

MUNICIPALITY OF THE COUNTY OF ANTIGONISH

Asset Management Committee Meeting

Tuesday, April 23, 2024, 5:30pm Council Chambers
Municipal Administration Building 285 Beech Hill Road
Beech Hill, NS B2G 0B4

1. Call to Order – Chair, Bill MacFarlane
2. Approval of Agenda
3. Approval of March 26, 2024 Asset Management Committee Minutes
4. Business Arising from the Minutes
5. Delegations
 - a. Christine Eisan, NSDPW – Road Trails Act
 - b. Allan Buteau, County resident – Road Trails Act
 - c. Mike Knowles et al, County resident – Road Trails Act
6. Continuing Business
 - a. Approval of the 2024/25 Capital Plan
 - b. ICIP Project Updates
 - i. Net-Zero Community Buildings
 - ii. St. Josephs & Lanark Water System Expansion
 - iii. Antigonish AT Corridor
 - c. Pine Ridge Stormwater Concerns
7. New Business
8. In-Camera Items
 - a. Acquisition, sale, lease and security of municipal property (referred to Committee of the Whole in-camera session).
9. Additions to the Agenda

10. Adjournment

Approval of January 23, 2024 Asset Management Minutes

Deputy Warden MacFarlane called for any errors or omissions to the minutes of the previous meeting.

Moved and Seconded

That the Asset Management minutes of January 23, 2024 be approved as presented.

Motion Carried

Business Arising from the Minutes

There was no business arising from the minutes.

Delegations

There were no delegations.

Continuing Business

ICIP Project Updates

Net-Zero Community Buildings

Mr. Horne noted that the update regarding the project was included in the agenda package, with no significant updates since that memo was prepared.

St. Joseph's Water System Expansion, Lanark Waterline Extension

Mr. Horne noted that the delivery of the water tank is expected in the next few months.

Active Transportation Corridor

Mr. Horne noted that the design for the Church Street roundabout is in the final stages and is expected to go to tender in the next few weeks.

Review of Pine Ridge Stormwater Report

Kyle Cleary from Strait Engineering provided members of the Committee with an update regarding an engineering report prepared, analysing storm water in the Pine Ridge Subdivision. Mr. Cleary reviewed the different site visits that were undertaken when reviewing the report and spoke to the rainfall data that was included in their report. Councillors were provided with an opportunity to ask questions of Mr. Cleary about his report. Discussion followed regarding culvert sizing, ditching options, and water in basements in the community. The example of the extreme weather events in February was discussed.

A cost estimate for upgrades to the stormwater infrastructure in the community was prepared and included in the report. Direction was provided from the Committee to look at the water flow during another large rain event, and to look at options for larger

culverts in the area of concern. Councillor Dunbar then spoke about the challenges of significant snowfalls and snow removal in the Pine Ridge Subdivision.

Review of Draft 2024/25 Capital Plan

Mr. Horne provided an update on changes to the last draft of the capital plan that was reviewed in detail at the last Asset Management meeting, as outlined in the memo provided to the committee. Staff is looking for consent from the Committee to tender three projects based on funding being secured:

- AAHS Waterline Extension
- Hwy 337 Sewer Extension
- Bethany / St. Martha's AT Connector

Consensus of the committee was provided to issue those tenders.

Tender Award – Appleseed Drive Repaving

Deputy Warden MacFarlane declared a conflict of interest and removed himself from the discussion, with Warden McCarron stepping in to chair for the duration of this item of business. Mr. Horne reviewed the bid summary provided by Strait Engineering, for the section of Appleseed Drive from Market Street to D. MacIsaac Road. Three bids were received; the recommended bid is the lowest bid.

Moved and Seconded

The Asset Management Committee recommends that Municipal Council award the tender for the paving of Appleseed Drive to Nova Construction Co Ltd at the bid price of \$385,819.00 +HST.

Motion Carried

Streetlight in Bayfield

Deputy Warden MacFarlane resumed the Chair. Councillor Dunbar spoke to a streetlight installation request that was approved by Council back in 2022, which has since been quoted for additional costs for installation. Councillor Dunbar asked that the municipality ask the NS Department of Public Works for permission to install the new pole and anchors as required for this streetlight.

Moved and Seconded

The Asset Management Committee recommends that Municipal Council write a letter to NSDPW to ask to install the new pole and anchors as required for the streetlight.

Motion Carried

New Business

Closure of Cape Jack Road

Councillor McNamara expressed a concern with water over the roadway on Cape Jack Road, noting a number of instances where the road was flooded. Videos of the flooding were shared. A petition has been prepared by residents in the roadway.

Moved and Seconded

The Asset Management Committee recommends that Municipal Council send a letter to the Minister of DTIR regarding concerns with the flooding of Cape Jack Road.

Motion Carried

Additions to the Agenda

There were no additions to the agenda.

In-Camera Items

There was no in-camera business.

Adjournment

Moved

That the Asset Management Committee meeting be adjourned at 6:21pm.

Motion Carried

Deputy Warden Bill MacFarlane

Glenn Horne, CAO

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Presentation to the Asset Management Committee

Dear Councilors,

Re: Road Trails Act / OHV Act

My name is Allan Buteau, and I am providing this as a concerned Stakeholder living in the Municipality of the County of Antigonish. As many of you know, I am actively involved in promoting the safety of our roadways with respect to the enforcement of the Off-Highway Vehicle Act of Nova Scotia.

