



City of Hamilton

PUBLIC WORKS COMMITTEE ADDENDUM

Meeting #: 24-002
Date: February 5, 2024
Time: 1:30 p.m.
Location: Council Chambers
Hamilton City Hall
71 Main Street West

Carrie McIntosh, Legislative Coordinator (905) 546-2424 ext. 2729

Pages

7. DELEGATIONS

7.1 Delegation Requests Respecting Accessibility Issues with the HSR (Approved January 15, 2024)

a. James Kemp, Accessibility Committee for Persons with Disabilities

*a. James Kemp, Accessibility Committee for Persons with Disabilities - Presentation

2

c. Paula Kilburn, Accessibility Committee for Persons with Disabilities - WITHDRAWN

*a. WITHDRAWN

11. DISCUSSION ITEMS

*11.3 Delegated Authority for the Locates Program (PW24008) (City Wide)

19

Accessibility Committee for Persons with Disabilities

**Delegation to Public Works Regarding the
HSR, its Accessibility and AODA
Compliance in an Effort to Help Improve the
Service and Remove Barriers**



34. (1) All conventional transportation service providers and specialized transportation service providers **shall make available to the public current information on accessibility equipment and features of their vehicles, routes and services.** O. Reg. 191/11, s. 34 (1).

36. (1) In addition to the training requirements set out in section 7, conventional transportation service providers and specialized transportation service providers shall conduct employee and volunteer accessibility training. O. Reg. 191/11, s. 36 (1).

(2) The accessibility training shall include training on,

(a) the safe use of accessibility equipment and features;

(b) acceptable modifications to procedures in situations where temporary barriers exist or accessibility equipment on a vehicle fails; and

(c) emergency preparedness and response procedures that provide for the safety of persons with disabilities. O. Reg. 191/11, s. 36 (2).

41. (2) Every conventional transportation service provider shall annually hold at least one public meeting involving persons with disabilities to ensure that they have an opportunity to participate in a review of the accessibility plan and that they are given the opportunity to provide feedback on the accessibility plan. O. Reg. 191/11, s. 41 (2).

44. (1) Conventional transportation service providers shall, (b) ensure that adequate time is provided to persons with disabilities to safely board, be secured and deboard transportation vehicles and that assistance be provided, **upon request**, for these activities;

49. (2) The priority seating for persons with disabilities shall be located as close as practicable to the entrance door of the vehicle. O. Reg. 191/11, s. 49 (2); O. Reg. 165/16, s. 9 (1).

51. (2) Every conventional transportation service provider shall ensure that there are electronic pre-boarding announcements of the route, direction, destination or next major stop on its transportation vehicles and that these announcements satisfy the requirements set out in section 58. O. Reg. 191/11, s. 51 (2).

52. (1) Every conventional transportation service provider shall ensure that there are audible verbal announcements of all destination points or available route stops on its transportation vehicles while the vehicle is on route or while the vehicle is being operated. O. Reg. 191/11, s. 52 (1).

(2) Every conventional transportation service provider shall ensure that all destination points or available route stops,

(a) are announced through electronic means; and

(b) are legibly and visually displayed through electronic means. O. Reg. 191/11, s. 52 (2).

53. (1) Every conventional transportation service provider shall ensure that all of its transportation vehicles to which this section applies that are manufactured on or after January 1, 2013 are equipped with grab bars, handholds, handrails or stanchions that are provided where appropriate at,

(a) locations where passengers are required to pay fares;

56. (1) Every conventional transportation service provider shall ensure that all of its transportation vehicles manufactured on or after January 1, 2013 to which this section applies are equipped with accessible stop-requests and emergency response controls that are located throughout the transportation vehicle, including places within reach of allocated mobility aid spaces and priority seating locations. O. Reg. 191/11, s. 56 (1); O. Reg. 165/16, s. 12.

(2) Accessible stop-requests and emergency response controls must meet the following standards:

1. They must provide auditory and visual indications that the request has been made.
2. They must be mounted no higher than 1,220 millimetres and no lower than 380 millimetres above the floor.
3. **They must be operable with one hand and must not require tight grasping, pinching or twisting of the wrist.**
4. They must be high colour-contrasted with the equipment to which the control is mounted.
5. They must provide tactile information on emergency response controls. O. Reg. 191/11, s. 56 (2).

