



The Corporation of the
City of Kawartha Lakes

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Memo

To: Councilor Pat Dunn, Chair ORV Task Force

From: Jolene Ramsay, Insurance Risk Management Officer

Date: April 14, 2021

Re: ORV Task Force Recommendations

Thank you for the opportunity to comment with respect to the ORV Task Force recommendations and your request of March 24, 2021.

The following are the risk management considerations that were provided and included in the Off Road Vehicle Use on Municipal Roads Presentation - CC2020-08.7.1, presented to Council on August 20, 2020:

RISK MANAGEMENT CONSIDERATIONS

Conduct road review to determine suitability of roadway/shoulder for ORV use, including:

- Traffic volumes, haul routes, cycling routes or pedestrian usage
- Adequate shoulder width to reduce need for ORVs to drive on paved portion of roadway
- Condition of pavement/shoulder, drop offs or deteriorated edges
- Avoidance of areas prone to flooding, washouts
- Sight lines, hidden entrances, hazards and general topography of the roadway
- Future construction, upgrades or issues that may impact usage
- Limit/identify specific roadways and segments to lessen impact on traffic

Determine if roadway/shoulders are suitable for Extreme Terrain Vehicles (XTV) and Off-Road Motorcycles (ORM) or if such use should be restricted on CKL roadways;

Restrict usage to spring-fall season (May to November) to avoid winter maintenance operations;

Media / Update City Website to educate public where ORVs are permitted, operational requirements, restrictions;

Appropriate signage for all users of the roadway including 'Share the Road' as well as warning signs of any additional hazards;

Consult with KATVA and other stakeholders.

The City has a Duty of Care to ensure compliance with the Minimum Maintenance Standards (MMS):

- Determine additional maintenance /inspection requirements such as grading of shoulders to remove ruts left by ORVs, increased inspection during peak usage.
- Update existing policies, procedures and documentation to consider ORV usage and ensure staff are trained.
- Financial implications will include increased resources to manage the additional maintenance/inspection requirements to ensure Minimum Maintenance Standards are being met as well as the purchase and installation of any additional signage deemed necessary.
- The costs related to potential liability claims are unknown however would be subject to the City's deductible. Insurance premiums may increase due to the additional exposure and the potential claims as Joint and Several Liability will be a consideration.

OPTION: Engage the City insurer to conduct a risk assessment

It is understood that the mission of the ORV Task Force is to provide advice and recommendations to Council on the use of Off Road Vehicles (ORV) on municipal roads. For the purpose of this review, the term ORV applies solely to All-Terrain Vehicles (ATVs) and Side-by-Side units and does not include Extreme Terrain Vehicles (XTV) and Off-Road Motorcycles (ORM).

It is further understood that for the purpose of the Task Force, ORVs are not for general transportation, but to encourage users to enjoy the use of permitted trails.

Any amendments to By-law 2019-077 will need to align with the provincial regulations and any additional rules the City adopts as noted in the General Recommendations provided by the Task Force. The amended by-law should clearly identify the roadways where ORV use is permitted and roadways, parks, trails etc. where ORVs are prohibited. Updated mapping and enhanced public education for ORV users and non-users will be required. The MTO Smart Ride Safe Ride handbook provides clear information regarding the on-road riding requirements for drivers, passengers and ORVs. A link to this document or similar publications could be added to the City's website to increase public education, awareness and promote safe riding:

<http://www.mto.gov.on.ca/english/driver/pdfs/smart-ride-safe-ride-ATV.pdf>

The Task Force recognizes that ORVs are not for general transportation, but to encourage users to enjoy the use of permitted trails. It is therefore recommended that the usage of ORVs is limited to certain municipal roadways and segments which would facilitate user access to the nearest designated ORV trail. This would help to limit the potential for conflicts between pedestrians, cyclists, motor vehicles and other users of the roadway to effectively manage the risk. Roadways with lower traffic volumes and routes through less populated areas would be better suited for ORV use. The distance ORVs are permitted to travel on the municipal roadways should be limited when considering roadways/routes with the primary goal being to provide the closest and most direct route to a sanctioned trail. Roadway shoulders should be wide enough to accommodate safe ORV use. Roads without shoulders place ORVs in conflict with other motorists as they would be required to share the road, albeit at a much reduced speed than other roadway users.

The Minimum Maintenance Standards (MMS) will need to be reviewed to determine what standards are applicable to areas travelled by ORVs and any increased inspection and maintenance obligations of the City:

<https://www.ontario.ca/laws/regulation/020239>

The Task Force may also need to consider designated parking areas at trail heads to accommodate vehicles with trailers and provide sufficient space to load/unload ORVs in order to avoid any unpermitted or roadside parking and safety issues.

The Task Force has recommended that all ORV operators possess a valid KATVA or Affiliate Membership. Use of municipal roadways would likely not require such a membership, however accessing a KATVA or Affiliate sanctioned trail would. Further investigation into membership requirements for municipal roadway usage is recommended.

Any commitments between the City and KATVA should be formalized with an agreement or amendments to existing agreements to clarify the roles and

responsibilities of both parties. Any roadways that border with a neighboring municipality will require further discussion and possible updates to Boundary Road Agreements with those neighboring municipalities.

The City's insurance broker has advised that permitting the use of ORVs on municipal roadways will not have an immediate impact on insurance premiums. A claim or poor claims experience related to ORV use will however have a direct effect on future premiums. Due to the City's high self-insured retention (deductible), the costs incurred to investigate and defend any such claim(s) would largely be the responsibility of the City. If the ORV owner was uninsured or has insufficient liability limits, joint and several liability would apply which would further expose the City to increased costs, claims expense and future premium increases.

In addition to the risk management considerations and recommendations provided, the link below and publications attached from Frank Cowan Company identify additional issues for the consideration of the Task Force:

<https://www.frankcowan.com/centre-of-excellence/view/risk-management-considerations-for-off-road-vehicles-on-municipal-roads>