In making this presentation I am relying upon:

1. All previously provided materials.
2. The Off-Highway Vehicle Act of Nova Scotia.
3. A recent posting from the Nova Scotia Provincial Government entitled: "Road Trails Act for Off-highway Vehicles."

I am aware that many of you have been approached by owners of ATVs and other 4-wheelers [OHVs] with respect to opening our roadways to allow for use of their OHVs on many roadways.

Under the new Road Trails Act, Municipal Governments have the discretion to recommend that the minister approve the use of OHVs on certain roadways. On behalf of the residents of our county, I am asking this Committee to use this discretion sparingly.

On any given day residents of this county have witnessed ATVs and other OHVs operating on our roadways. This according to the Off-Highway Vehicle Act is illegal and unsafe. The New Road Trails Act Does Not in itself ensure legal or safe use of ATVs and other OHVs.

While the Road Trails Act does provide for enhanced restrictions in designated areas, there are NO provisions in the Road Trails Act for added enforcement provisions.

That responsibility falls under the DNRR. Currently we have only two Conservation Officers available to serve our entire county. These gentlemen require our support to be diligent with respect to reporting offenders and for intervening when appropriate.

The most significant points to be considered are:

1. The Off-highway Vehicle Act sets out the requirements for all OHVs in this province however in passing the Road Trail Act, the province was neglect in not informing the public about the existence of, and level of protection provided to the public and OHV owners alike.
2. For the most part, the general population remains ignorant of the existence of the Off-highway Vehicle Act.
3. The Road Trails Act allows four-wheeled and two-wheeled off-highway vehicles to access the shoulders of roadways, and the roadway itself where necessary, to safely travel from one trail to another or to access facilities (like gas stations) in designated areas.
4. Trails should be defined as existing designated ATV trails, under the care and control of ATV associated groups, while Facilities should be defined as those confined to small rural communities such as Sherbrooke.
5. Within the Municipality of the County of Antigonish we have one organized ATV group capable of bringing proposals to the Committee.
6. We also have an abundance of wilderness areas and decommissioned roadways that the province has opened for OHV use. OHV Operators, under the OHV Act, must trailer or transport their OHVs to these locations. Meanwhile, we still have many OHV owners illegally using our roadways to access these areas.
7. Within the Province of Nova Scotia, we have more than 60,000 registered OHVs. With approximately 6,000 registered owners being members of the ATV Association.
8. While the Road Trails Act does provide for enhanced restrictions in designated areas, there are NO provisions in the Road Trails Act for added enforcement provisions.
9. It is suggested that most of the proposals to our Councillors come from OHV owners looking to the Committee to recommend that their ongoing illegal use of our roadways be made legal. These applicants, if successful, are looking for the committee to effectively reward bad behavior and to forego the rights of the rest

of us with regards to safe use of our roadways and or peaceful enjoyment of our properties.

I look forward to appearing in front of the Asset Management Committee to discuss this presentation and to answering any questions that the members might have.

Respectfully Submitted,

Allan Buteau

Road Trails Act for Off-highway Vehicles: overview

The Government of Nova Scotia has passed legislation to allow off-highway vehicles on designated road shoulders and roadways.

In October 2018, Nova Scotia launched a pilot project in 7 communities across the province to safely enhance trail connectivity for four-wheeled off-highway vehicles (OHV). On 29 September 2023, the Government of Nova Scotia proclaimed the Road Trails Act, making the pilot sites permanent designated areas and setting out the rules of the road.

The Road Trails Act allows four-wheeled and two-wheeled off-highway vehicles to access the shoulders of roadways, and the roadway itself where necessary, to safely travel from one trail to another or to access facilities (like gas stations) in designated areas.

Only registered, licensed and insured off-highway vehicles can operate on the shoulders or the roadway, in the designated areas. The operator must have a valid driver's licence, riders must wear a helmet and all passengers on an off-highway vehicle must be 9 or older.

Designated sites

The designated sites for off-highway vehicles include:

- Ship Harbour (HRM) – Portions of West Ship Harbour Road and Trunk 7
- Porters Lake (HRM) – Myra Road
- New Germany (Lunenburg County) – Trunk 10
- Weymouth (Digby County) – Trunk 1
- Walton (East Hants) – Bancroft Road
- Sherbrooke (Guysborough County) – Trunk 7
- Gabarus (CBRM) – Oceanview Drive and Route 327

Summary of the rules of the road for off-highway vehicles designated areas only

Vehicles permitted

- all-terrain vehicles
- multi-purpose off-highway utility vehicle (like utility side by sides)
- recreational off-highway vehicle (like recreational side by sides)

Licensing and registration

- registration fees and application processes apply as outlined in the Off-highway Vehicles Act
- to operate an off-highway vehicle on the right of way, the operator must hold a valid driver's licence under the Motor Vehicle Act
- drivers holding a learner's licence are not permitted to drive on roads
- for non-residents of Nova Scotia, the equivalent of a Class 5 in their jurisdiction of residence will be required
- any off-highway vehicle accessing designated areas must have a number plate affixed to the vehicle
- off-highway vehicles need to be insured in accordance with Section 15B of the Off-Highway Vehicles Act