AODA Compliance Issues/Concerns Reg. 165/16

80.46 (1) In addition to the requirements in section 3, every provider shall develop, implement and maintain policies governing its provision of goods, services or facilities, as the case may be, to persons with disabilities.

(2) The provider shall use reasonable efforts to ensure that the policies are consistent with the following principles:

1. The goods, services or facilities must be provided in a manner that respects the **dignity** and **independence** of persons with disabilities.
2. The provision of goods, services or facilities to persons with disabilities must be integrated with the provision of goods, services or facilities to others, **unless an alternative measure is necessary, whether temporarily or on a permanent basis, to enable a person with a disability to obtain, use or benefit from the goods, services or facilities.**
3. Persons with disabilities must be given an opportunity equal to that given to others to obtain, use and benefit from the goods, services or facilities.
4. When communicating with a person with a disability, the provider shall do so in a manner that takes into account the person's disability.

(3) **Without limiting subsections (1) and (2), the policies must deal with the use of assistive devices by persons with disabilities to obtain, use or benefit from the goods, services or facilities or with the availability of other measures, if any, which enable them to do so.**

80.49 (1) In addition to the requirements in section 7, every provider shall ensure that the following persons receive training about the provision of the provider's goods, services or facilities, as the case may be, to persons with disabilities:

1. Every person who is an employee of, or a volunteer with, the provider.
2. Every person who participates in developing the provider's policies.
3. Every other person who provides goods, services or facilities on behalf of the provider.

(2) The training must include a review of the purposes of the Act and the requirements of this Part and instruction about the following matters:

- 1. How to interact and communicate with persons with various types of disability.**
- 2. How to interact with persons with disabilities who use an assistive device or require the assistance of a guide dog or other service animal or the assistance of a support person.**
- 3. How to use equipment or devices available on the provider's premises or otherwise provided by the provider that may help with the provision of goods, services or facilities to a person with a disability.**
- 4. What to do if a person with a particular type of disability is having difficulty accessing the provider's goods, services or facilities.**

(3) Every person referred to in subsection (1) shall be trained as soon as practicable.

(4) Every provider shall also provide training on an ongoing basis in respect of any changes to the policies described in section 80.46.

Original Yellow Strip Placement

Ever since the HSR began using these call buttons, we have been complaining about how difficult and often, painful, they are to activate. Furthermore, their placement causes issues getting the right leverage.

We have yet to hear any plan about addressing this issue and this is blamed on the procurement process, but it is not compliant with the AODA and needs to be addressed.



New Flyer '14 Series

Accessible Button with Tactile surface

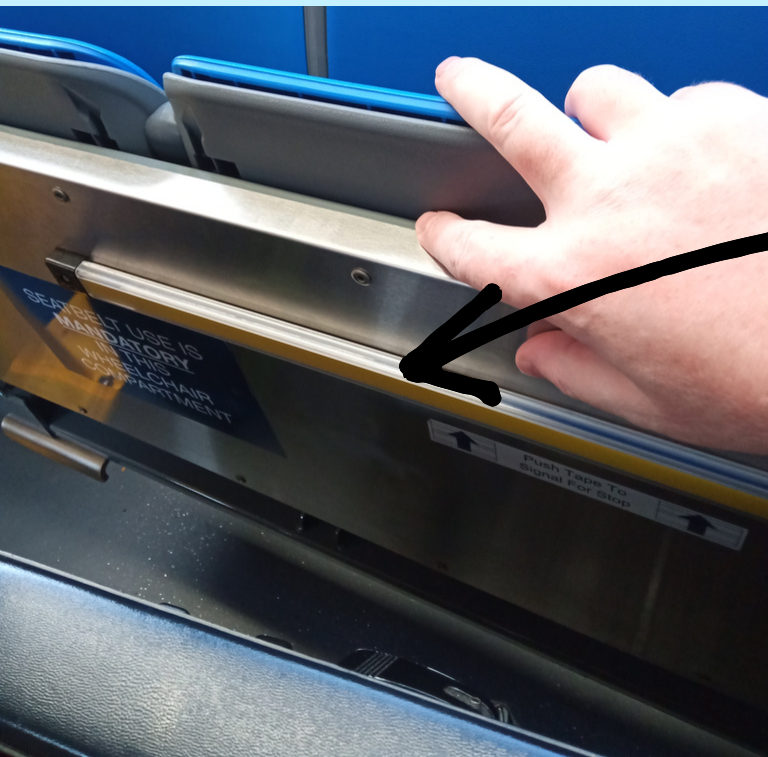
Only issue with this button is it is fixed, if a mobility device has a large assembly on the back or it is an oversized scooter, the button can be too far back to reach easily. Not a big problem.



