Report 2022-101

# Council Recommend Report

**To:** Warden and Council of the County of Frontenac

**From:** Kelly Pender, Chief Administrative Officer

**Prepared by:** Jannette Amini, Manager of Legislative Services/Clerk

**Date of meeting:** September 21, 2022

**Re:** **Corporate Services –** **Establishment of a By-law to Regulate the Frontenac K&P Trail**

# Recommendation

**Resolved** **That** the Council of the County of Frontenac pass a By-law later in the meeting to Regulate the Use of the Frontenac K&P Rail, as per Appendix A to this report;

**And Further That** the Council of the County of Frontenac pass a by-law later in the meeting to amend By-law 2021-0018, being “A By-Law to Establish a Process for Administrative Penalties,” to designate proposed By-law to Regulate the Use of the Frontenac K&P Trail as a by-law for which Administrative Penalties can be issued and to set out penalty amounts.

# Background

The County of Frontenac has pursued the development of the Frontenac K&P Trail since 2009 following the guidance provided in the Frontenac Trails Master Plan (2009) and the K&P Trail Implementation Plan (2011). Since 2009, the County has re-established 70 kilometres of the former K&P rail corridor and rehabilitated the former railway into a multi-use recreational trail, constructing new infrastructure where necessary.

Once the connection between the City of Kingston and Sharbot Lake was completed in 2019 a significant increase of trail use was observed, creating the demand for increased amenities and policies to ensure a safe and enjoyable experience for users of all ages and abilities. In addition, after a decade of development, it has been observed that certain infrastructure also began to require assessment, repair and renewal.

The 2020 Economic Development Service Delivery Review recommended that the Economic Development Team transition away from activities such as infrastructure management in order to create additional capacity for traditional economic development activities. As a result, in 2021, staff began the work on a Management Plan that would provide clear expectations of third party partners or contractors who may be utilized as management support.

As a result, at its regular meeting held October 20, 2021, Council passed the following resolution, being Recommend Reports from the Chief Administrative Officer, clause c):

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| **c)** | **2021-092**  **Planning and Economic Development – Frontenac K&P Trail Management Plan Considerations** |

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| Motion #: 163-21 | Moved By:  Seconded By: | Councillor Higgs  Councillor Fowler |

**Be It Resolved That** County Council approve the amended Frontenac K&P Trail Management Plan dated October 20, 2021 subject to the following further amendments:

1. **That** Section 4.1.4 be amended to delete "Bell Rock Road" and replace with "Craig Road";
2. **That** Section 6.2.3 be amended to remove "north of Bell Rock Road" and replace with "at Craig Road";
3. **That** the number of Section 4 be corrected;
4. **That** the proposed signage be amended to delete "Bell Rock Road" and replace with "Craig Road"

**And Further That** staff engage with the Township of the Frontenac Islands on Phase 7 of K&P Trail development upon the completion of the Wolfe Island Canal Master Plan;

**And Further That** staff engage with the Township of South Frontenac regarding motorized use of the K&P Trail in the Village of Verona upon the completion of the Verona Housing Master Plan;

**And Further That** recommendations for revenue generation, if approved by County Council, be added to the K&P Trail Management Plan after County Council receives the report assigned to Mr. Wayne Robinson;

**And Further That** staff be directed to create a by-law to implement and enforce management policies on the Frontenac K&P Trail;

**And Further That** subject to regular review of costs, the Management Plan be utilized as a guide for the development of operations budget and where applicable, contracted services.

**Carried As Amended**

# Comment

As part of the recommendation passed by County Council at its October, 2021 meeting, staff were directed to create a by-law to implement and enforce management policies on the Frontenac K&P Trail.

For municipal by-laws to be enforced, they must carry an offence for someone found in contravention of the by-law. Staff are recommending that Council pass the proposed By-law to Regulate the Use of the Frontenac K&P Trail attached as Appendix A to this report, as well as designate the said By-Law as a by-law for which Administrative Monetary Penalties (AMPs) can be issued. AMPs provides the County with an additional tool to enforce compliance on the K&P Trail, without involving the Provincial Offences Court system.

