Date: 2020-10-07
From: Tyler Jahnke, Director of Operations
Subject: Off-Road Vehicles on Municipal Highways
Report: OPS2020-42

Recommendation

That By-Law 27-2016 be amended to prohibit the use of off road vehicles in specific locations, as approved by Council, and

That the Curly Harnden Side Trail and Len Holley Side Trail hereby be classified as prohibited to the use of off-road vehicles, and that said prohibitions be included in the amended By-Law, and

That staff are hereby directed to install seasonal barricades blocking ATV access to the Curly Harnden Side Trail and Len Holley Side Trail, and

Further, that staff are hereby directed to work with local ATV groups to educate the public on allowable ATV trails and safe ATV use etiquette.

Background

In 2004 The Township passed By-law 30-2004 being a By-Law to permit All-Terrain Vehicles on Municipal Roads. The Township also passed By-Law 27-2016 being a By-Law to permit All-Terrain, Multi-Purpose Off-Highway Utility and Recreational Off-Highway (Off-Road) Vehicles on Municipal Roads.

By-Law Number 27-2002, 77-2016 and 46-2019 speak to the “rail trail” in consideration of use and agreement with South Bruce ATV (SBATV) club.

The Township also has a Policy TRA-010-10 for the use of unopened road allowances.

Residents in the Gleason Lake/ Colpoy’s Range Road area have expressed concerns, over the past four years, regarding ATV use in the area. During this time, Staff have
submitted reports OP.16.74 and OPS2019-85 to Council in consideration of these concerns.

In 2016 Council directed staff to request that the SBPATV club remove the section of Colpoy’s Range Road and Gleason Lake Road between Centre Road and Concession 24 from their maps. The SBPATV club map was amended and residents installed their own “No ATV” signs, which were later removed. Council permitted the residents to reinstall the signs at their expense, as approved by the Director of Operations in 2017. The signs are not enforceable as the current By-Law (27-2016) allows for ATV’s on all Township roads.

Bill 107 (Getting Ontario Moving Act) received royal assent in June 2019. This Bill includes changes to the Highway Traffic Act and the Off-Road Vehicles Act. Amendments to the Highway Traffic Act, via Bill 107, allow municipalities to prohibit use of off-road vehicles on any highway within their jurisdiction, by by-law. See below:

*Highway Traffic Act*, Section 191.8

(2.1) A regulation made under subsection (2) may,

(a) provide that a provision of the regulation that permits the operation of off-road vehicles on a highway or part of a highway does not apply with respect to a highway or part of a highway that is under the jurisdiction of a municipality if the municipality by by-law prohibits such operation; or

(b) prescribe limitations on the authority of a municipality to pass a by-law under clause (3) (a) permitting the operation of off-road vehicles or classes of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway.

In essence ATV use was prohibited under the *Highway Traffic Act* prior to Bill 107. Following assent of Bill 107, the Municipality now has the authority to prohibit or limit such uses.

By-Law No. 27-2016 permits the operation of off-road vehicles on any roadway that is under the jurisdiction of the Municipality. This By-Law is now requires amending, further to the changes to the *Highway Traffic Act* in relation to Bill 107.

**Analysis**

ATV use can be broken down into three locations in the Township: unopened road allowances, opened and maintained roadways, and the rail trail.
TRA-010-10 speaks to unopened road allowances and the need to restrict use to those specifically permitted. Section 7.0 item 1 states:

Except for trails built and maintained by organizations such as the Ontario Federation of Snowmobile club Association, the Township will generally refuse to permit any person to open any unopened road allowance within the Township by way of a trail, driveway, or road capable of being used by any motor vehicle whatsoever. The purpose of this policy is to protect the Township from liability claims by persons using unimproved unopened road allowances and from demands of that such unopened road allowance be improved and maintained at the expense of the general ratepayers.

This policy in itself will require any new “trail” to apply for a permit of use.

