



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Transportation Planning and Parking Division**  
**and**  
**PUBLIC WORKS DEPARTMENT**  
**Transportation Operations and Maintenance Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	December 7, 2020
<b>SUBJECT/REPORT NO:</b>	Regulation of E-Scooters (PED20134/PW20050) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
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<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Edward Soldo Director, Transportation Operations & Maintenance Public Works Department

**RECOMMENDATION**

- (a) That the amending By-law to City of Hamilton By-law 01-215, being a by-law to Regulate Traffic (“City of Hamilton Traffic By-law”), to add the definition and regulations for the operation and use of electric kick-scooters (“E-Scooters”), attached to Report PED20134/PW20050 as Appendix “A”, and which has been prepared in a form satisfactory to the City Solicitor be enacted and effective immediately;
- (b) That a temporary prohibition on commercial E-Scooter operations be put in place until an operating framework and related regulations for commercial E-Scooters has been established;

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- (c) That the By-law to Regulate Commercial E-Scooters attached as Appendix “B” to Report PED20134/PW20050 prepared in a form satisfactory to the City Solicitor, be enacted and effective immediately;
- (d) That the set fines for regulations pertaining to E-Scooters and updated fines for the Traffic By-law, attached as Appendix “C” to Report PED20134/PW20050 prepared in a form satisfactory to the City Solicitor, be submitted to the Ministry of the Attorney General for approval;
- (e) That the draft amending By-law to Manage and Regulate Municipal Parks and to amend By-law 17-225, being a By-law to Establish a System of Administrative Penalties, attached as Appendix “D” to Report PED20134/PW20050 prepared in a form satisfactory to the City Solicitor, be enacted and effective immediately;
- (f) That the City of Hamilton User Fees and Charges By-law 20-168 be amended to reflect an administrative and enforcement cost of \$246.01 and a storage charge of \$62.83 per commercial E-Scooter per day;
- (g) That staff be directed to report back to Public Works Committee with a strategy for regulating commercial operations of E-Scooters and their integration with the bike-share system.

## **EXECUTIVE SUMMARY**

In January 2020, the Province of Ontario (the Province) announced that it would begin a five-year pilot program which would permit E-Scooters on municipal roads throughout the Province, if a municipality passed a by-law to “opt-in”. The five-year pilot launched January 1, 2020, under *Ontario Regulation 389/19* attached as Appendix “E” to this Report made under the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (*HTA*) with the goal of evaluating the use of E-Scooters by evaluating their ability to safely integrate with other vehicle types and determine whether existing rules of the road are adequate.

Under this pilot, the City has the option to pass a by-law to permit E-Scooters on roads, trails, sidewalks, bike lanes, and in public parks. If the City does not pass such a by-law, E-Scooters remain prohibited in that jurisdiction.

At the time of this Report, there has been some uptake on the pilot by other jurisdictions. Both Ottawa and Windsor have adopted by-laws to allow E-Scooters, while Toronto has delayed adoption in order to ensure an operating framework is put in place allowing for safe operations and enforcement prior to the introduction of commercial operators. Outside of Ontario, E-Scooter programs have been implemented in Calgary, Edmonton, and Montreal.

From a mobility perspective, E-Scooters provide a convenient and cost-effective solution for facilitating “first-mile, last-mile” connections, including trips to access transit. Broader benefits include reduced auto dependence, reduced air pollution, and reduced greenhouse gas emissions. E-scooters are also very space efficient. Challenges with E-Scooters include user safety, pedestrian safety, parking on sidewalks, and abandoning of scooters, particularly with the introduction of a large number of scooters, which may be the case with commercial operations. In Ontario, there is also uncertainty around responsibilities for enforcement and lack of clarity on liability and collision reporting.

As more programs have been launched, and commercial operators and municipalities gain experience and develop ways to mitigate issues, many of the early challenges with E-Scooters are diminishing. Notwithstanding this, staff are recommending a staged approach. Staff recommend a by-law be approved to permit E-Scooters to operate on municipal roads and designated pathways, throughout the City during the Province of Ontario’s five-year pilot, but that this apply to personal scooters only until such time as a regulatory system is put in place for commercial operators. A conservative approach is being adapted whereby E-Scooters would be allowed to operate generally where bicycles are currently permitted, and not be allowed on sidewalks or in City parks except where specifically designated.

### **Alternatives for Consideration – See Page 9**

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: There are no staffing implications associated with this Report given that the recommendations only permit personal E-Scooters at this time. Enforcement of the Traffic-By-law will be by Hamilton Police Services and enforcement of operations within Parks will be overseen by Licensing and By-law Services Division. Enforcement and staffing needs associated with commercial operators will be reviewed as part of the development of an operations framework.

Legal: N/A

### **HISTORICAL BACKGROUND**

E-Scooters have emerged as a new mode of transportation with an electric motor and the ability to be imminently shareable through app-based technology. Shared commercially operated E-Scooters have been launched in more than 125 cities across the United States and are quickly launching in the Canadian market. Ontario joins

Alberta and Quebec amongst the growing number of Canadian Provinces allowing E-Scooters on the roadway.

