



City of North Bay Report to Council

Report No: CSBU 2021-28

Date: May 31, 2021

Originator: Ian Kilgour and Tina Robertson

Business Unit:
Community Services

Department:
Planning & Building Department

Subject: Motorized Snow Vehicle By-Law Update

Closed Session: yes no

Recommendations

- 1) That Council approves the proposed By-law to Regulate, Govern and Prohibit the Operation of Motorized Snow Vehicles as outlined in Appendix A of Report to Council CSBU 2021-28 and
- 2) That Council authorizes the application for set fines for the proposed Motorized Snow Vehicles By-Law as set out in Appendix B of Report to Council No. CSBU 2021-28

Background

In June of 2019, representatives from both the North Bay Snowmobile Club (NBSC) and South Shore Restoule Snowmobile Club (SSRSC) sent a letter addressed to Mayor Al McDonald and Jake Lacourse (Chair of Tourism North Bay) requesting expanded access for snowmobiles in the City of North Bay and funding for equipment and trail maintenance.

The specific requests included the following;

1. Revisiting the current snowmobile By-law and propose an expansion to include additional hotels, gas stations and snowmobile dealerships,
2. Request \$15,000 in annual funding to build, maintain, sign and groom the access trails to the businesses included in the list above,
3. Request \$40,000 in funding to purchase equipment (utility snowmobile and a groomer drag apparatus).

City Staff met with representatives from the North Bay Snowmobile Club (NBSC), South Shore Restoule Snowmobile Club (SSRSC), Ontario Federation of Snowmobile Clubs (OFSC), Tourism North Bay and the Bonfield Snowmobile Club (BSC) to discuss the request.

From a City perspective staff agreed to undertake a review of the existing Motorized Snow Vehicles By-law and exploring opportunities for expansion, particularly for access to additional hotels, gas stations and snowmobile dealerships.

The Clubs are encouraged to continue to work with Tourism North Bay about the promotion of snowmobiling, signage etc. throughout the region.

Of the requests made, the vast majority materialized. Expanded access includes:

Seymour Drive Area:

- North Bay Cycle & Sports Ltd located at 475 Wallace Rd;
- Quality Inn at 1525 Seymour Dr.;

Lakeshore Drive Area:

- Lakeshore Dr., restaurants, hotels and gas stations;
 - Shell, Metro, BMO, Super 8, Lincoln Inn, Comfort Inn, Best Western, Lakeshore Suites, Travelodge, food establishments and convenience stores.

Downtown Area:

- Homewood Suites at 495 Oak St. W;
- Days Inn at 340 Main St. W;

Pinewood Park Area:

- Pinewood Park Restaurants, hotels and gas stations;
 - Gateway Casino (future site), Ramada (Pinewood Park Resort), Beef N' Brand, Tim Hortons, Subway, and Petro Canada.

Certain requests for expansion were not possible at this time. Those particular instances include:

- Carlson Sports located at 11 Couchie Industrial Rd – the Establishment is located outside the boundaries of the City of North Bay and is not applicable.
- J & D Powersports located at 1912 Main St West. This requires access across private property and a railway without a defined crossing.
- Holiday Inn & MacEwen Gas Station located at 1325 & 1375 Seymour St. respectively. It was determined that access to hotel and gas station would not be feasible at this point in time due to safety concerns relating to motorists, pedestrian movement and overall highway safety concerns.

Set Fines

Approval of set fines allows for enforcement of the Motorized Snow Vehicles By-Law by writing Offence Notices (tickets) under Part I and Part II of the *Provincial Offences Act*. This ticketing process is the same process that occurs when a person receives a speeding ticket and, in some cases, a parking ticket. It allows for a more expeditious process and allows the defendant the opportunity to pay the fine out of court if he or she wishes.

For the reasons that follow, it is recommended that the set fine for the majority of offences be raised from the 1995 set fines of \$90.00 to \$200.00.

