Agenda – Council – February 22, 2012

Report - Standing Policy Committee on Protection and Community Services – January 30, 2012

Item No. 1 Off-Road Vehicle By-law

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 15, 2012, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, as amended, and submits the following to Council:

1. That the Off-Road Vehicle By-law, which restricts the operation of off-road vehicles in the City of Winnipeg, be enacted and come into force on November 1, 2012.

2. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Protection and Community Services – January 30, 2012

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 15, 2012, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services with the following amendment:

- Recommendation 1 – amend the words "January 30, 2014" to read "November 1, 2012"

and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 30, 2012, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Recommendation 1 - Add the words "and come into force on January 30, 2014",

and submitted the matter to the Executive Policy Committee and Council.

Further on January 30, 2012, the Standing Policy Committee on Protection and Community Services requested the Winnipeg Public Service:

1. To develop at least 3 staging areas at the edges of the west/southwest, south, and north/northeast of the City of Winnipeg.

2. To undertake a phased in approach to implementing the proposed ban concurrent to the staging areas and additional trails be provided.

3. To work directly with Snoman Manitoba Inc. to develop 3 areas for staging and a plan with associated costs for trail extension into the existing trail system.

4. To report back in September 2012 on the aforementioned.

Further on January 30, 2012, the Standing Policy Committee on Protection and Community Services received a presentation dated January 29, 2019 from Ken Lucko, Executive Director and Alan Butler, President, Snowman Inc.

Report - Standing Policy Committee on Protection and Community Services – January 30, 2012

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

Further on January 30, 2012, the Standing Policy Committee on Protection and Community Services received a communication from Rick House, Career & Community Experiences Teacher, Pembina Trails School Division with respect to the Off-Road Vehicle By-law.

ADMINISTRATIVE REPORT

ISSUE: **Replace the Vehicles By-law No. 6726/95 with a new Off-Road Vehicle By-law to support the Winnipeg Police Service Off-Road Vehicle Enforcement Program**

Critical Path: **Standing Policy Committee on Protection and Community Services – Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Safioles M. Musgrove	Acting Chief A. Stannard	M. Ruta Chief Financial Officer	D. Joshi Chief Operating Officer

RECOMMENDATIONS

1. That Council enacts the Off-Road Vehicle By-law (draft attached) which restricts the operation of off-road vehicles in the City of Winnipeg.

2. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

Enactment of the Off-Road Vehicles By-law requires approval from Council.

IMPLICATIONS OF THE RECOMMENDATIONS

The current Vehicles By-law does not adequately address enforcement specific to off-road vehicles in the City of Winnipeg. For example, an omission in the Vehicles By-law 6726/95 means that the By-law does not address snowmobiles being operated in the City of Winnipeg. Additional drafting problems has resulted in confusion over where and when the operation of off-road vehicles is permitted and where and when it is illegal.

The Off-Road Vehicles By-law proposed by this Report clearly defines off-road vehicles and articulates the restrictions to operate off-road vehicles within the City of Winnipeg. Because it

clarifies where and when off-road vehicle operation is permitted, the proposed new By-law will support the Winnipeg Police Service Off-Road Vehicle Enforcement Program, approved by Council in July, 2011.

This Program will expand the ability for the Central Traffic Unit to conduct consistent enforcement specific to off-road vehicles in the City of Winnipeg. The additional education and enforcement by the Service will positively impact residents in the City of Winnipeg to address the community concerns to make for a safer environment for all citizens. In eliminating areas of exception for ORV operation though a complete ban within city limits, the new By-law improves public safety and permits fair enforcement.

The new By-law mirrors the definitions as contained in *The Off-Road Vehicles Act*. It prohibits off-road vehicle operation anywhere within the City of Winnipeg with only four exceptions:

- on private property not owned or occupied by the City of Winnipeg with the permission of the owner;
- on private property owned or occupied by the City of Winnipeg with the permission of the Chief Administrative Officer;
- in snow emergencies;
- by employees of the City or public utilities in the course of their work.

The By-law empowers the Chief Administrative Officer to allow the operation of off-road vehicles on property owned or occupied by the City, after taking into account the risks of the proposed activity to people and wildlife, and its impact on nearby residents.

In addition, as is noted below, the proposed Off-Road Vehicle By-law achieves alignment of enforcement with other major western Canadian cities.

In keeping with the resolution approved by Council in July 2011, the proposed By-law includes a minimum fine of $256.67 plus court costs and surcharges. This will result in a total minimum cost to the convicted person of $448.50.

HISTORY

There are three pieces of legislation that currently pertain to the enforcement of off-road vehicles (ORV) in the City of Winnipeg and the Province of Manitoba.