Operation

- when operating in designated areas off-highway vehicles will be limited to speeds of no more than 25km/h
- off-highway vehicles are only permitted to travel in designated areas from the hours of a half an hour before sunrise to a half an hour after dusk
- off-highway vehicles are permitted to be driven on the shoulder of the designated highway only in the same direction as traffic using the same side of the highway
- off-highway vehicles are permitted to be driven on roadways in the same direction as traffic using the same side of the highway if:
 - there is no shoulder
 - the shoulder is obstructed
 - they are preparing to make a left turn across the roadway
 - the shoulder is not wide enough to be driven with all tires completely off the roadway, or when being driven across a level railway crossing

- when entering the shoulder or roadway of a designated highway off-highway vehicles will be required to yield the right of way to any traffic already using the shoulder or roadway (OHVs will be permitted to enter shoulder only when safe to do so)
- before commencing a left turn the off-highway vehicle will be required to (without interfering with traffic) move away from the shoulder or right edge of the roadway and be positioned on the roadway in the position to make a left turn; upon completing a left turn, the OHV will be required to (without interfering with traffic) move back to the right edge of the roadway or shoulder
- off-highway vehicles will be required to travel in single file and are not permitted to pass when riding in designated areas
- the operation of an off-highway vehicle with a passenger younger than 9 years old is prohibited in designated areas

Equipment

- off-highway vehicles may only carry passengers in designated areas if the OHV is designed by the original equipment manufacturer to carry both a driver and a passenger
- in addition to any other provision in the regulations, no person will be permitted to operate an off-highway vehicle in a designated area unless it meets all equipment requirements in accordance with the Nova Scotia's Off-highway Vehicles Act and general regulations

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Related legislation

- [Off-highway Vehicles Act \(PDF\)\(https://nslegislature.ca/sites/default/files/legc/statutes/off-highway%20vehicles.pdf\)](https://nslegislature.ca/sites/default/files/legc/statutes/off-highway%20vehicles.pdf)
- [Road Trails Act \(PDF\)\(https://nslegislature.ca/sites/default/files/legc/statutes/road%20trails.pdf\)](https://nslegislature.ca/sites/default/files/legc/statutes/road%20trails.pdf)

Off-highway Vehicles Act

CHAPTER 323 OF THE REVISED STATUTES, 1989

as amended by

2002, c. 5, s. 46; 2005, c. 56; 2010, c. 2, s. 136



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CHAPTER 323 OF THE REVISED STATUTES, 1989
amended 2002, c. 5, s. 46; 2005, c. 56; 2010, c. 2, s. 136

**An Act to Regulate
Off-highway Vehicles**

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Short title

1 This Act may be cited as the *Off-highway Vehicles Act*. R.S., c. 323, s. 1.

Interpretation

2 In this Act,

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(a) “dealer” means a person who in the ordinary course of business sells off-highway vehicles;

(b) “Minister” means the Minister of Transportation and Public Works or such other member of the Executive Council assigned responsibility for this Act;

(c) “occupier” includes

(i) a person who is in possession of land, or

(ii) a person who has responsibility for and control over land or the activities carried on there, or control over persons allowed to enter land,

and there may be more than one occupier of the same land;

(d) “off-highway vehicle” means a

(i) snow vehicle,

(ii) all-terrain vehicle,

(iii) motorcycle,

(iv) mini bike,

(v) four-wheel-drive or low-tire-pressure vehicle,

(vi) dune buggy, or

(vii) vehicle or class of vehicle designated as an off-highway vehicle by regulation,

but does not include

(viii) a vehicle registered pursuant to the *Motor Vehicle Act*,
or

(ix) a vehicle or class of vehicle exempted from the provisions of this Act by the regulations;

(e) “peace officer” includes a member of the Royal Canadian Mounted Police, a police officer appointed by a city, incorporated town or municipality of a county or district, a motor vehicle inspector appointed pursuant to the *Motor Vehicle Act* and a conservation officer as defined in the *Forests Act*;

(f) “permit” means a permit issued pursuant to this Act and includes a temporary permit and a dealer’s permit;

(g) “prescribed” means prescribed by the regulations;

(h) “registered owner” means the person in whose name an off-highway vehicle is registered with the Registrar pursuant to this Act, including a person deemed to be the registered owner pursuant to this Act, or, if the vehicle is not registered, means the owner;

- (i) “Registrar” means the Registrar of Motor Vehicles. R.S., c. 323, s. 2; 2005, c. 56, s. 1.

Permit

- 3** (1) Every person who
- (a) is of the age of majority or who, being less than the age of majority but at least sixteen years of age, produces written permission from that person’s parent or guardian in the form prescribed;
 - (b) produces prescribed documentation; and
 - (c) pays the prescribed fee,

may apply for an off-highway vehicle permit from the Registrar.

(2) The parent or guardian of an owner of an off-highway vehicle who is less than sixteen years of age may apply for an off-highway vehicle permit to be used for that vehicle, and the parent or guardian is the registered owner of any vehicle to which the permit applies.

(3) Where the Registrar is satisfied that an application meets with the requirements of this Section, the Registrar shall issue

- (a) a permit for an off-highway vehicle containing such information as the Registrar determines; and
- (b) an identification number.

