




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	December 7, 2021
SUBJECT/REPORT NO:	Amendment to the Off-Road Vehicles By-law 21-121 (PED21110(b)) (City Wide)
WARD(S) AFFECTED	City Wide
PREPARED BY:	Dan Smith Manager, Licensing
SUBMITTED BY:	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the draft By-law, attached as Appendix “A” to Report PED21110(b), to amend the Off-Road Vehicles By-law 21-121, to include the term “Motorized Snow Vehicle”, be approved.

EXECUTIVE SUMMARY

On July 9, 2021, Council approved Report PED21110 to enact By-law 21-121 to regulate Off-Road Vehicles (ORVs). The approved By-law did not include the term “Motorized Snow Vehicle”. After consultation with internal departments, staff recommend including the term in the By-law.

Alternatives for Consideration – See Page 3

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Prior to January 1, 2021, if a municipality did not have a By-law in place, ORVs were not allowed on municipal highways and this was enforced by the local police agencies under the *Highway Traffic Act, R.S.O 1990 (HTA)* and *Ontario Regulation 316/03*.

Effective January 1, 2021, all ORVs that meet the requirements under *Ontario Regulation 316/03* for ORVs are allowed by default on municipal highways under the jurisdiction of municipalities listed in *O. Reg 8/03*, this list includes the City.

On September 16, 2020, Council approved Item 6.1; a motion directing Licensing and By-law Services (LBS) and Legal Services to draft a municipal By-law to prohibit off-road vehicles (ORVs) on highways and on public lands within the City of Hamilton (City), including the exemption for husbandry use for normal farming operations and have staff explore the option of prohibiting ORVs driving on private property without permission. Staff brought forward the Off-Road Vehicles By-law 21-121 that was approved by Council on July 9, 2021.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Legal Services and Public Works were consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Motorized Snow Vehicles are currently enforced by the Hamilton Police Service (HPS) under the *Trespass to Property Act R.S.O 1990 C.T. 21.*, the *HTA* or the City Traffic By-Law 01-215 for concerns on private property or along served roadways. LBS Officers do not have the jurisdiction to respond to complaints or enforce Motorized Snow Vehicles under these regulations.

Amending the Off-Road Vehicles By-law 21-121, to include Motorized Snow Vehicles would mean that vehicles designed to be driven primarily on snow would be prohibited from operating on any highway in the City unless for a permitted use or on private property in the City without the land owner or Occupier's written consent.

There will continue to be limitations on LBS Officers to stop a vehicle while moving. LBS Officers are not legislative authorities to require vehicles to stop as part of an investigation. LBS Officers will work with HPS in situations where stopping a vehicle is required for the purposes of enforcement of this By-law.

The following definition would be added to By-law 21-121:

“Motorized Snow Vehicle” means a self-propelled vehicle designed to be driven primarily on snow as defined under the *Motorized Snow Vehicle Act Motorized Snow Vehicles Act, R.S.O. 1990, c. M.44*.

This will also require an amendment to the definition of “Vehicle” in By-law 21-121 to have Motorized Snow Vehicle included:

“Vehicle” shall mean an All-terrain Vehicle, Extreme Terrain Vehicle, Multi-purpose Off, highway Utility Vehicle, Motorized Snow Vehicle, Off-Road Motorcycle, Off-Road Vehicle, or Recreational Off-highway Vehicle.

As referenced in Report PED21110, LBS has begun to track key metrics in response to the adoption of the Off-Road Vehicles By-law 21-121. If the recommendation is adopted by Council the key metrics below would also include Motorized Snow Vehicles.

Key metrics considered:

- Calls for service;
- Reduction of overall incidents involving ORVs and Motor Vehicles;
- Impacts on surrounding community (reduction of calls for service); and,
- Compliance rates for municipal By-laws and effectiveness of enforcement strategies.

Since the enactment of the Off-Road Vehicles By-law, LBS has received four complaints and four charges have been issued.

Improved reporting methods are being developed to record data on motorized snow vehicles. As enforcement was directed through HPS, LBS does not have up to date complaint information on these types of vehicles.

HPS had provided data on Snowmobile Events identifying ten complaints in 2021 and seven in 2020. In comparison with other All-Terrain Vehicles over the same period, the data identifies 381 complaints in 2021 and 165 in 2020.

ALTERNATIVES FOR CONSIDERATION

Council may decide not to include the definition of Motorized Snow Vehicle in the Off-Road Vehicles By-law 21-121.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED21110(b) – Draft By-Law amending By-Law 21-121

Appendix “B” to Report PED21110(b) – HPS Snowmobile Events from 2012 – 2021