

## Village of Hines Creek Council Request for Decision (RFD)

Meeting:	Regular Council Meeting
Meeting Date:	September 8, 2020
Originated By:	Leanne Walmsley, Chief Administrative Officer
Title:	Bylaw No. 599-20 A Bylaw of the Village of Hines Creek, in the Province of Alberta, for the purpose of amending Bylaw 573-17 being a bylaw of the Village of Hines Creek in the Province of Alberta to regulate the control use and operation of off-highway vehicles within the Village of Hines Creek
File:	0110

### BACKGROUND/PROPOSAL:

#### Bylaw No 573-17

Being A Bylaw of the Village of Hines Creek, in the Province of Alberta, to regulate the control, use and operation of off-highway vehicles within the Village of Hines Creek

#### Bylaw No. 599-20

A Bylaw of the Village of Hines Creek, in the Province of Alberta, for the purpose of amending Bylaw 573-17 being a Bylaw to regulate the control, use and operation of off-highway vehicles within the Village of Hines Creek.

Amendment is as follows:

1. That No. 4 of Bylaw 573-17 have the following additions:
  - k. Notwithstanding anything in this bylaw, the operator of an off-highway vehicle is authorized to operate an off-highway vehicle within the boundaries of the Village of Hines Creek for the purposes of landscaping, street maintenance, snow clearing activities, enforcement purposes and emergency services.
  - L. the provisions of Section 4 of Bylaw 573-17 shall apply to agents or employees of the Village operating an off-highway vehicle while in performance of the official duties.
2. That Section 4.g) be repealed and replaced by:
  - m. No person shall operate an off-highway vehicle within the limits of the Village without meeting all the safety standards set out by:
    - Provincial legislation
    - Occupational Health and Safety

### RECOMMENDED ACTION:

That Council proceed with 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading of Bylaw 599-20 amending Bylaw 573-17 being a bylaw of the Village of Hines Creek, in the Province of Alberta, to regulate the control, use and operation of off-highway vehicles within the Village of Hines Creek.

Initials show support- Reviewed by:	Manager:	C.A.O. Lu
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**A BYLAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF AMENDING BYLAW 573-17 BEING A BYLAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA, TO REGULATE THE CONTROL, USE AND OPERATION OF OFF-HIGHWAY VEHICLES WITHIN THE VILLAGE OF HINES CREEK.**

**WHEREAS** the Traffic Safety Act, being Chapter T-6, and the Municipal Government Act, being Chapter M-26, both of the Statutes of Alberta as amended, provides that a Municipal Council may enact a Bylaw respecting the safety, health and welfare of people and the protection of people and property, and to regulate the control, use and operation of off-highway vehicles.

**AND WHEREAS** it is deemed expedient by the Council of the Village of Hines Creek to pass a Bylaw to amend Bylaw 573-17 to regulate the operation of off-highway vehicles within the Municipality.

**NOW THEREFORE**, the Council of the Village of Hines Creek enacts as follows:

1. That No. 4 of Bylaw 573-17 have the following additions:

k. Notwithstanding anything in this bylaw, the operator of an off-highway vehicle is authorized to operate an off-highway vehicle within the boundaries of the Village of Hines Creek for the purposes of landscaping, street maintenance, snow clearing activities, enforcement purposes and emergency services.

l. The provisions of Section 4 of Bylaw 573-17 shall not apply to agents or employees of the Village operating an off-highway vehicle while in performance of their official duties.