(4) The Minister may authorize a dealer or other person designated by the Minister to issue a temporary permit in the form approved by the Minister and subject to conditions stated in the permit or prescribed. R.S., c. 323, s. 3.

Prohibition

- 4** (1) No person shall operate an off-highway vehicle unless
- (a) a permit has been issued in respect of the vehicle; and
 - (b) an identification number assigned to the owner is displayed on the vehicle in the manner prescribed.

(2) Subsection (1) does not apply to an off-highway vehicle owned by a person who does not ordinarily reside in the Province if the vehicle is not kept in the Province for more than ninety consecutive days. R.S., c. 323, s. 4; 2005, c. 56, s. 2.

Production of permit

5 Every operator of an off-highway vehicle shall produce the vehicle permit within twenty-four hours of a demand by a peace officer. R.S., c. 323, s. 5.

Dealer's permit

6 A dealer may apply to the Registrar for a dealer's permit to be displayed in the prescribed manner on an off-highway vehicle which is being demonstrated for sale or resale, service tested or operated for the purpose of the dealer's business. R.S., c. 323, s. 6.

Sale or transfer

7 (1) Where an off-highway vehicle registered pursuant to this Act is sold or transferred by the owner or by operation of law, the owner or person authorized shall

(a) assign the certificate of registration to the purchaser or transferee and notify the Registrar of the sale or transfer immediately; and

(b) remove the identification number and keep it until the expiry date for re-assignment to another vehicle or return it to the Registrar.

(2) A person to whom a registered off-highway vehicle is sold or transferred shall apply to the Registrar for a certificate of registration and shall accompany the application with the certificate of registration assigned to that person and the prescribed fee.

(3) Where an off-highway vehicle registered pursuant to this Act is sold or transferred by the owner and a valid identification number assigned to the transferee is displayed as prescribed, the vehicle is deemed to be registered in the name of the new owner for a period of thirty days from the time of the sale or transfer unless

(a) an application for other registration of the vehicle is sooner made; or

(b) the vehicle is again sold or transferred during that period.

(4) Where the off-highway vehicle is not registered by the new owner within the period referred to in subsection (3), the registration is revoked.

(5) Subject to subsection (6), in the event of the transfer of the title or interest of an owner in and to an off-highway vehicle by reason of the bankruptcy of the owner, execution sale, repossession or other operation of law, the registration is revoked.

(6) Immediately upon the death of the owner of a registered off-highway vehicle, the vehicle is deemed to be registered in the name of the estate of the deceased owner for a period of sixty days unless

(a) an application for other registration of the vehicle is sooner made; or

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(b) the vehicle is sold or transferred during that period.

(7) Where no application for registration is sooner made, the off-highway vehicle of the deceased owner is deemed to be unregistered at the expiration of sixty days following that person's death.

(8) Subsections (6) and (7) do not affect the title or interest of any person in the off-highway vehicle or the protection provided by the *Insurance Act* upon the death of an insured vehicle owner. R.S., c. 323, s. 7.

Notice by dealer to Registrar of transfer

7A (1) Every dealer, upon transferring an off-highway vehicle, whether by sale, lease or otherwise, to any person other than a dealer, shall immediately give written notice of the transfer to the Registrar upon the official form provided by the Registrar.

(2) A notice referred to in subsection (1) shall contain the date of the transfer, the names and addresses of the transferor and transferee and such description of the off-highway vehicle as is required in the official form.

(3) The notice referred to in subsection (1) shall be given weekly, monthly or otherwise as the Registrar determines. 2002, c. 5, s. 46.

Proof of payment of sales tax

8 Where an off-highway vehicle registered pursuant to this Act is sold or disposed of, or the title or interest of an owner in and to such a vehicle is transferred by operation of law, and an application for the registration of the vehicle is made, the Registrar may refuse to register the off-highway vehicle unless the applicant provides proof, in a form satisfactory to the Registrar, that tax required to be paid pursuant to the *Health Services Tax Act* in respect of the vehicle has been paid. R.S., c. 323, s. 8.

Requirement for dealer's licence

9 No person shall act as a dealer for off-highway vehicles unless that person has a dealer's licence issued by the Registrar. R.S., c. 323, s. 9.

Requirement for helmet

10 No person shall operate or be a passenger on a

- (a) snow vehicle;
- (b) all-terrain vehicle;
- (c) motorcycle;
- (d) mini bike; or
- (e) vehicle or class of vehicle designated by the regulations,

or a conveyance of a prescribed class towed by an off-highway vehicle unless that person is wearing a helmet that complies with standards determined by or in accordance with the regulations. R.S., c. 323, s. 10; 2005, c. 56, s. 3.

Operation by persons under 16

11 (1) Except as provided in subsections (2) to (4), no person who is under the age of sixteen years shall operate an off-highway vehicle and no person who owns or has control of an off-highway vehicle shall permit the operation of the off-highway vehicle by a person under the age of sixteen years.

(2) An off-highway vehicle may be operated by a person under the age of sixteen years and not under the age of fourteen years if

(a) that person is under the direct supervision of that person's parent or guardian and within the sight of that parent or guardian; and

(b) both the parent or guardian referred to in clause (a) and the person who is under the age of sixteen years are certified as having successfully completed off-highway vehicle safety training in accordance with the regulations.

