

# **Town of Riverview**

## **COUNCIL REPORT FORM**



Presented to: Mayor & Council

Department: Development & Legislative Services

Date: March 23, 2023

Subject: Update on ATV Access to Public Streets

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### **BACKGROUND**

In June 2021 Council heard a presentation from the Albert County Trail Blazers who are seeking road access on certain streets in Riverview that will lead to restaurants, gas stations and other services. At that time, Council gave direction to Staff to research other communities to see which of them had by-laws and if they were having problems.

At the December 2021 meeting staff presented Council with a report outlining the various communities contacted, the type of by-law they had, if any, and their comments on whether the by-law was working. Council asked staff to prepare a by-law, obtain public opinion and report back.

Staff researched other communities in the Province and of the 30 towns researched, only 7 of them had Off-Road Vehicle by-laws; Bathurst, Dalhousie, Edmundston, Grand Falls, Sackville, Shediac, and St. Stephen. The majority of the by-laws only allow designated road crossings or access on short lengths of road to give users the ability to connect from one trail to another. Most of the by-laws also restrict speed limits to between 20-40 km per hour and some restrict usage to members of the NB ATV Federation only.

A total of 632 responses were received from the survey and through direct responses to the Town Clerk. The data collected from the survey has been compiled into a report which is attached. The data shows that 70% of the respondents living in Riverview were in favour of off-road vehicles being allowed access to designated town streets, with 25% not in favour and 5% being unsure. Those in favour of creating a by-law indicated convenience, increase in customers for local businesses and safer roads for ATVs as reasons for supporting more access to roads. Those against the creation of a by-law were mostly concerned with noise levels, safety and lack of enforcement.

NB Power also had concerns with the proposed routes and staff indicated they would be in contact with them to discuss those concerns. Following communication with them it was noted their concerns were related to off-road power line easements. These concerns were forwarded to the Albert County Trail Blazers for their action.

**CURRENT UPDATE**

After reviewing all the information collected, staff have identified the following advantages and disadvantages to allowing off road vehicles access to public streets.

**Advantages**

- Off-Road Vehicle riding has seen a huge increase in vehicle sales and it is expected the Canadian market will grow by 8.21% during the 2021-26 period. It is a growing sector of outdoor tourism with organizations arranging rides and events, which offer social and recreational opportunities for their members.
- According to a study published by the American College of Sports Medicine, ATV riding is a moderate intensity recreational activity, particularly for the upper body. The report suggests that driving an ATV is similar to many other recreational activities, such as golf, rock climbing and skiing.
- Allowing ATV riders access to gas stations, grocery stores and restaurants will enable our commercial businesses to take advantage of the economic benefits that come with this outdoor tourism. A Canadian economic impact study reported that in Ontario, residents spent as much as \$975 million on activities related to the ownership and operation of ATVs in 2015.
- There would be no cost to the Town for any signage as the Albert County Trailblazers bear the cost of all signage.

**Disadvantages**

- By-law Enforcement Officers cannot enforce moving violations of all-terrain vehicles. They have no authority under either the Motor Vehicle Act or the Off Road Vehicle Act to enforce registration, use of helmets, insurance requirements, mechanical fitness of the vehicle, speeding and impaired driving. RCMP or Off Road Vehicle Enforcement officers would be required to enforce these laws. The RCMP have confirmed with us that it would be their responsibility to enforce any moving violations, as they currently do. Our concern is the difficulty they will have in patrolling and catching any of these violations, especially with priority issues that demand a great deal of their time.
- The only violation our By-law Enforcement Officers will be able to enforce is staying on the designated trails within the community. Providing this enforcement, along with continuing our current enforcement practices, would require adding another officer to our contract with Municipal Enforcement Services and possibly having to purchase an off-road vehicle to use for enforcement.
- Failure to enforce this by-law could directly be involved if there was an accident causing physical damage to a resident or their vehicle. An article from McInnis Cooper concerning this issue states; *“while a municipality has a general public duty to enforce all its by-laws, poor enforcement of those that effect the risk of physical damage or harm to the public will result in municipal liability”*.

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- There could be concerns with noise, safety and the environment from some residents, especially those who live along the route.
- Associated costs for a Public Education and Communication Program.
- There may be liability issues for the municipality as well. Do we have the resources to manage any extra maintenance the roads would need? What would our liability be if there was any obstructions that forced a rider into the path of a regular vehicle?

When taking into consideration these advantages and disadvantages, it should be noted that the existing ATV riders who currently break the law and ride on public streets, speed, drive impaired, etc. will continue to exhibit this behaviour whether a by-law is enacted or not.

If Council should decide to go ahead with the creation of the by-law, staff will work with the Albert County Trailblazers to create and promote a Public Education program to ensure residents are well aware of the restrictions in the by-law.

### **Financial Implications**

Should Council decide to move forward with the creation of this by-law and allowing ATVs on public streets, preliminary costing would be the hiring of a second By-law Enforcement Officer to patrol the streets and the cost of a public campaign to ensure all residents are aware of the change and the by-law. The addition of the second officer would be approximately \$80,000 and the public campaign would be approximately \$2000, for a total of \$82,000 . In addition, following years could see an increase in road maintenance to ensure these designated ATV lanes are in good condition to prevent accidents.

### **OPTIONS**

Council has two options before them:

- 1) Instruct staff to draft an Off Road Vehicle By-law that will establish ATV routes along public roads within town limits and which will include restrictions such as a reduced speed limit, driving on the extreme right of the roadway, possession of a trail pass, etc.
- 2) Keep the current trail access as is and prohibit the use of Off Road Vehicles on public roadways.

### **RECOMMENDATION FROM STAFF**

Staff recommendation would be that we not follow through on this by-law as we do not have the resources available to enforce it which could lead to liability for the Town. Should Council wish to proceed with the by-law, staff would recommend that it be commenced in 2024 to allow for extra costs for enforcement and communication in next year's budget.

**Prepared by: Annette Crummey**  
**Director of Development and Legislative Services**