2. That section 4.g) be repealed and replaced by:

m. No person shall operate an off-highway vehicle within the limits of the Village without meeting all the safety standards set out by:

- Provincial legislation
- Occupational Health and Safety

**SEVERABILITY** If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion shall be severed.

**EFFECTIVE DATE:** That this Bylaw shall come into force and effect on the date of final reading and signing hereof.

**READ** a first time this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**READ** a second time this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Given UNANIMOUS** consent to go to third reading on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**READ**, a third time and finally passed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hazel Reintjes  
Mayor

\_\_\_\_\_  
Leanne Walmsley  
Chief Administrative Officer

**BYLAW NO 573-17**

**BEING A BYLAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA, TO REGULATE THE CONTROL, USE AND OPERATION OF OFF-HIGHWAY VEHICLES WITHIN THE VILLAGE OF HINES CREEK.**

**WHEREAS** the Traffic Safety Act, being Chapter T-6, and the Municipal Government Act, being Chapter M-26, both of the Statutes of Alberta as amended, provides that a Municipal Council may enact a Bylaw respecting the safety, health and welfare of people and the protection of people and property, and to regulate the control, use and operation of off-highway vehicles.

**AND WHEREAS** it is deemed expedient by the Council of the Village of Hines Creek to pass a Bylaw to regulate the operation of off-highway vehicles within the Municipality.

**NOW THEREFORE** the Council of the Village of Hines Creek, in the Province of Alberta, in regular session, duly assembled, enacts as follows:

**SECTION 1 NAME OF BYLAW**

This Bylaw may be cited as the "Off Highway Vehicles Bylaw for the Village of Hines Creek".

**SECTION 2. INTERPRETATION**

Where there is a conflict between this Bylaw and any other Bylaw pertaining to noise abatement in the Municipality, the provisions of this Bylaw shall apply.

**SECTION 3. DEFINITIONS**

In this Bylaw:

- a). "Alley" for the purpose of speed control means a utility laneway intended chiefly to provide utility companies and residents with access to their utilities, rear of buildings, and parcels of land, but not for primary access;
- b). "Council" means the Village of Hines Creek Council, duly assembled and acting as such;
- c). "Designated Trails" means trails, and areas designated by Council as such, and identified in this Bylaw;
- d). "Village" means the area contained within the boundaries of the Village of Hines Creek in the Province of Alberta.
- e). "Helmet" means a rigid safety helmet with chin strap attached which has been CSA approved for off-highway use;
- f). "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, square bridge, causeway, trestle way, or other place, whether publically 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). sidewalks (including the boulevard portion of a sidewalk).
  - (ii). If a ditch lies adjacent to and parallel with the roadway, the ditch, and
  - (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, as the case may be:
- g). "Municipality" means the area contained within the boundaries of the Village of Hines Creek.
- h). "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). Motor cycles and related 2-wheel vehicles,
  - (iii). Amphibious machines,
  - (iv). All-terrain vehicles
  - (v). miniature motor vehicles,
  - (vi). Snow vehicles.
  - (vii). Mini-bikes, 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 the Traffic Safety Act by the regulations.
- i). "Operator" means a person who drives or is on actual physical control of a vehicle;
- j). "Owner" means a person who owns, rents or has the exclusive use of that vehicle under a lease or for any period;

- k). "Peace Officer" means a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or a Special Constable appointed pursuant to the provisions of the Police Act of Alberta;
- l). "Residential Area" means an area within the boundaries of a Village that is zoned for residential use pursuant to the Municipality's current Land Use Bylaw;
- m). "Roadway" means that part of a highway intended for use by vehicular traffic;
- n). "Street furniture" means every curb, sidewalk, pole, traffic sign, waste receptacle, tree, plant, grass, or any other property belonging to the Municipality that is capable of being marked, defaced or damaged in any way;
- o). "summer" means April 1<sup>st</sup> – October 15<sup>th</sup>.
- p). "winter" means October 16<sup>th</sup> – March 31.

Save as herein otherwise provided, the terms and expressions in this Bylaw have the same meaning as in the Traffic Safety Act, the Interpretation Act, and the Municipal Government Act respectively.