(3) An off-highway vehicle, other than an all-terrain vehicle, may be operated on private property or, in the case of a snow vehicle, on a trail designated pursuant to this Act for snow vehicles by a person under the age of fourteen years if

(a) that person is under the direct supervision of that person's parent or guardian and within the sight of that parent or guardian;

(b) both the parent or guardian referred to in clause (a) and the person who is under the age of fourteen years are certified as having successfully completed off-highway vehicle safety training in accordance with the regulations; and

(c) the off-highway vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of fourteen years and, in any event, has an engine size of less than that prescribed by the regulations.

(4) An off-highway vehicle of a particular class of off-highway vehicle may be operated under the auspices of an organization accredited by the regulations by a person who is under the age of sixteen years on a closed course designed and maintained for that class of off-highway vehicle if

(a) the person is wearing personal protective equipment as prescribed by the regulations;

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- (b) the person is certified as having successfully completed off-highway vehicle safety training appropriate for the person's age in accordance with the regulations;
- (c) course rules are enforced;
- (d) the vehicle is operated in a class based upon the person's age, size and ability;
- (e) that person is under the direct supervision of that person's parent or guardian;
- (f) a trained official is present;
- (g) a trained first-responder is present; and
- (h) the off-highway vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of sixteen years and, in any event, has an engine size of less than that prescribed by the regulations. R.S., c. 323, s. 11; 2005, c. 56, s. 4.

Off-highway vehicle safety training

11A No person who is of the age of sixteen years or more shall operate an off-highway vehicle unless that person is certified as having successfully completed off-highway vehicle safety training in accordance with the regulations. 2005, c. 56, s. 5.

Prohibited operation on highway

12 (1) Except as provided by this Section or as authorized by the Minister pursuant to Section 13 or 12D, no person shall operate an off-highway vehicle upon a highway, upon the shoulder adjoining the travelled portion of a highway or upon the median of a highway.

(2) For the purpose of loading or unloading an off-highway vehicle from a trailer or other vehicle, a person may operate the off-highway vehicle at the side of a highway immediately adjacent to the place of loading or unloading.

(3) A person may drive an off-highway vehicle across a highway at right angles if

- (a) that person stops the off-highway vehicle at the side of the road and yields to all traffic upon the highway approaching so close as to constitute a hazard;
- (b) there is a clear and unobstructed view along the highway for a distance of five hundred feet in each direction; and
- (c) there are no passengers on the off-highway vehicle.

(4) An off-highway vehicle may be operated upon a highway which is impassable with snow if it is not normally maintained by snow removal or

snow clearance equipment and if it is not within the boundaries of a city, incorporated town or village to which the *Village Service Act* applies.

(5) An off-highway vehicle may be operated during daylight hours between the boundary line of a highway and the line of the shoulder farthest removed from the travelled portion of the highway, namely the area commonly known as the “ditch”, with or against the flow of vehicular traffic, but from sunset to sunrise the off-highway vehicle may only be driven in the same direction as the normal flow of the vehicular traffic on that side of the centre line of the highway.

(6) Except as provided in subsections (4) and (5), no person shall operate an off-highway vehicle upon or across the travelled portion of a highway unless that person is the holder of a valid driver’s license issued pursuant to the *Motor Vehicle Act*.

(7) The *Motor Vehicle Act* does not apply to the operation of an off-highway vehicle upon a highway where such operation is authorized in accordance with this Act. R.S., c. 323, s. 12; 2005, c. 56, s. 6.

Wetland, watercourse, dune, barren or other sensitive area

12A (1) No person shall operate an off-highway vehicle in or on

- (a) a wetland, swamp or marsh;
- (b) a watercourse as defined by the *Environment Act*;
- (c) a sand dune;
- (d) a coastal or highland barren; or
- (e) a sensitive area as designated by or defined in the regulations.

(2) Subsection (1) does not apply to

- (a) peace officers in the performance of their duties;
- (b) a frozen watercourse;
- (c) a coastal or highland barren or wetland, swamp or marsh that is covered by compacted or groomed snow of at least thirty centimetres in depth;
- (d) a wetland, swamp or marsh or a watercourse when use is authorized pursuant to the *Environment Act*;
- (e) a coastal or highland barren, a sand dune or a sensitive area when use is authorized by an order or a licence issued pursuant to this Section.

(3) The Minister may authorize emergency operation of an off-highway vehicle in or on a coastal or highland barren, a sand dune or a sensitive

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area by an order providing general authority or by an order issued in specific circumstances.

(4) The Minister may, in accordance with the regulations, issue a licence for the operation of an off-highway vehicle in or on a coastal or highland barren, a sand dune or a sensitive area if

- (a) for non-recreational use;
- (b) required to access private land; or
- (c) on a trail or route that is an essential link with a more extensive off-highway vehicle trail network,

and, in the opinion of the Minister, there is no reasonable alternative for such use and the use will have a minimal environmental impact.

(5) A licence issued pursuant to subsection (4) must designate the specific routes on which the off-highway vehicle may be operated.

(6) A licence issued pursuant to subsection (4) may contain such terms and conditions as the Minister considers necessary or advisable for the protection of the environment. 2005, c. 56, s. 7.