1. *The Off-Road Vehicles Act* (Province of Manitoba)
   - *The Off-Road Vehicles Act* governs the registration, licensing and rules of operation for off-road vehicles within the Province of Manitoba.
   - This Act prohibits the operation of off-road vehicles on privately owned land without the consent of the owner or occupant.
   - This Act is enforceable and has clearly defined offences and penalties similar to the Highway Traffic Act.

2. Vehicles By-law (City of Winnipeg)
   - The Vehicles By-law was designed to prohibit the off-road operation of all vehicles in the City of Winnipeg except in designated areas.
   - This By-law is outdated and the definition of vehicles within the By-law does not include a snowmobile.

3. Frozen Waterways By-law (City of Winnipeg)
   - The Frozen Waterways By-law prohibits the use of all vehicles on the frozen surface of any waterway within the City of Winnipeg. This includes all rivers, their tributaries and all retention ponds.

On January 13, 2011 a collision occurred between a pedestrian and an off-road vehicle (snowmobile) in the City of Winnipeg that resulted in the death of the pedestrian. The collision occurred on private property within the City that is frequented by snowmobiles – despite operating prohibitions. Operation of snowmobiles at this location is a violation of the Province of Manitoba *Off-Road Vehicles Act*.

As directed by Council, following several months of research and review, the Winnipeg Police Service prepared a report that proposed an Off-Road Vehicle Enforcement Program. As a result of the report to Council in July 2011, following amendment by the Executive Policy Committee of the recommendation of the Standing Policy Committee on Protection and Community Services, Council adopted a resolution, part of which stated:

1. *That the Winnipeg Police Service Off Road Vehicle (ORV) enforcement program be initiated to immediately undertake a comprehensive review of the by-laws governing Off Road Vehicles and make recommendations to Council to modernize the by-laws, that could consider (but not be limited to):*

   A. *Eliminate the ability to legally use ORV anywhere inside the City of Winnipeg (excluding natural disaster events, such as severe blizzards)*

   B. *Impose minimum fines that would be substantial and act as a real deterrent for bylaw violations*

In compliance with the foregoing recommendations, and as detailed in the 2011 Service Goals pertaining to a coordinated traffic enforcement strategy, the Winnipeg Police Service (WPS) is taking steps to ensure enforcement is available to address off-road vehicles operating illegally in the City of Winnipeg.

Public Opinion Poll

In a public opinion survey developed by the Public Works Department, data was collected from City of Winnipeg residents between November 3 and 5, 2011. Residents were surveyed to gauge opinions on the issue of banning the use of off-road vehicles (ORV) such as snowmobiles, dirt bike motorcycles, and all-terrain vehicles such as quads, on public property within the City of Winnipeg limits.

According to the results of this recent survey, there is support for a ban on the use of off-road vehicles within the City of Winnipeg limits. Most respondents (45%) support an immediate ban, while approximately 17% support a phased in approach to a ban on the use of these types of vehicles, with very slight variations in responses between different vehicles types.

Of the respondents, about 35% or just over one third would like to see the existing situation, with limited ORV use on public property within City of Winnipeg limits, continue, while about 4% did not know or have an opinion.

Of additional interest are the off-road vehicle limitations established in other Canadian jurisdictions. With regard to cities in the Prairie Provinces, through by-laws, a range of restrictions apply:

Location	Restrictions
Brandon, Manitoba	Operation of snowmobiles within the City limits is prohibited, with provision for travel only along prescribed trails
Regina, Saskatchewan	Operating a snowmobile within the City is illegal with provision for operation along routes designated by the City
Saskatoon, Saskatchewan	Snowmobiles are permitted in designated areas of the City only
Calgary, Alberta	No operation of off-highway vehicles is permitted on City owned and operated land
Edmonton, Alberta	No operation of off-highway vehicles is permitted on City owned and operated land

Off-Road Vehicle Act Enforcement Statistics

The Winnipeg Police Service enforced the following sections of the Off-Road Vehicle Act with the most frequency during the past five years with the following results:

	2007	2008	2009	2010	2011		TOTALS
Section 3(a)(i) – no reg. card	14	7	9	5	7		**42**
Section 22(1)	1	2	8	7	4		**22**

Section 22(2) – fail to prod. Reg.	0	0	1	0	0		**1**
Section 26(1)	0	0	0	0	0		**0**
Section 26(2)	0	0	1	0	0		**1**
Section 28(1) – helmet required	6	4	5	3	4		**22**
Section 30	2	1	0	0	0		**3**
Section 31- careless operation	1	2	1	1	0		**5**
Section 31.1- imprudent	3	21	9	6	1		**40**
Section 32(1) – operation on Private or crown land	17	10	13	9	5		**54**
Section 32(2)	1	1	0	0	0		**2**
Section 33(1)(a) – oper on roadway	3	5	8	4	3		**23**
Section 33(1)(b)	0	0	0	0	0		**0**
Section 33(1)(c	0	0	0	0	0		**0**
Section 35(2) – no licence	0	3	2	3	0		**8**
Section 41	1	1	1	0	1		**4**
Section 42(1)	0	0	0	0	0		**0**
TOTALS	**49**	**57**	**58**	**38**	**25**		**227**