Nova

'21/'22

Inaccessible Series
Yellow Strips



Yellow Strip forces us to strain, grip, pinch. It is too far down to even reach when chair in place. Huge Problem!



New Flyer '23 Series

Yellow Strip is completely unreachable without significant straining even if we could activate it.



**Hidden
Inaccessible
Yellow Call
Strip**





I did take other photos, but the software refused to upload them properly. Apologies.

This really fuzzy graphic depicts to instructions on the bottom of every PMD position. They depict how to buckle oneself in safely and independently. Operators constantly tell us this is not adequate and insist on buckling us tight to the back pad, often in an unsafe manner. Despite the repeated request for clarification on why we do not have the option to buckle ourselves in as per the AODA, we have yet to hear their official policy or reasoning behind this. What does the HSR know that Q'Straint doesn't?

Stabilizers

The Seatbelt or Stabilizer belt is something we have asked for improvements on. It is hard to reach in the rear, low down position it is in. We would like better independent access to buckle ourselves in. The Q'Straint belts on the right are actually easier to reach than the ones on the left due to their higher position.





A concerning change in design is the lack of protection beside the PMD Positions. These images show the most recent models of Nova buses with the back pad no longer centred, but shifted towards the window. There is also no protective stanchion on the individuals left side, leaving them open to being hit, shoved, sat on, etc... with no warning or ability to protect oneself. I made sure to include a picture of someone in the PMD position to show how exposed people are. The most recent Nova bus has exacerbated the problem due to the seating sticking out more prominently from the wall.



Stanchions

This is an example of the older stanchioned design. It provides good protection from being impacted from behind as well as prevents the chair from tipping over. This was standard on both Nova and New Flyer. There is talk about removing these stanchions in an effort to move ahead with front door entry only. We do not support this plan in any way.



This is the newest bus design. Please note that it is returning to a more protected centre position and, while the stanchion does not provide the same level of protection, it is a step back in the right direction. The seats have also been built to hug the wall tighter and provide more protection.

Both PMD positions are closest to the back door.

Seats provide too much resistance to lift without harm



Fare Box/ Presto Scanner Grab Bars/Hand Rails

There is no grab bar available around the farebox. There is a grab bar well behind the Presto Scanner. This is not helpful to an individual using either one.



Display Concerns

Have had some complaints about the small size of the Stop Requested Text. It looks a lot like a red blur for some people.

There are still vehicles on the road that do not have forward facing displays so people facing backwards can see them. Combine this issue with being unable to hear the stop announcements and it can be hard to know when to ring the bell.



Vicinity CNG 30' 2018 Series

Only Front Door Entry Model in the HSR Fleet

I have only had a few opportunities to test this model as it is used on routes with lower ridership and, as such, I cannot speak to how safe it is during rush hours. The alternate button was easy to use, but the seats provided too much resistance to lift and I hurt myself.

Alternate Call Button Design



Full Disclosure: This is not an HSR model in the photo

Parallel Mobility Device Positions



Thank You for Your Time and Attention!

Questions?



Hamilton





CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Hamilton Water Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 5, 2024
SUBJECT/REPORT NO:	Delegated Authority for the Locates Program (PW24008) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Amanda Dubeckyj (905) 546-2424 Ext. 4743
SUBMITTED BY:	Shane McCauley Director, Water & Wastewater Operations Public Works Department
SIGNATURE:	

RECOMMENDATION

That the General Manager, Public Works, or their designate, be authorized and directed to enter into agreements and any ancillary agreements with Dedicated Locators as defined in the *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c.4.*, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Changes in the *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c.4* (“*OUIINS Act*”) allows for project owners to hire a dedicated locator (at their expense) to expedite the locate process. These changes also require Ontario One Call members (the City is a member as required by the *OUIINS ACT*) and project owners to agree in writing on a dedicated locate service provider (locator). This must be done within 10 business days of being notified of a dedicated locator request through Ontario One Call.

