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ALL-TERRAIN VEHICLES ON REGIONAL ROADS

(Regional Council at its meeting on October 27, 2005 referred the following clause back to the Committee pending receipt of a further report from the Town of Georgina.)

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, September 22, 2005, from the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. The use of All-Terrain Vehicles (ATVs) not be permitted on the Regional road network.
2. The Regional Clerk forward this report to the local municipal clerks and to the Chief of York Regional Police.

2. PURPOSE

The purpose of this report is to inform Council of the findings and recommendation of Regional staff in response to a Town of Georgina Council resolution requesting York Region to investigate the feasibility of passing a by-law to govern the use of All-Terrain Vehicles (ATVs) on Regional roads.

3. BACKGROUND

At the Town of Georgina's January 17, 2005 Council meeting, a deputation was made by some town residents with regards to allowing ATVs on local roads. At that time, Georgina Council put a motion forward requesting The Regional Municipality of York to investigate a potential by-law governing the use of ATVs on Regional roads.

Under the *Highway Traffic Act* (HTA), the Council of a municipality may pass by-laws, permitting the operation of off-road vehicles with three or more wheels and low pressure bearing tires on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway.

The HTA defines an ATV 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; “off-road vehicle” has the same meaning as in the *Off-Road Vehicles Act*.

4. ANALYSIS AND OPTIONS

Regional staff has had discussions with York Regional Police as well as staff from the Town of Georgina with regards to allowing ATVs on local and Regional roads. Concerns have been raised by all parties involved. York Regional Police are in support of the recommendation as outlined in this report.

4.1 York Regional Police

ATVs using the roadway could potentially lead to an increase in motor vehicle collisions. Statistics from the Ontario Provincial Police indicate that, in 2004, 54% of all ATV fatalities occurred on the roadway. All ATVs are equipped with low pressure bearing tires that are designed by the manufacture for off-road use only. The improper use of an ATV on a paved roadway creates a potential hazard for riders and other lawful road user, such as other motorists and pedestrians.

4.2 York Region and Town Operations

If ATVs were permitted to travel along Regional roads, they would use the gravel portion of the roadway which would increase maintenance costs and liability to the road authority as these vehicles would cause constant damage due to ruts and displacement of the gravel. There would also be an increase in usage along the right-of-way which would cause more unseen hazards such as hidden culvert ends and debris, and cause severe erosion of grassy areas. Where there is no shoulder, the ATV would be driven as close to and parallel with the right edge of the roadway as can be done practicably and safely. These conditions would increase unsafe hazards to both motorists and pedestrians.

The more problematic issue is the use of the road allowance, or the un-travelled portion of the highway. Given the lower speed of ATVs, and in order to reduce car-ATV conflict, ATVs often travel along the un-travelled portion of the highway. Generally, the *Municipal Act, 2001*, limits municipal liability respecting maintenance of the un-travelled portion of a highway (s44) (8). In interpreting these provisions, the courts have stated that municipal liability should be limited to

“That portion of the highway provided and intended for ordinary and normal use for that purpose; and that purpose has, in fact been commonly and habitually used by the public for that purpose.”

Persons injured as a result of an ATV collision on a Regional or Town road may make claim for damages for negligence, subject to the provisions of the Municipal Act, 2001.

Under the HTA, the driver of an ATV is only permitted to drive an off-road vehicle directly across a highway pursuant to clause 2 (2) (a) of the *Off-Road Vehicles Act*.

Manufacturers of ATVs state the following:

ATVs can be hazardous to operate. For your safety: Always avoid paved surfaces. Never ride on public roads. Always wear a helmet, eye protection and protective clothing. Never carry passengers. Never engage in stunt riding. Riding and alcohol/drugs don't mix. Avoid excessive speed. And be particularly careful on difficult terrain. There are few joys in life equal to the free-spirited thrill and experience of ATV riding. And that's why it's important for all of us to do our part as responsible riders. By following logical, common-sense rules, we can maintain season after season of unparalleled enjoyment of our sport. Please remember to "tread lightly." Always ride in a responsible manner, respecting the environment as well as all state and local laws.

The reason for this disclaimer is that these vehicles were not designed to travel on public roadways.

5. FINANCIAL IMPLICATIONS

There is no direct financial implication associated with this report.

6. LOCAL MUNICIPAL IMPACT

Restricting the use of ATVs on Regional roads will benefit residential areas by limiting a potential increase in noise and trespassing complaints.

7. CONCLUSION

This report is in response to a Town of Georgina Council resolution requesting York Region review the feasibility of implementing a by-law for the use of ATVs on Regional roads.

After discussions with York Regional Police, Regional and Town of Georgina staff, it is proposed that the use of All-Terrain Vehicles not be permitted on the Regional road network for the safety and liability reasons outlined in this report.

The Senior Management Group has reviewed this report.