of a fine.

SECTION 5 - REGULATIONS

1. Any person qualified to operate an off-highway vehicle may operate same within the corporate limits of the Summer Village of Birch Cove, subject to the following conditions;
 - (a) No person shall operate an Off-Highway Vehicle within the Summer Village of Birch Cove between the hours of 11:00 p.m. one day and 7:00 a.m. the following day;
 - (b) No person shall operate an Off-Highway Vehicle equipped with an exhaust muffler that produces excessive noise/flame/sparks;
 - (c) When a person operates an Off-Highway Vehicle in the Summer Village of Birch Cove they shall:
 - (i) Travel at a rate of speed not in excess of 20km/hr and must travel on the right hand side of the road so as to not interfere or impede with the natural flow of traffic;
 - (ii) Travel at a rate of speed not in excess of 10km/hr in the main park; and
 - (iii) The registered owner of an off-highway vehicle is responsible for the actions of that Off-Highway Vehicle; and
 - (iv) No Off-Highway Vehicle shall be parked in the Summer Village of Birch Cove other than at a private residence or permitted areas.
2. No person shall operate an Off-Highway Vehicle upon restricted parkland or restricted area within the Summer Village of Birch Cove limits. Restricted parkland and restricted areas are;
 - (i) All walkways throughout the Village
 - (ii) All roadway ditches throughout the Village
3. No person shall park or place an Off-Highway Vehicle where a traffic control device prohibits stopping or parking, during the times stopping or parking is so prohibited;
4. Without restricting the generality of the foregoing, the provisions of the Off-Highway Vehicle Regulations Act and Traffic Safety Act shall apply to the operation of the Off-Highway Vehicles within the limits of the Summer Village of Birch Cove.
5. Notwithstanding Section 5, Part 2, of this bylaw, the Council may, by resolution, grant permission for the operation of Off-Highway Vehicles upon any parkland or restricted area within the Summer Village of Birch Cove for a designated time or event at their discretion.

6. Exceptions for municipal employee's (use of maintenance equipment).
7. During times of high to extreme fire hazard or weather conditions as defined by Alberta Environmental Protection Land and Forest Services, all use of Off-Highway Vehicles may be banned within the limits of the Summer Village of Birch Cove.
8. All operators of off-highway vehicles must have a minimum Class 7 driver's license.
9. Any person found in violation of this bylaw or the Traffic Safety Act may be required to complete an off-highway vehicle training course, prior to being able to operate on Summer Village of Birch Cove property again. The training course must be approved by the Summer Village of Birch Cove.

That Bylaws No. 105-11 and Schedules and Bylaw No. 106-11 and schedules thereto are repealed.

This bylaw shall come into full force and effect on the date of final passing thereof.

READ A FIRST TIME IN COUNCIL	THIS 13 TH DAY OF SEPTEMBER, 2013
READ A SECOND TIME IN COUNCIL	THIS 13 TH DAY OF SEPTEMBER, 2013
READ A THIRD TIME IN COUNCIL AND DULY PASSED	THIS 13 TH DAY OF SEPTEMBER, 2013

signed this 13th day of September, 2013.

Mayor Eugene Dugan

Municipal Administrator - Dennis Evans

SCHEDULE "B"

SPECIFIED PENALTIES

**THE SUMMER VILLAGE OF BIRCH COVE
IN THE PROVINCE OF ALBERTA**

SCHEDULE "B"

SPECIFIED PENALTIES

DESCRIPTION	FIRST OFFENSE
Operation during times of High to extreme fire hazard Sec. (5), (7)	Court or \$150.00
Operation of Off-Highway Vehicle in off hours Sec. (5), (1), (a)	\$57.00
Failure to comply with Speed limit Sec. (5), (1), (c), (i)	As per Specified Penalties Table 1 of Speeding Offences Traffic Safety Act
Operation of Off-Highway Vehicle in restricted areas Sec. (5), (2)	\$100.00
Parking in restricted areas Sec. (5), (3)	\$57.00
Operation of Off-Highway Equipped with exhaust muffler That produces excessive Noise/Flames/Sparks Sec. (5), (1), (b)	\$115.00