



Meeting Date: January 20, 2021

Submitted by: Rob Cascaden, P.Eng – Director – Public Works and Engineering

Prepared by: Andrew Giesen, C.E.T – Transportation Manager

Report No: PWE 02-2021

Subject: Off Road Vehicles

Recommendation:

THAT the Off Road Vehicles Report PWE 02-2021 be received for information.

AND THAT staff be directed to prepare a by-law to regulate off road vehicles on municipal roads for further consideration by Council

Purpose:

To provide Council with details pertaining to Provincial regulation changes permitting the use of **Off Road Vehicles (ORV's)** on roadways in Ontario, as well as considerations the municipality should have regard for prior to passing a by-law.

Background:

In Ontario, Prior to January 1, 2021 the operation of ORVs within a road allowance is prohibited unless the highway is specifically listed in the regulation or a municipality passes a by-law permitting the use of these vehicles along municipal roadways.

As of January 1, 2021, [Ontario regulation 316/03](#), [Ontario regulation 8/03](#), & [Ontario regulation 863](#) have been amended. These amendments to the Highway Traffic Act, and Off Road Vehicle Act have allowed by default the operation of ORVs to travel along municipal road allowances in Middlesex Centre that have a speed limit of 80km/h.

Analysis:

The new regulations by default now allow for the use of ORV's on municipal roadways where the default speed limit is 80km/h. Under the amended regulations, ORV's are not be permitted by default on municipal roads with lower speed limits or speed limits higher than 80km/h.

In 2015, a similar report regarding ORV's was presented to Council for information (PDSD-BY-04-15), this report contained valuable feedback from stakeholders that is still relevant today.

2015 Comments from the County Solicitor

Staff has discussed a municipal by-law to allow ATVs/ORVs with the Middlesex County Solicitor. The County Solicitor's primary concern with passing such a by-law is with regard to the safe use of the roadway. A roadway's shoulder is in place for a number of reasons including it being a location for temporarily stopping vehicles. The roadway's shoulder is not primarily in place to allow for vehicles to travel. There may be occasions where these would conflict with each other.

Also, the County Solicitor is of the opinion that allowing ATVs/ORVs on the road allowance would create an expectation that the shoulder is an appropriately maintained portion of the roadway, acceptable for vehicular travel. In the event of an accident in which the road's shoulder condition is brought into question, the municipality may be open to litigation.

2015 Comments from the Municipal Insurer

Staff has had an opportunity to discuss the passing of a by-law to allow ATVs/ORVs on municipal roadways with Cowan's, the municipality's insurer. The insurer has confirmed that there would be added liability to the municipality in approving such a by-law. Cowan's is currently preparing an information sheet for its clients pertaining to implications of such a by-law including road maintenance issues and additional signage requirements.

2015 Comments from OPP

Staff has had an opportunity to speak with the OPP regarding this issue. The OPP have indicated that Middlesex Centre differs from other rural areas in Ontario (who may have this by-law in place) with regards to the volume of commuter traffic using municipal roadways. Allowing small vehicles such as these on our roads may create unsafe traffic conditions. Also, monitoring the operation of these vehicles (such as speed and driver safety) and enforcing our by-law would be very difficult given the ability of these to travel in all terrains.

It is important to note the amendments to the Highway Traffic Act still exempt; Farmers, Firefighters, Police, Ambulance, Municipal staff, Utility companies, and Conservation officers from the regulations as found in Operation of Off-Road Vehicles on Highways part IV.

Should Council pass a by-law in the future prohibiting ORV's on municipal roads, the exemptions as noted above would still apply and the use of ORV's would be permitted for those who meet the exemption criteria.

Staff are unaware of any off road trail systems for ORV's within Middlesex Centre that would be potentially impacted by a by-law prohibiting the recreational use of ORV's on municipal roads.

At the time of the writing of this report it is expected that County Council will be receiving a by-law prohibiting the use of ORVs on Middlesex County roadways in the near future, and furthermore it is expected a number of the surrounding lower tier municipalities will be prohibiting ORV use in whole or in part.

Financial Implications:

There are no financial implications at this time

Strategic Plan:

This matter aligns with following strategic priorities:

- 5f. Operational Excellence: Adapting to changing demands and expectations.

Attachments:

Municipal Stakeholder Letter

Municipal Guidance Document