The proposed By-law mandates certain criteria on the trail to ensure the safety and well being of all trail users, as well as respects and protects the natural environment of trail, and Frontenac in general. Key provisions of the By-law include:

* Limitations on the use of motorized vehicles on the trail;
* Formally establishing prohibited activities on the trail such as littering, not picking up after pets, camping, hunting, discharging a weapon or firearm, starting or feeding a fire, and, disturbing the natural habitat of the trail.
* Ensuring the safety of pedestrians by creating offences regarding interfering with and / or failing to yield to pedestrians
* Establishing speed limits on the trail, including Community Safety Zones through the hamlets and villages, where speed limits are reduced to 20 km/hour

The Administrative Penalties Process By-Law previously approved by Council created a process to impose administrative penalties and set out several procedural, financial, staffing and other administrative processes, including the establishment of an administrative scheme to support the imposition of administrative monetary penalties under the Chief Administrative officer.

The Administrative Penalty Process By-Law also includes due process provisions including (i) notice requirements, (ii) review and confirmation or cancellation of penalties by a Screening Officer; and (iii) a right of appeal to an independent Hearings Officer. To fully implement the Administrative Penalty Process By-Law, the Clerk was assigned to carry out the functions of the Screening Officer. The Hearing Officer is to be an impartial person outside of the organization and is appointed by the CAO when required.

Staff are recommending the following penalty amounts for offences as these penalties are meant to enforce compliance and deter future contraventions.

Council will note that the penalty for speeding in excess of 20 km/hour is double that of speeding in excess of 50 km/hour. This is due to the 20 km/hour zones being designated as Community Safety Zones, in which the *Highway Traffic Act* requires a fine of double the fine of speeding outside of a Community Safety Zone.

The penalties set out under sections 8.2 to 8.5 are substantially higher given that such offences would require the County to incur the cost of potentially rectify the contravention. The fees for the Screening Officer and Hearing Officer Appeals are in line with those charged by the Township of South Frontenac.

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| **By-law Section** | **Short wording** | **Penalty Amount** |
| 6.1 | Permitted a motorized vehicle on the trail –Motorized Vehicles prohibited - Signed | $100.00 |
| 7.3 | Speeding in excess of 50 KM - Signed | $100.00 |
| 7.4 | Speeding in excess of 20 KM - Signed | $200.00 |
| 7.5 | Failed to yield to a pedestrian | $100.00 |
| 8.1a) | Tampered or removed signage | $200.00 |
| 8.1 d) | Failed to pick up after pet | $50.00 |
| 8.1 e) | Fail to control a pet, including dogs and horses | $100.00 |
| 8.1 f) | Camping on the trail | $100.00 |
| 8.1 g) | Hunting on the trail | $100.00 |
| 8.1 j) | Started or fed an open fire | $200.00 |
| 8.1 k) | Disturbed Natural Features without consent | $200.00 |
| 8.1 l) | Operated a dirt bike or motorcycle on the trail | $250.00 |
| 8.2 | Created a barrier or obstruction the trail without consent | $500.00 |
| 8.3 | Undertook excavation upon the Trail without consent | $500.00 |
| 8.4 | Deposited soil, fill, gravel, stone, concrete, asphalt, sod or turf on the Trail without consent | $500.00 |
| 8.5 | Dumped or deposited debris or refuse on the Trail | $500.00 |
| 8.6 | Operated a business or consignment stand on the Trail/Trail Head without consent | $100.00 |
|  | Administrative Penalty Fee Failing to pay the AMP by the date on which it is due. | $25.00 |
|  | Screening Officer Appeal Fee | $50.00 |
|  | Hearing Officer Appeal Fee | $200.00 |
|  | Administrative Penalty Fee Failing to appear for a hearing before the Hearings Officer. | $100.00 |

The By-law is silent on the provision of Trail Permits as Council has yet to make recommendations on this matter. Once Council makes a determination on the requirement of Trail Permits for motorized vehicles, both the Trails By-law and the AMP By-law would need to be amended to captures these new requirements and penalties.

Section 434.2(2) of the *Municipal Act* provides the County with the authority to have any unpaid administrative penalties added to the Township tax rolls should the offender be a resident of Frontenac County.

# Sustainability Implications

As part of the Vision for the County of Frontenac in its 2019-2022 Strategic Plan, it identifies accountability and states:

As a framework for strategic planning, this future vision incorporates goals related to:

• Building the County’s organizational capacity in line with its mandate and accountabilities.

Additionally, Other Important and Continuing County Priorities, identifies:

* Continually improve customer and financial services.
* Maintain a strong organization and positive work culture through leadership, human resources, training and development, physical and IT infrastructure, and partnerships.

# Financial Implications

There are no financial implications directly associated with this report.

# Organizations, Departments and Individuals Consulted and/or Affected

Alex Lemieux, Director of Corporate Services/Treasurer

Joe Gallivan, Director of Planning and Economic Development

Richard Allen, Manager of Economic Development