On May 14, 2019, Information Report PED19099, was before the Planning Committee and advised that the Province of Ontario, through the Ministry of Transportation (MTO), was undergoing a review to determine if E-Scooters would be allowed on roadways, and if so, with what restrictions. Previously, the *HTA* did not allow E-Scooters to be used on the roadway.

The MTO has the authority under section 228 of the *HTA* to conduct pilot projects by regulation of up to 12 years to test and evaluate the safe integration of new vehicles on Ontario's roadways.

On November 27, 2019, the Province announced that it would begin a five-year pilot program which would permit E-Scooters on municipal roads throughout the Province, if the municipality passed a by-law. The five-year pilot launched January 1, 2020, under *Ontario Regulation 389/19* made under the *HTA* with the goal of evaluating the use of E-Scooters by evaluating their ability to safely integrate with other vehicle types and determine whether existing rules of the road are adequate.

Under this pilot, municipalities across the Province have the option to pass by-laws to allow E-Scooters on roads, trails, sidewalks, bike lanes, and in public parks. If a municipality does not pass such a by-law, E-Scooters remain prohibited in that jurisdiction.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

## **RELEVANT CONSULTATION**

This Report was prepared in consultation with staff from Transportation Planning, Licencing and By-law Services, Environmental Services Division, and Transportation Operations and Maintenance Division, working closely with Legal Services.

Staff from Hamilton Municipal Parking, and Hamilton Police Services were consulted with respect to operations and enforcement matters.

On September 8, 2020, a presentation on E-Scooters was made to the Advisory Committee for Persons with Disabilities Committee (ACPD) and feedback was received. Members of the ACPD expressed concerns about the operation of E-Scooters on sidewalks and their impacts on safety. The ACPD would prefer to ban the use of E-Scooters on all City roads, sidewalks, pathways and in all other areas of the City until

such time that E-Scooters are fully and completely regulated and their operators properly trained, licensed and insured in the same manner as any other motor vehicle in the province of Ontario.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

### **The Provincial Pilot**

*Ontario Regulation 389/19* sets out the broad rules and requirements for E-Scooters, which apply Province-wide, such as helmet requirements, minimum age, and maximum speed, as well as, data requirements.

An E-Scooter is defined as a vehicle that has:

- Two wheels placed along the same longitudinal axis, one placed at the front of the kick-scooter and one at the rear;
- A platform for standing between the two wheels;
- A steering handlebar that acts directly on the steerable wheel; and,
- An electric motor not exceeding 500 watts that provides a maximum speed of 24 km/hour.

Since E-Scooter meets the definition of vehicle under the *HTA* all rules of the road will apply to the operation of E-Scooters, including:

- Requirement to stop when requested by a police officer, surrendering his or her driver's licence;
- Penalties in *HTA* s. 228(8) will also apply to violations in the pilot (fine range from \$250-\$2,500);
- Duty to report to the police an E-Scooter accident with a pedestrian, animal or vehicle that results in personal injury or property damage; and,
- E-scooter operators impaired by drugs, alcohol or both may face charges under the *Criminal Code*<sup>1</sup>.

The Province has further outlined minimums for safe operation, including:

- E-scooter operators must be at least 16;
- E-scooter operators under 18 must wear helmets;
- A maximum speed limit of 24 km/hr;

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<sup>1</sup> E-Scooter meets the definition of "motor vehicle" under the *Criminal Code* R.S.C., 1985, c. C-46.

- E-Scooters must be equipped with front and rear lights, which must be used by an E-Scooter operator any time from one-half hour before sunset to one-half hour after sunrise and at any other time when there is insufficient light;
- E-scooters must be equipped with a horn or a bell and kept in good working order;
- E-scooters cannot be fitted with baskets, pedals or seats, and operators must be standing at; and,
- E-scooter operators are not permitted to tow or have passengers.

Section 13 of *Ontario Regulation 389/19* requires municipalities to provide the Province with E-Scooter data, as specified and requested by the Minister. The specific data requirements are not outlined in the Regulations, however, further consultation with the Province has indicated that the Province will be requesting semi-annual data on all collisions involving E-Scooters and E-Scooter rider data including: total trips, unique riders, distance travelled, median distance/trip, and median time/trip.

### **Practices in Other Jurisdictions**

As seen in the chart below, municipalities are still in the early stages of developing E-Scooter regulations. What is clear, is that, municipalities have opted to start with a pilot program, allowing staff, riders and operators to report back to Council on lessons learned, and implement modifications if required.

<b>City</b>	<b>Approach to Regulating E-Scooters</b>
Toronto (ON)	The use and parking of E-Scooters is currently prohibited. A July 2020 staff report recommended further measures be put in place to ensure safe operations and enforcement prior to the introduction of commercial operators.
Ottawa (ON)	In June 2020, the City of Ottawa “opted-in” to the provincial pilot and approved a one-year trial with the participation of a private service provider(s) and with a maximum initial shared fleet size of 600 E-Scooters. Three commercial providers are currently operating in designated geographic areas.
London (ON)	In process of seeking a private company to operate E-scooters and bike share.
Waterloo Region (ON)	Pilot from 2018-2019 on private property (Laurel Trail and University of Waterloo), next steps are unknown.
Windsor (ON)	Amended Traffic By-law in 2020 to allow individual personal E-Scooters on the road, prohibited on sidewalks and park trails.

