



PUBLIC SAFETY COMMITTEE REPORT

Report Date	November 13, 2024
Meeting Date	November 20, 2024
Service Area	Transportation and Environment Services

Her Worship Mayor Donna Noade Reardon and Members of the Public Safety Committee

SUBJECT: Use of All Terrain Vehicles in Saint John

OPEN OR CLOSED SESSION

This matter is to be discussed in Public Safety Committee Open Session.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	Chief Administrative Officer	Committee Chairperson
<i>Tim O'Reilly</i>	<i>Michael Hugenholtz</i>	<i>J. Brent McGovern</i>	<i>Greg Norton</i>

RECOMMENDATION

Public Safety Committee recommends that Common Council deny current request by Lorneville Trail Riders Club 57 to permit All Terrain Vehicles be used on city streets.

EXECUTIVE SUMMARY

All Terrain Vehicle (ATV) use is a polarizing subject. On the one hand, ATVs are used as recreation by many. However, they can and do disrupt the quality of life of Saint John residents. Current laws for ATV use are difficult to enforce. Until and if a full study, including comprehensive consultations, can be resourced and completed, city staff are not recommending Public Safety nor Common Council support permitting ATVs to be used on any city streets.

PREVIOUS RESOLUTION

The correspondence from the Lorneville Trail Riders Club 57, as attached to this report, was referred to the Public Safety Committee by Common Council at its October 15, 2024 meeting.

STRATEGIC ALIGNMENT

This report aligns with Common Councils BELONG priority, via enhancing quality of life.

REPORT

Off-road vehicles, as the name suggests, can travel in locations that cars and trucks cannot. As such, they are used for recreational and other purposes. Off-Road vehicles include three and four wheeled All-Terrain Vehicles (ATV), dirt bikes, side-by-sides, dune buggies, snowmobiles, and other similar vehicles. For the purpose of this report, the term Off-Road Vehicle and All-Terrain Vehicle (ATV) are used interchangeably.

Various Off-Road vehicles, including ATVs, are governed by the Off-Road Vehicle Act in New Brunswick. This Act provides some clear requirements that respond to some concerns provided by Saint John residents. With some exceptions, ATV users must be at least 16 years of age. ATVs must not be operated “in a careless, reckless or negligent manner or in a manner likely to cause damage or injury to other persons, to property or to the environment”. ATVs must have a properly working muffler system and must not “caus[e] excessive or unusual noise”. ATVs are not permitted to be used in city parks, except if routes within them are identified as part of a managed trail as defined in the Act.

Use of ATVs around City streets is also governed by the Off-Road Vehicle Act. With some specific exemptions, ATVs are not allowed to operate within 7.5 metres of a highway, including city streets. They are permitted to cross a highway, including a city street, as long as they stop first, then proceed directly across.

There is some assistance provided to enforcement officers to identify the user of an ATV where a violation of the Act occurs. All ATVs must be registered with a clearly visible number plate to indicate who the owner is. The owner of an ATV is required to disclose to an enforcement officer the name of the person operating the ATV should enforcement be needed, even if all the enforcement officer sees “in the field” is the number plate.

As reiterated by complaints of many city residents, particularly those closer to the rural areas on the east and west sides, there are concerns that behaviours of some ATV users do not align with the provincial act. Complaints from the community tend to include concerns with use and inappropriate use of ATVs on city streets, noise and dust resulting from ATV use near residential areas, and damage to property. Although enforcement officers, including members of the Saint John Police Force, can identify the owner and user of an ATV violating the Act via the number plate, the ability for an officer to be present during the violation, and get close enough to see the number plate on the ATV, is very limited given current enforcement resource levels. Saint John includes much rural lands that is privately owned. Even city lands, including parks, trails, watersheds, or otherwise are vast where physical barriers to prevent or deter use by ATVs are expensive or not effective. As a result, received resident concerns, or concerns from the city regarding park damage and use of ATVs too close to the city’s two surface drinking water sources, very often go unaddressed.

Permitting ATV Use on City Streets

Common Council received the attached request by the Lorneville Trail Riders Club 57 to permit use of ATVs on select city streets, including Galbraith Place, two sections of King William Road and a section of Paddy's Hill Drive. This request comes with approval already granted by Gateway Operations, via a Highway Usage Permit (HUP), for ATVs to travel along the highway overpass of Exit 112 of Provincial Highway 1 that connects King William Road to Ocean Westway and along the path where permission is also sought from the city. The HUP is attached to this report. The ability for ATVs to use the combination of the overpass and the select streets would allow connections to trails managed by the Club, as also outlined in the Provincial Act.

The Act permits the Province to authorize use of ATVs across certain provincial highways. Gateway Operations is operating Highway 1 under a long-term contract with the Province of New Brunswick and are therefore permitted to issue HUPs on behalf of the province.

The Act also permits municipalities to regulate or prohibit use of ATVs further than what is in the Act, including permitting use of particular municipal streets by ATVs. Penalties for violating associated municipal by-laws are not permitted to be greater than \$100.00. The Lorneville Trail Riders Club 57 is therefore approaching the city to seek associated permission, via by-law, for permission for ATVs to travel along specific streets. To the best knowledge of city staff, the City has not yet granted similar permissions for use of ATVs on city streets in the past and there is no current mechanism to do so through the presumptive use of the city's Traffic By-Law.

City staff is recommending Public Safety Committee and Common Council deny the current request of the Lorneville Trail Riders Club 57 for the following reasons:

- Stakeholder views are polarizing on the use of ATV's in Saint John and therefore comprehensive consultations with the broader community are required before city staff would make such a recommendation,
- The Recreation Strategic Plan (Play SJ) recommends adoption of a Parks By-Law which would, in part, identify use and regulations of ATVs. This recommendation has yet to be pursued,
- Enforcement of current laws within the Off-Road Vehicle Act are not adequate based on city resident feedback. Enforcement resources would need to be reassessed with such a request,
- ATV use of trails can be incompatible with use by pedestrians or cyclists,
- Physical barriers, including their effectiveness and lifecycle costs, to reduce use of ATV use on city or private lands, would need to be reviewed, including near drinking water sources,
- Improved coordination with the Provincial Departments of Transportation & Infrastructure, Justice & Public Safety, and Natural Resources and Energy

Development departments regarding ATV use on highways, enforcement efforts, and permissions granted for use of managed trails is needed, and

- Opportunities to partner with the Lorneville Trail Riders Club 57 or other trail groups should be explored. Opportunities for these groups to be accountable for the actions of their members or ATV riders in general should be explored as well as opportunities for the city to partner with such groups toward education of ATV riders, and the pursuance of managed trails that reduces overall impact to city residents.

As the list of due diligence efforts described immediately above would be resource-intensive to study, City staff currently recommends this review only be considered should it be prioritized on a future year's Work Plan.

SERVICE AND FINANCIAL OUTCOMES

N/A

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

City staff discussed the proposal further with a representative of the Lorneville Trail Riders Club in advance of finalizing this report.

The Saint John Police Force provides the following input in addition to general review of the contents of this report:

- Another enforcement challenge faced by the Saint John Police Force is the prevalence of unregistered ATVs. In these cases, even if a police officer was able to see the actions and the vehicle, the required number plate otherwise required with a registered ATV is not available for the officer to confirm the owner or operator at the time of the witnessed offence.

ATTACHMENTS

- City staff presentation
- Request from Lorneville Trail Riders Club 57
- Highway Usage Permit issued to Lorneville Trail Riders Club 57 by Gateway Operations