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Request for Decision

Proposed ATV By-Law Update

Recommendation

THAT the City of Greater Sudbury repeals and replaces By-law 2013-131, being a By-law to Permit and Regulate the Operation of All-terrain Vehicles on Certain Highways, in order to allow multi-purpose off-highway utility vehicles, recreational off-highway vehicles, and all-terrain vehicles to use the shoulder of certain highways.

BACKGROUND

The Ontario *Highways Traffic Act* enables a council of a municipality to pass by-laws permitting the operation of off-road vehicles with three or more wheels on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway.

On June 29, 2011, City Council passed By-law 2011-150 which authorizes All-Terrain Vehicles (ATVs) on certain City streets. This By-law was later amended by By-laws 2013-131 and 2014-224 to allow ATVs to operate on prescribed highways during the winter months. Schedule A and B define and depict, respectively, the highways on which ATVs may operate between April 1 and November 30. Schedule C and D define and depict, respectively, highways on which ATVs may operate between December 1 and March 31.

In the By-law, an ATV is defined as an off-road vehicle that: a) has four wheels, the tires of all of which are in contact with the ground; b) has steering handlebars; c) has a seat that is designed to be straddled by the driver; and d) is designed to carry **a driver only and no passengers** [emphasis added].

Signed By

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The Province recently amended *Highway Traffic Act* regulations to allow additional types of ATVs to use the shoulders of public roads. These include two-up ATVs, side-by-side ATVs, and utility terrain vehicles (UTVs). In order to allow these new types of vehicles on designated Greater Sudbury roadways, the City would have to repeal and replace, or make amendments to the existing by-law.

Discussion

Based on comments received from the public during the 2011 consultations, there is support to allow side-by-side and two-up ATVs on municipal roadways. As noted in an April 24, 2013 staff report to Operations Committee, “throughout the public consultations specific to the ATV by-law, staff gathered the opinion that the number one question from the community was ‘Why are side-by-sides not permitted on local roads?’. This question has come up continually through phone calls, email and the ACR system. People seem to enjoy these types of off-road vehicles, and are frustrated they cannot be used on area roadways.” Up until July 1, 2015, Ontario regulations did not allow those types of ATVs on public highways.

In a June 10, 2015, CBC news article (attached) OPP inspector Mark Andrews stated “[the] new law coming into place will really clean up some of the confusion out there. People were going out buying these ATVs, UTVs and [they] still weren’t allowed on [the] roadway with it.”

New Provincial Definitions

The following (applicable) changes to Ontario Regulation 316/05 took effect on July 1, 2015

“4.1 (1) Subject to subsection (2), an off-road vehicle may be driven on a highway or part of a highway in a municipality if,

(a) a by-law made by the municipality under subsection 191.8 (3) of the Act permits the operation of the off-road vehicle on the highway or part of the highway;

(b) the off-road vehicle is driven only during the months or hours specified in the by-law, in the case where the by-law limits the operation of the off-road vehicle on the highway or part of the highway within the municipality to certain months or hours; and

(c) the requirements of Part III [of the regulation] are met.

(2) Subsection (1) does not apply to an off-road vehicle other than,

(a) an all-terrain vehicle;

(b) a multi-purpose off-highway utility vehicle; and

(c) a recreational off-highway vehicle.”

The Province now defines “multi-purpose off-highway utility vehicle”, “recreational off-highway vehicle” and “all-terrain vehicle” as follows:

“multi-purpose off-highway utility vehicle’ means an off-road vehicle that,

- (a) has four or more wheels, the tires of which are all in contact with the ground,**
- (b) has a steering wheel for steering control,**
- (c) has seats that are not designed to be straddled, and**
- (d) has a minimum cargo capacity of 159 kilograms;**

‘recreational off-highway vehicle’ means an off-road vehicle that,

- (a) has four or more wheels, the tires of which are all in contact with the ground,**
- (b) has a steering wheel for steering control,**
- (c) has seats that are not designed to be straddled, and**
- (d) has an engine displacement equal to or less than 1,000 cubic centimetres;**

‘all-terrain vehicle’ means an off-road vehicle that,

- (a) has four wheels, the tires of which are all in contact with the ground,**
- (b) has steering handlebars,**
- (c) has a seat that is designed to be straddled by the driver, and**
- (d) is designed to carry,**
 - (i) a driver only and no passengers, or**
 - (ii) a driver and only one passenger, if the vehicle,**
- (A) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and**
- (B) is equipped with foot rests for the passenger that are separate from the foot rests for the driver;”**

Summary and Recommendation:

The City currently makes use of enabling Provincial legislation to regulate where and when ATVs can be used on public highways. Given recent amendments to provincial legislation and regulation, City staff recommends that the existing ATV By-law be repealed and replaced to: a) revise the ‘all-terrain vehicle’ definition of its by-law to match the Ontario

regulation; and, b) incorporate the provincial definitions of “multi-purpose off-highway utility vehicle” and “recreational off-highway vehicle” into the new by-law.