Beach, core habitat, park or protected or ecological site

12B No person shall operate an off-highway vehicle

- (a) on a beach as defined by the *Beaches Act*;
- (b) in a core habitat as defined by the *Endangered Species Act*;
- (c) in a provincial park or park reserve as defined by the *Provincial Parks Act*;
- (d) in a protected site or ecological site designated pursuant to the *Special Places Protection Act*,

except as provided by the *Beaches Act*, the *Endangered Species Act*, the *Provincial Parks Act* or the *Special Places Protection Act* or regulations made pursuant thereto. 2005, c. 56, s. 7.

Wilderness area

12C No person shall operate an off-highway vehicle in a wilderness area as defined in the *Wilderness Areas Protection Act* except in accordance with that Act. 2005, c. 56, s. 7.

Designated trails

12D (1) The Minister may, in accordance with the regulations, designate trails for off-highway vehicles, or a class of off-highway vehicles, for the purpose of this Section.

(2) The Minister may enter into an agreement with any person for the purpose of this Section including, without limiting the generality of the foregoing, the management of a trail designated pursuant to this Section.

(3) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section except as authorized by the regulations.

(4) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section unless a trail permit is displayed or carried in accordance with the regulations.

(5) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section unless insured against third-party liability as required by the regulations. 2005, c. 56, s. 7.

Off-highway vehicle rallies

12E (1) No person shall hold or participate in an off-highway vehicle rally unless a permit for the rally has been issued pursuant to this Section.

(2) The Minister may issue a permit for an off-highway vehicle rally in accordance with the regulations.

- (3) No permit shall be issued pursuant to this Section unless
- (a) written permission has been received from the owners or occupiers of all land used by the rally;
 - (b) all necessary precautions to protect the environment have been taken; and
 - (c) local enforcement authorities have been notified of the rally. 2005, c. 56, s. 7.

Drinking-water supply area

12F (1) At the request of the water works operator for a drinking-water supply area, the Minister of Environment and Labour may, for the protection of water quality in the supply area, make an order, consistent with any applicable source-water protection plan, controlling, prohibiting or regulating off-highway vehicle use in the supply area.

(2) No person shall operate an off-highway vehicle in a drinking-water supply area contrary to an order made pursuant to subsection (1). 2005, c. 56, s. 7.

Emergency operations

13 The Minister may authorize emergency operation of an off-highway vehicle on a highway as defined in the *Motor Vehicle Act*, on the shoulder adjoining the travelled portion of the highway or on a highway median by order issued in spe-

cific circumstances or by general authority defining emergency operation for the purpose of this Section. R.S., c. 323, s. 13.

Permission of owner or occupier

14 (1) No person shall operate an off-highway vehicle on a sidewalk, walkway, school grounds, utility service lane, cultivated land, private forest land, campground, golf course, park, playground or any private property, without the written permission of the owner or occupier.

(2) This Section does not apply to

(a) crossing a sidewalk to leave or enter a permanent driveway;

(b) lawful parking, loading or unloading;

(c) authorized construction or maintenance;

(d) and (e) *repealed 2005, c. 56, s. 8.*

(f) an area where the operation of off-highway vehicles is permitted by

(i) *repealed 2005, c. 56, s. 8.*

(ii) a designation of the area for that purpose by the council of a city, incorporated town or municipality of a county or district made with the consent of the owner or occupier.

(3) Written permission for the purpose of subsection (1) may be given by the owner or occupier of land to an individual or through a recognized club or association. R.S., c. 323, s. 14; 2005, c. 56, s. 8.

Voluntary assumption of risks

14A Notwithstanding the *Occupiers' Liability Act*, a person who owns or operates or who is a passenger on an off-highway vehicle on land, with or without the permission of the owner or occupier of the land, is deemed to have willingly assumed all risks related to the ownership or operation of or carriage on the off-highway vehicle except a danger created by the owner or occupier of the land with the deliberate intent of doing harm or damage to the person or property of the owner, operator or passenger. 2005, c. 56, s. 9.

No prescriptive rights

14B No person who operates or who is a passenger on an off-highway vehicle on land, with or without the permission of the owner or occupier of the land, thereby acquires any property rights with respect to the land. 2005, c. 56, s. 9.

Required and prohibited lamps

15 (1) No person shall operate an off-highway vehicle during the period from sunset to sunrise unless the vehicle is equipped

(a) on the front thereof, with at least one lighted lamp exhibiting a white light visible under normal atmospheric conditions from a distance of at least three hundred feet to the front of the vehicle; and

(b) on the rear thereof, with at least one lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of at least two hundred feet to the rear of the vehicle.

(2) The lamps referred to in subsection (1) are the only type of lamps permitted on an off-highway vehicle. R.S., c. 323, s. 15.

Noise

15A No person shall operate an off-highway vehicle if the noise level of the vehicle is higher than the level originally set by the manufacturer because of the removal of the muffler or other noise-dampening device or the modification of the muffler or other noise-dampening device so as to increase the noise level. 2005, c. 56, s. 10.

Liability insurance

15B No person shall operate an off-highway vehicle on any land of which the person is not an owner or occupier unless that person carries third-party liability insurance in at least the amount required by the regulations. 2005, c. 56, s. 10.