Off-Road Vehicles Enforcement Program

Following implementation of the Off-Road Vehicles Enforcement Program, the WPS Central Traffic Unit will take primary responsibility for enforcement but coordinated efforts with District Community Support Units will be employed if required. Outside agency assistance as well as WPS specialty unit assistance, i.e. Flight Operations Unit and River Patrol, will be utilized as required and as available.

The Plan provides for enforcement, focusing on high complaint areas during peak times when offences are committed. A central file will document complaints received to WPS so that enforcement actions can be qualified and justified by intelligence received from the public. A record of all enforcement actions will be maintained.

As approved through Council resolution in July 2011 that recommended a minimum substantial fine be implemented in order to act as a deterrent, the proposed Off-Road Vehicles By-law includes a minimum fine of $256.67 plus court costs and surcharges, resulting in a total minimum cost of $448.50 to the convicted person.

Resulting from the additional appropriation approved by Council in July 2011, the Service purchased one Utility Terrain Vehicle (UTV) and two snowmobiles. Eight members of the Central Traffic Unit will commence training to operate the vehicles, once weather permits. Additional training will continue to ensure all Central Traffic officers are qualified.

The primary function of the ORVs will be enforcement activity. Outside of enforcement, other activities that may be incorporated include search and rescue, parades, escorts, responding to calls for service i.e. “bush parties,” patrol of parks such as La Barriere, Little Mountain Park and Juba Park to the Forks.

Off-Road Vehicles Education Campaign

The WPS will endeavor to coordinate efforts with the Province of Manitoba and City of Winnipeg Public Works to examine and implement a variety of initiatives. In addition to ORV enforcement, the WPS will undertake a broad communication plan to notify the public of the Off-Road Vehicles By-law, once approved, that may include but is not limited to:

- Media campaigns to address restrictions of ORV operation and announce specific increased enforcement. The WPS will employ discretion during enforcement implementation in the previously permitted areas of operation for ORV in 2012.
- Promotion of enforcement through the City of Winnipeg web site and links to Police and agencies associated with ORV operations.
- Public awareness through media spots regarding WPS and City of Winnipeg traffic matters.
- Regular information releases from the WPS Public Information Officer.
- “ORV Operation Prohibited” signs erected at major routes entering into the City of Winnipeg.
- Additional signage in known problem areas.

As detailed in its report to Council dated June 24, 2011, the WPS will continue to coordinate efforts with the Province of Manitoba to:

i. participate in coordinated public education campaigns between the City of Winnipeg and the Province of Manitoba, including all relevant provincial agencies, departments, and crown corporations, in order to ensure that the strongest and most wide reaching message possible is delivered to the public.

ii. review existing processes for ORV licensing and registration, with the intent of improving the registered owners’ declaration, including, but not limited to, a requirement to clearly name all operators of said ORV, not just the usual operators.

iii. ensure, where necessary, by-laws are supported via existing provincial legislation.

iv. develop a system for the licensing of individuals via mandatory individual ORV operator safety courses and written testing.

v. review the minimum age presently allowed for the operation of an ORV, with the intent to raise the age of unsupervised riders from 14 to 16.

FINANCIAL IMPACT

Financial Impact Statement **Date: Jan 13,2012**

Project Name: Off-Road Vehicle Enforcem **First Year of Program** **2012**

	2012	2013	2014	2015	2016
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 15,682	$ 15,682	$ 15,682	$ 15,682	$ 15,682
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 15,682	$ 15,682	$ 15,682	$ 15,682	$ 15,682
Less: Existing Budget Amounts	15,682	15,682	15,682	15,682	15,682
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: 2012-2015 include ongoing costs such as maintenance, insurance, training and specialized clothing requirements. Council previously approved this multi year funding. No further financial impact.