While the set fine for a less serious *Highway Traffic Act* offence is \$85.00, it must be recognized that there are additional consequences that accompany *Highway Traffic Act* convictions, including demerit points, a permanent entry on the Ministry of Transportation driving record and a potential increase in insurance premiums. Those factors do not come into play for a by-law conviction and, therefore, the only deterrent factor in a by-law conviction itself would be the amount of the fine. It is for this reason that staff recommends a \$200.00 set fine for most offences. This would also be consistent with the current approved set fines for violations of the City of North Bay's Noise By-Law.

The proposed set fines for the offences of "Operate motorized snow vehicle on sidewalk – fail to yield to pedestrian" and "Operate motorized snow vehicle on sidewalk without caution or due attention" is higher at \$400.00, to reflect the gravity of a violation of these safety provisions. (It should be noted that there are a limited number of "sidewalk use trails" in the Motorized Snow Vehicles By-Law, so it is necessary to include these additional provisions and set fines for those locations where it is permitted to operate on a sidewalk.)

The recommended set fine for the offence of “Fail to comply with court order” is also higher, at \$500.00 for the following reasons. A court order is only issued upon sentencing for a conviction of an offence under the By-law, and it will not be issued in every case. The court will only issue an order where there are aggravating factors justifying an order, such as repeated violation of the By-Law or flagrant non-compliance. The order prohibits the repetition or continuation of the offence for which the offender has been convicted. A breach of such an order, therefore, demonstrates ongoing non-compliance and disregard for the administration of justice and the proposed set fine of \$500.00 is recommended to reflect the seriousness of the offence and to provide a deterrent to the offender.

Enforcement officers would still have the option not to use the ticketing process, despite the availability of set fines. Charges may also be laid either by way of a Part I Summons, or by way of a sworn Information pursuant to Part III of the *Provincial Offences Act*. Both of these processes require the defendant to appear in court, as there is no option for out of court payment. These processes can be used for a variety of reasons instead of a Part I ticket. For example, they are used when the enforcement officer wishes to seek a higher fine than an approved set fine; and when dealing with a repeat offender, where a court appearance may have a more deterrent effect than a ticket and a higher fine may also be sought. In addition, a Part III Information is used when the 30 day time limitation period for proceeding under Part I has passed; and when a fine greater than \$1,000.00 is desired, due to the seriousness of the offence.

The application process for the approval of set fines requires the City first to send the proposed set fines and short form wordings, along with supporting documents, to the Ministry of the Attorney General, Crown Law Office – Criminal (MAG). Upon processing and approval by MAG, the application is then sent to the Regional Senior Justice of the Ontario Court of Justice for the Northeast Region for approval. The entire approval process can take anywhere from one month to six months.

Financial/Legal Implications

There are no financial implications identified at this point in time.

Corporate Strategic Plan

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| <input checked="" type="checkbox"/> Natural North and Near | <input checked="" type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

- Leverage the natural environment to enhance healthy living and recreational opportunities;
- Promote the natural environment as a four season destination for ecotourism;
- Promote and support public and private sector investment;
- Engage the business community in identifying and developing economic opportunities; and
- Build on existing sports community to drive sport-tourism.

Options Analysis

Option 1:

- 1) That Council approves the proposed By-law to Regulate, Govern and Prohibit the Operation of Motorized Snow Vehicles as outlined in Appendix A of Report to Council CSBU 2021-28 and
- 2) That Council authorizes the application for set fines for the proposed Motorized Snow Vehicles By-Law as set out in Appendix B of Report to Council No. CSBU 2021-28

Option 2:

That Council not approve the proposed By-law to Regulate, Govern and Prohibit the Operation of Motorized Snow Vehicles and the application for set fines.

This option is not recommended.

Recommended Option

Option 1 is the recommended option.

Respectfully submitted,

Name: Ian Kilgour, MCIP, RPP
Title: Director, Community Development and Growth

Name: Christina A. (Tina) Robertson
Title: Assistant City Solicitor / City Prosecutor

We concur with this report and recommendation.

Name: John Severino, P.Eng, MBA
Title: City Engineer – Infrastructure and Operations

Name: Domenic Schiavone
Title: Director Public Works

Name: David Euler, P.Eng
Title: Chief Administrative Officer

Personnel designated for continuance:

Name: Ian Kilgour
Title: Director of Community Development and Growth

Name: Tina Robertson
Title: Assistant City Solicitor/City Prosecutor