Manner of operation

16 (1) No person shall operate an off-highway vehicle

(a) without due care and attention;

(b) without reasonable consideration for other persons, including passengers, or property;

(c) at an excessive rate of speed having regard to the conditions existing at the time;

(d) so as to annoy or worry a domestic or farm animal or wildlife.

(2) *repealed, 2005, c. 56, s. 11.*

R.S., c. 323, s. 16; 2005, c. 56, s. 11.

Direction of peace officer

17 A person shall stop an off-highway vehicle on the direction of a peace officer. R.S., c. 323, s. 17.

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Off-highway Vehicle Infrastructure Fund

17A (1) There is hereby established a fund to be known as the Off-highway Vehicle Infrastructure Fund.

(2) The Fund consists of

- (a) money acquired by agreement, gift, donation, bequest or contribution;
- (b) income accruing to the Fund; and
- (c) penalties received by Her Majesty in right of the Province pursuant to this Act.

(3) The Minister may expend, in accordance with the *Finance Act*, money from the Fund for

- (a) trail development and maintenance;
 - (b) funding of off-highway vehicle user organizations;
 - (c) projects relating to off-highway vehicle operator health and safety;
 - (d) education and training for operators of off-highway vehicles;
 - (e) any other purpose related to off-highway vehicles.
- 2005, c. 56, s. 12; 2010, c. 2, s. 136.

Offence and penalty

18 (1) Every person who violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a penalty of not less than two hundred and fifty dollars or more than two thousand dollars.

(2) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence is liable to a fine of not less than five hundred dollars or more than two thousand dollars. R.S., c. 323, s. 18; 2005, c. 56, s. 13.

Seizure and detention

19 (1) A peace officer may seize an off-highway vehicle where the peace officer has reasonable and probable grounds to believe that an offence has been committed under this Act and may detain the same until the final disposition of the case at trial or any charges are otherwise disposed of where the peace officer has reasonable and probable grounds to believe the seizure and detention is necessary to prevent the continuation or repetition of the offence.

(2) Where an off-highway vehicle is seized and detained pursuant to this Act, the costs of impounding and storing it shall be paid by the person to whom the off-highway vehicle is to be released before it is released.

(3) Where the costs of impounding and storing an off-highway vehicle pursuant to this Act have not been paid within thirty days of the final disposition as provided in subsection (1), the sheriff shall sell the vehicle in the same manner and in all respects as other goods are sold under execution.

(4) The sheriff shall pay from the money recovered pursuant to subsection (3)

(a) the sheriff's fees, commission and poundage expenses;
and

(b) the costs of impounding and storing the off-highway vehicle,

and any surplus that remains to the person entitled thereto.

(5) Where money is levied upon such execution, the *Creditors' Relief Act* does not apply to such portion of such money as is obtained by the levying on and selling of the off-highway vehicle under the execution. R.S., c. 323, s. 19; 2005, c. 56, s. 14.

Failure to identify person in charge

20 Where the registered owner of an off-highway vehicle wilfully fails to identify the person in charge of the off-highway vehicle at the time at which it is operated in violation of a provision of this Act or the regulations within forty-eight hours of a demand by a peace officer, the registered owner is guilty of an offence. R.S., c. 323, s. 20.

Liability of registered owner

21 (1) The registered owner of an off-highway vehicle is liable to incur the penalties provided for a violation of this Act or the regulations unless, at the time of the violation, the off-highway vehicle was in the possession of a person without the registered owner's consent, either expressed or implied.

(2) Where the registered owner of an off-highway vehicle is present on or in the off-highway vehicle at the time of the violation of a provision of this Act or the regulations by another person operating that off-highway vehicle, the registered owner as well as the operator is guilty of the offence. R.S., c. 323, s. 21.

Search of records

22 The Registrar, or a person who is authorized by the Registrar to do so, may search the registration records of off-highway vehicles and provide the name and address of the registered owner of an off-highway vehicle to a person who applies and pays the prescribed fee. R.S., c. 323, s. 22.

Prima facie proof

23 A certificate purporting to be under the seal of the Registrar stating that a certificate, licence or permit has or has not been issued to a person or that a

person is or is not the person in whose name a certain off-highway vehicle is registered is proof of the matters contained therein, and the certificate shall be received in evidence without proof of the seal or signature or of the official character of the person appearing to have signed it. R.S., c. 323, s. 23.

Deemed signature

24 Where the Minister or the Registrar is required or authorized to sign a document of any kind, the document is and is deemed to be signed where the signing is done by means of engraving, lithographic, stamp or other facsimile signature. R.S., c. 323, s. 24.