Ron Smolik
Department Controller

CONSULTATION

In preparing this Report there was consultation with:

Legal Services Department
Public Works Department
Materials Management Division, Corporate Finance Department
Manitoba Public Insurance

SUBMITTED BY

Department:	Winnipeg Police Service
Division:	Organizational Development, Division 32
Prepared by:	D. Safioles, Sergeant Central Traffic, Division 50
	M. Musgrove, Research Analyst
Date:	January 16, 2012
File No.	ODS 12 – 001



12 01 16 proposed
off road vehicle by-la

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to prohibit the operation of off-road vehicles in the City of Winnipeg, subject to specified exceptions

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the *Off-Road Vehicles By-law.*

Definitions

2(1) In this By-law

"CAO" means the Chief Administrative Officer of the City of Winnipeg or his or her designate;

"off-road vehicle" means any wheeled or tracked motorized vehicle designed or adapted for cross-country travel on land, water, ice, snow, marsh, swamp land or other natural terrain and includes, but is not limited to,

(a) a snowmobile,
(b) an all-terrain vehicle,
(c) a mini-bike, dirt-bike and trail-bike,
(d) a miniature vehicle such as a dune or sport buggy,
(e) an off-road maintenance machine,
(f) an amphibious vehicle, and
(g) any motor vehicle, or snow vehicle that is being driven elsewhere than on a highway, whether or not it is registered under *The Drivers and Vehicles Act*,

but does not include an implement of husbandry, farm tractor, special mobile machine, garden tractor, lawn tractor or golf cart;

"public utility" means a company supplying electric power, natural gas or telecommunications services to the public.

2(2) Unless otherwise defined in this By-law, terms used in this By-law have the same meaning as in *The Off-Road Vehicles Act*, C.C.S.M. c. O31.

Operation of off-road vehicles banned within City limits

3 Subject to section 4, no person shall operate an off-road vehicle anywhere within the boundaries of the City of Winnipeg or, as the owner of an off-road vehicle, permit its operation within the boundaries of the City of Winnipeg.

Exceptions to general ban

4 Section 3 does not apply to the operation of an off-road vehicle

(a) by employees or agents of the City of Winnipeg or of a public utility while the vehicle is engaged in work on behalf of the City of Winnipeg or a public utility which requires the use of the off-road vehicle;

(b) in accordance with a declaration regarding the operation of snowmobiles as part of a snow emergency parking ban declared under the Winter Parking Ban By-law.

(c) if the operator of the off-road vehicle either

(i) owns or occupies the land on which the off-road vehicle is being operated; or

(ii) can provide evidence that he or she has been given the permission of the owner or occupant of the land to operate the off-road vehicle on the land on which it is being operated, and is operating it in compliance with any conditions imposed by the owner or occupant of the land.

(d) on property owned or occupied by the City if the operator can provide evidence that the Chief Administrative Officer has authorized the operation and the operation is in compliance with that authorization.

CAO's may permit ORV operation on City land

5(1) The Chief Administrative Officer is empowered to authorize the operation of off-road vehicles on property owned or occupied by the City of Winnipeg after taking into account

(a) the risks to people and wildlife posed by the operation of the off-road vehicle on the land; and

(b) the likelihood that the operation of the off-road vehicle on the land will prove to be a cause of annoyance or inconvenience to residents and others.

5(2) The authorization given by the CAO under subsection (1) may be qualified or conditional and, without restricting the generality of the foregoing, may be granted

(a) to all off-road vehicles, specific types of off-road vehicles, or specific off-road vehicles;

(b) to specific types of operators of off-road vehicles or particular individual operators of off-road vehicles;

(c) for specific times of day or specific times of the year;

(d) on condition that the operator take steps to minimize the risks of harm or annoyance resulting from the operation of the off-road vehicle;

(e) on condition that the operator obtain liability insurance of a type and in an amount sufficient, in the opinion of the Chief Administrative Officer, to protect the

operator, the City and others from any harm or damage resulting from the operation of the off-road vehicle; or

(f) on condition that the operator provide the City with an indemnity, sufficient in the opinion of the Chief Administrative Officer to save the City of Winnipeg harmless from any harm or damage resulting from the operation of the vehicle.

Fines for contravention

6 Any person who contravenes a provision of this By-law is guilty of an offence punishable upon summary conviction by a fine of no less than $256.67 plus court costs and surcharges as may be imposed by the Province of Manitoba.

Consequential amendment

7 The Winter Parking Ban By-law No. 76/2011 is amended by adding the following subsection immediately after subsection 7(3):

7(4) *If the person who declares a Snow Emergency Parking Ban under subsection (1) considers that the operation of snowmobiles would assist in alleviating the effects of the transportation emergency, he or she may, as part of the Snow Emergency Parking Ban, authorize snowmobiles to operate within the boundaries of the City of Winnipeg, including on streets within the City of Winnipeg, subject to qualifications or conditions set out in the Ban.*

Repeal of By-law No. 6726/95

8 The Vehicles By-law No. 6726/95 is hereby repealed.

DONE AND PASSED, this day of , 2012.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Chief of Winnipeg Police Service

Approved as to form:

_____
For Director of Legal Services/City Solicitor