#### **SECTION 4. OPERATION OF OFF-HIGHWAY VEHICLES**

- a). No person shall operate an off-highway vehicle within the municipal boundaries of the Village, except that
  - i). an operator of an off-highway vehicle is authorized to operate an off-highway vehicle within provincial legislation on any alley or roadway to transport the off-highway vehicle by the most direct and shortest route of travel, from a residence to exit and to enter a Village; or
  - ii). the use is within the areas of a Village zoned for Village General pursuant to the Municipal Land Use Bylaw; or
  - iii). The Chief Administrative Officer may, upon application from an association or society registered under the Societies Act whose mandate involves the operation of off-highway vehicles, approve the use of off-highway vehicles within the boundaries of the Village for a specific period of time as a special event.
- b). No person shall operate an off-highway vehicle on any portion of a:
  - i). Recreation area.
  - ii). School ground.
  - iii). Park area,
  - iv). Developed or landscaped area.
  - v). Municipal airport including runway, airstrip, apron, or other portion of the airport used for the movement of aircraft, or
  - vi). Private property without permission of the owner or occupant of such property, within the municipal boundaries of the Village.
  - vii). Landscaped road right of way in the summer months, unless it is designated as a trail in this bylaw.
- c). No person shall operate an off-highway vehicle anywhere within the municipal boundaries of the Village between the hours of eleven (11) o'clock in the evening (p.m.) and seven (7) o'clock of the next forenoon (a.m.).
- d). No person shall operate an off-highway vehicle within the boundaries of the Village in excess of:
  - i). Twenty (20) kilometers per hour (12.4 miles per hour) on any alley, and
  - ii). Thirty (30) kilometers per hour (18.6 miles per hour) on all highways within the boundaries of the Village except an alley.
- e). No person shall operate an off highway vehicle within the Village of Hines Creek when there is:
  - i). No certificate of registration to the off highway vehicle.
  - ii). the license plate is not properly affixed to the vehicle.
- f). No person shall in any way damage any street furniture on any highway or public place.
- g). The operator of, and passengers being carried or towed by, an off-highway vehicle within the Village shall at all times wear a protection helmet, which has been CSA approved, when the off-highway vehicle is in motion.
- h). No person shall operate an off-highway vehicle in a manner that creates unnecessary noise.
- i). All off-highway vehicles must come to a complete stop before crossing a highway.
- j). All off-highway vehicles must adhere to all provincial and federal legislation.

#### **SECTION 5. ENFORCEMENT PROVISIONS**

- a). A person who contravenes any provision of this Bylaw is guilty of an offense.
  - i). The owner of an off-highway vehicle that is involved in a contravention of this Bylaw is guilty of any offense unless he or she proves to the satisfaction of the Judge that at the time of the offense the off-highway vehicle was not being driven or was not parked or left by him or any other person with his consent, express or implied.
  - ii). Notwithstanding sub-section b), if the owner was not driving the off-highway vehicle at the time the offense was committed, he is not in any event liable to imprisonment.
- b). A person who is guilty of an offense under Section 4 Subsection e), of this Bylaw is guilty of an offense and is liable on summary conviction to a fine of not less than one hundred and fifty-five (\$155.00) dollars.

- c). 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:
- d). For a first offense to a fine amount as stated in the Village of Hines Creek Schedule of Fees Bylaw and in default of payment.
- e). For a second or subsequent offense, to a fine amount as stated in the Village of Hines Creek Schedule of Fees Bylaw.
- f). Nothing in Section 5, shall:
  - i). Prevent a person from exercising his right to defend any charge of contravening any provisions of this Bylaw, or
  - ii). Prevent a Peace Officer from laying an information or complaint in lieu of serving a voluntary payment ticket.
- g). 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 this Bylaw and such payment shall be accepted by the Municipality in lieu of the offense.

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

READ a first time this 10<sup>th</sup> day of October, 2017.

READ a second time this 10<sup>th</sup> day of October, 2017.

GIVEN UNANIMOUS consent to go to third reading on this 10<sup>th</sup> day of October 2017.

READ a third time in Council and Finally passed this 10<sup>th</sup> day of October 2017.



Hazel Reintjes  
Hazel Reintjes, Mayor



Leanne Walmsley  
Leanne Walmsley, Chief Administrative Officer