Regulations

- 25 (1)** The Governor in Council may make regulations
- (a) respecting the registration of off-highway vehicles and the suspension or revocation of a registration;
 - (b) respecting identification numbers and number plates, and the manner in which they are to be displayed for a class or classes of vehicle;
 - (c) respecting duplicate certificates or replacement registration forms issued pursuant to this Act or the regulations;
 - (ca) respecting off-highway vehicle safety training and certification;
 - (cb) prescribing the maximum engine size for the purpose of Section 11;
 - (cc) respecting the operation of off-highway vehicles on a closed course by persons under the age of sixteen years;
 - (cd) respecting the accreditation of organizations for the purpose of subsection 11(4);
 - (ce) adopting by reference standards for off-highway vehicle safety training;
 - (cf) designating sensitive areas for the purpose of Section 12A;
 - (cg) respecting licences issued pursuant to Section 12A;
 - (ch) respecting trails for off-highway vehicles;
 - (ci) respecting off-highway vehicle rallies;
 - (cj) respecting the recognition of clubs or associations for the purpose of Section 14;
 - (ck) respecting third-party liability insurance required for the operation of an off-highway vehicle;

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- (cl) respecting the Off-highway Vehicle Infrastructure Fund;
- (cm) respecting the publication of a handbook respecting off-highway vehicles;
- (d) prescribing forms to be used pursuant to this Act or the regulations;
- (e) prescribing fees to be paid pursuant to this Act or the regulations;
- (f) prescribing standards or adopting standards for helmets to be worn by operators and passengers of off-highway vehicles;
- (g) respecting or prohibiting operation of an off-highway vehicle upon a controlled access highway, upon the shoulder adjoining the travelled portion of a controlled access highway or upon the median of a controlled access highway;
- (h) respecting licences for dealers and the suspension or revocation of licences;
- (i) respecting the bonding of dealers and specifying the amount and terms or conditions of bonds;
- (j) requiring off-highway vehicles to be safety inspected and providing for such safety inspections;
- (k) exempting a vehicle or class of vehicle used exclusively for non-recreational purposes from any or all of the requirements of this Act and prescribing the terms or conditions, if any, under which a vehicle or class of vehicle is to be exempt;
- (ka) exempting a person or class of persons from any or all of the requirements of this Act and prescribing the terms or conditions, if any, under which a person or class of persons is to be exempt;
- (l) defining any word or expression used and not defined in this Act;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(1A) A regulation may apply to all persons or off-highway vehicles or to a class of persons or vehicles that this Act applies to and there may be different regulations for different classes of such persons or vehicles.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 323, s. 25; 2005, c. 56, s. 15.

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**Public Works
Office of the Minister**

PO Box 186, Halifax, Nova Scotia, Canada B3J 2N2

Warden Owen McCarron
Municipality of the County of Antigonish
285 Beech Hill Road
R.R. #6
Antigonish, NS B2G 0B4

Dear Warden McCarron:

Re: Cost Shared Program for Paving of Subdivision (J Class) Streets for fiscal year 2024-25.

Thank you for your Municipality's submission under the Cost Shared Program for Paving of Subdivision (J Class) Streets for fiscal year 2024/25.

Due to program limits, the Department will not be able to proceed with Duncan MacIsaac Road, Tamara Drive, and Macken Road. The Municipality may wish to re-submit these candidates for the 2025-26 program under the terms outlined in the Cost Share Agreement.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Kim D. Masland".

Kim D. Masland
Minister of Public Works

c: Glenn Horne, Chief Administrative Officer, Municipality of Antigonish
Paul Colton, District Director, Eastern
Andrew MacPherson, Construction Manager, Eastern
Laura Cunningham, Capital Program Administration Officer

Draft 2024/25 Capital Plan						
Project Area	Description	Project Estimate	Tender Price	Funding	Estimated County Cost	Notes
Water Utility	AAHS Waterline Extension	\$98,420		\$49,210	\$49,210	Tendered
	St. Joseph's Water Tower	\$490,000	\$490,000	\$360,000	\$130,000	Work to take place spring / summer 2024
	Church Street Extension Water & Sewer Replacement	\$800,000		\$0	\$400,000	Cost shared with TOA
Sewer	Bay Street Municipal Service Upgrades	\$3,365,000		\$2,467,655	\$48,022	ICIP Approved; County sewer line Upgrades
	Hwy 337 Sewer Extension	\$156,660		\$78,330	\$78,330	Tendered
County Court House	Replacement of Siding	\$150,000		\$0	\$150,000	Work to take place spring / summer 2024
Equipment	1/2 Tonne Truck (Water / Sewer)	\$70,000		\$0	\$70,000	
Municipal Roads	Appleseed Drive Repaving (Maclsaac to Market Street)	\$600,000	\$385,819	\$0	\$385,819	Work to take place July - August 2024
	Keating Court Curb & Gutter	\$1,300,000		\$0	\$1,300,000	
J-Class Roads	D. Maclsaac Road	TBD				Rejected; exploring options for 2025/26
	Tamara Drive	TBD				Rejected
	Macken Road	TBD				Rejected
Facilities	Municipal Office Front Door Accessibility Upgrades	TBD				Project under development
	Municipal Office Parking Lot Repaving	\$112,000		\$0	\$112,000	
	Antigonish Mini-Pitch	\$1,262,000		\$679,000	\$583,000	Work to take place spring / summer 2024
Renewable Energy	ICIP - Net-Zero Community Buildings	\$500,000		\$0	\$200,000	Phase 2: Project Completion
Active Transportation	ICIP - Active Transportation Corridor	\$522,682		\$0	\$522,682	Phase 4: Church Street Ext
	Bethany / St. Martha's AT Connector	\$300,000		\$226,304	\$73,696	Tendered
Connectivity	Cell Towers in District 1	\$150,000				Pending Partnerships and taken from reserve
IT	Municipal Facility Security Cameras	\$75,000			\$75,000	
TOTAL		\$9,951,762		\$3,860,499	\$4,177,759	