In addition to agreeing upon a locator, the City is required within those 10 business days to provide the locator with mapping and any other additional information that the locator feels is necessary as it relates to the City owned underground infrastructure. As such, although not required by the *OUIINS Act*, it is recommended by Ontario One Call as best practice for the City to enter into an agreement with the locator which outlines the City’s requirements and limits the City’s liability. This agreement should be in place prior to providing the locator with any information. Delegated authority is required to meet the

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SUBJECT: Delegated Authority for the Locates Program (PW24008) (City Wide)
– Page 2 of 4

10-business day requirement. As of May 1, 2024, failure to meet the 10-business day requirement could result in administrative penalties of \$250 per day late up to a maximum of \$10K. In addition, the City could be held liable for project costs and expenses that result from the delay.

It is being recommended that the General Manager, Public Works or their designate being responsible for the City's underground infrastructure be given delegated authority to enter into the necessary agreements and any ancillary agreements, in order to meet the 10-business day timeline as laid out in the legislation.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As of May 1, 2024, if the City does not agree to a dedicated locator and provide the necessary information within 10 business days, the City may be faced with administrative financial penalties of \$250 per day late up to a maximum of \$10K for each request. In addition, the City could be held liable for project costs and expenses that result from the delay.

Staffing: N/A

Legal: While it is not a requirement of the *OUINS Act* to have a formal written agreement with the locator it is an Ontario One Call recommended best practice. The purpose of this agreement would be to outline the City's requirements and limit the City's liability.

HISTORICAL BACKGROUND

The *OUINS Act* was amended in November 2022 to include provisions for dedicated locators. Project owners have had to weigh the benefits of having dedicated locators against the cost associated with hiring them. Across the industry underground infrastructure owners are beginning to see more requests from project owners to use dedicated locators.

The City received a request from a project owner on November 24, 2023, to use a dedicated locator. Public Works staff have been working with the City's Legal team to draft an appropriate agreement that can be used for these requests. During that process, it was determined that delegated authority to enter into an agreement with a dedicated locator did not exist and needed to be provided in order to meet the tight timelines. During this time, the City has been working with the project owner to ensure that locates are provided within their required timeframes to avoid project delays.

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SUBJECT: Delegated Authority for the Locates Program (PW24008) (City Wide)
– Page 3 of 4

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Ontario Underground Infrastructure Notification System Act*, 2012, S.O. 2012, c.4 requires within 10 business days of notification, that the City and the Project Owner agree in writing on a dedicated locator, and for the City to provide mapping and other necessary information to the locator.

RELEVANT CONSULTATION

The following groups have been consulted and are supportive of the recommendation:

- Solicitor for Legal and Risk Management Services Division
- Director, Hamilton Water Division
- Director, Environmental Services Division
- Director, Transportation Division

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Under the dedicated locator provisions of the *OUINS Act* the locator is providing locates using the mapping, information, and guidance the City provides as it relates to City owned underground infrastructure. While the *OUINS Act* does not require a written agreement with the locator it is a recommended Ontario One Call best practice. The agreement will allow the City to set requirements and limitations on how the information is used, and limit City liability.

The *OUINS Act* requires that any agreements and information needed under the dedicated locator provisions be completed and provided within 10 business days of being notified of a request. As of May 1, 2024, failure to meet the time requirements could result in administrative penalties of \$250 per day late to a maximum of \$10K per request. In addition, the City could be found liable for project costs and expenses associated with the delay. The timelines to bring a legal agreement to Council through a staff report is typically a minimum of six weeks. Therefore, to meet the required timeframes as set out in legislation, delegated authority is necessary.

While the City owns the underground infrastructure, the General Manager, Public Works is responsible for the operations and maintenance of it. Therefore, it is being recommended that the authority to enter into agreements as part of the dedicated locator provisions of the *OUINS Act* be delegated to the General Manager, Public works or their delegate.

ALTERNATIVES FOR CONSIDERATION

N/A

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SUBJECT: Delegated Authority for the Locates Program (PW24008) (City Wide)
– Page 4 of 4

APPENDICES AND SCHEDULES ATTACHED

N/A