Opened and maintained roads are by far the majority of the land used for ATV’s. All of the roads in Georgian Bluffs whether paved, surface treated or gravel, fall under this section. As per the existing By-Law 27-2016, off- road vehicles with four wheels and low pressure bearing tires shall be permitted on all municipal roads within the Township in accordance with Ontario Regulation 316/03 made under the Highway Traffic Act and the Off Roads Vehicles Act as amended.

Staff have received several complaints regarding dust and noise in regards to ATV use on certain roads. The proposed amendments to By-Law 27-2016 include an option to post signage and close any portion of an open roadway that Council decides ATV use is a nuisance.

The Township owns approximately 15.8km of abandoned rail line which is known as the Georgian Bluffs Trail. By-Law 2019-46 is an agreement with SBATV to use and maintain this trail. As this is an agreement upon use, all members are to comply with the Township By-Laws.

It is apparent that By-Law 27-2016 needs to be amended to clarify the existing by-laws, incorporate new provincial regulations and reflect input received from the Niagara Escarpment Commission and Grey-Sauble Conservation Authority. Additionally, other areas where Council wishes to prohibit ATV use, could be included. A sample Off-Road Vehicles By-Law from the Township of Springwater is appended to this report as Appendix 2. Staff consider this by-law to be well written and align with the majority of our goals to achieve in our own amended By-Law.
Areas of Concern

The Curly Harnden Side Trail and the Len Holley Side Trail meander through lands owned by the Grey Sauble Conservation Authority and are legally described as Lots 16 to 20, Colpoy’s Range. The Trail can be accessed at the intersection of Gleason Lake Road and Colpoy’s Range Road through the unopened road allowances between Lot 20, Concession 25 and Lot 20, Colpoy’s Range. As well as via the unopened road allowance between Lot 21, Concession 26 and Lot 20, Colpoy’s Range. The entrance points are marked in red on the image below as ‘X’.

![Image of the area with marked access points](image-url)

Both access points to the trail have been signed to alert users that ATV use is not permitted. As there is no municipal by-law prohibiting ATV access to these trails, there is no way to enforce this prohibition. Staff recommend adding the access points to the trails as well as the unopened road allowance between Concession 25 and Colpoy’s Range from Lot 20 through to Lot 12 (indicated in yellow on the above image) to the proposed By-Law to prohibit the use of off road vehicles in this area that falls within the Niagara Escarpment Plan area (NEP, 2017). Staff also recommend installing seasonal barricades at the access points to not allow ATVs access to the trail through the Township’s unopened road allowances. In the winter months, the barricades would be opened as the Curly Harnden Side Trail and Len Holley Side Trails are used by local snowmobile clubs and permitted under the NEP, 2017.

Other areas where ATV use is a concern within the Township will be brought forward for Council’s review and determination if the area should be added as prohibited off-road vehicle use area. This will allow the Township’s By-Law Officer or OPP the ability to address concerns from members of the public.
Financial Impact

There is no financial impact at this time. Once the By-law is brought to Councils approval a cost analysis will be provided to show expenses and enforcement costs.

Strategic Priorities

4.1 Provide enhanced recreational opportunities for residents
   (c) Implement recommendations arising from Recreation Master Plan.
   (d) Continually improve public/open spaces to ensure Accessibility and Safety.

Conclusion

Although the majority of the existing By-Laws regarding ATV use are working well independently, they are not very user friendly.

The Township requires an updated Off Road Vehicle Bylaw to incorporate and clarify the existing by-laws, new regulations, and that requests made by the local environmental authorities are met. This By-Law shall include the opportunity for Council to prohibit the use of Off-Road Vehicles from select sections of Municipal Lands as approved by Council.

Staff recommend adding Curly Harnden Side Trail and Len Holley Side Trail to the newly amended by-law so that the staff can post proper signage and enforce.

The township will have to work progressively with local OPP and our By-Law Enforcement Officers to ensure these new regulations are achievable.

Supporting Documentation

Appendix 1 – By-Law 27-2016

Appendix 2 – Sample By-Law

Original signed by: Tyler Jahnke, Director of Operations