<b>City</b>	<b>Approach to Regulating E-Scooters</b>
Calgary (AB)	Pilot from July 2018 – October 2019, resuming in 2020 with a permit, allowed on sidewalks prohibited on the road.
Edmonton (AB)	Permit issued in 2019, prohibited on sidewalks.
Kelowna (BC <sup>2</sup> )	Permit issued under the bike share permit program, limited to the Okanagan Rail Trail.
Montreal (QC)	Pilot in 4 of its 19 boroughs, banned in 2020.

Within Canada, two of the most advanced pilots exist in Ottawa and Calgary. In Ottawa, three companies were permitted to operate a combined 600 E-Scooters in summer 2020 and over the course of the pilot project, more than 200,000 rides were taken by more than 50,000 individual riders. In Calgary, the pilot was started in 2019 and renewed in 2020 and over one-million trips had been made on commercially operated E-Scooters as of June 2020.

### **Benefits and Consequences of E-Scooters**

E-Scooters are increasingly being promoted as a means for improving mobility within a community because of their convenience for short trips and low space requirements. E-Scooters assist with the first-mile or last-mile commute and can support connections to transit. Since they are powered by electricity, they also have environmental benefits including reduced air emissions. However, there are also challenges such as parking compliance, illegal sidewalk riding, and safety, both for the user and for pedestrians. These issues tend to increase with the number of E-Scooters in operation. As a result of their low cost and ability to be rented out by a simple application, large number of E-Scooters can potentially be deployed where commercial operators exist.

### **Operating Considerations for the City of Hamilton**

*Ontario Regulation 389/19* allows the City of Hamilton (the City) to determine whether to pass a by-law permitting E-Scooters, and if so, decide where E-Scooters would be permitted/prohibited, looking at roads, bike lanes, parks trails, as well as, where parking would be located for E-Scooters and overall how E-Scooters would be managed. To assist and support municipalities develop E-Scooter regulations, the Province developed a best practices document attached as Appendix “F” to this Report.

The regulations and by-laws presented as part of this report are based on the general approach that E-Scooters will be treated similar to bicycles in that they are permitted to

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<sup>2</sup> Under the British Columbia Provincial *Motor Vehicle Act*, e-scooters not permitted on roadway or sidewalk.

operate within the road right-of-way as a vehicle and not be permitted to operate on sidewalks. This is in part, due to the fact, that E-Scooters operate with similar speeds to bicycles but also takes into account that many sidewalks in Hamilton's older areas are often narrow and do not have generous furniture zones and the operation of E-Scooters on sidewalks could compromise the pedestrian environment.

It is proposed, however, that E-Scooters be allowed to operate on selected pathways through parks. This would be a permissive approach, whereby, E-Scooters would not be allowed to operate in parks, unless in a designated area where City signs are posted. The focus would be on allowing their use on pathways that provide key community connections, are sufficiently wide, and are routinely maintained. Pathways, where E-Scooters are allowed, will be signed as such, keeping in mind the need to restrict access to private connections. It is noted, that with commercially operated E-Scooters, it is also possible to restrict speeds of the devices through areas such as parks using geo-fencing technology, and this practice exists in several cities.

As with any new mode, enforcement will be a key consideration. Similar to bicycles, the enforcement of traffic by-laws will be carried out by Hamilton Police Services, and operations within Parks will be enforced by Licencing and By-Law Services. Enforcement requirements for personal e-scooters are expected to be fairly modest but depend on uptake.

In terms of commercial operations, staff will report back to Council on a proposed operations framework that encourages and enables E-Scooters to operate within the City in a safe and enforceable manner. This framework will address matters including, but not limited to, parking, areas of operation, allowable fleet sizes, data sharing, insurance requirements, user education and communications, and fees.

Enforcement needs associated with commercial operations will be reviewed as part of the development of an operations framework. Many enforcement needs, such as parking of E-scooters and removal of abandon devices can be built into operations agreements.

### **Decision for Committee**

Despite *Ontario Regulation 389/19*, there is nothing that requires the City to pass a by-law and permit E-Scooters in Hamilton. If the City does not pass a by-law, E-Scooters would remain prohibited. The City could take a phased approach and opt-in at any time during the five-year pilot and wait until:

- Industry standards are in place;
- There is further clarity on data requirements to the Province made available from other municipal pilots; and,

- Wait and see what other Ontario municipalities do.

Staff is recommending that a by-law be passed to allow E-Scooters to operate in the City. One of the reasons for this, is that, it will provide for the ability to enforce personal E-Scooters, which is not possible in the absence of any municipal regulations.

However, further work is required to assess different models for commercial operations, and how to mitigate some of the challenges experienced by other cities. In addition, it is appropriate that regulatory models for commercial operations be considered in conjunction with an overall strategy for shared mobility in the City, including bikeshare operations.

### **ALTERNATIVES FOR CONSIDERATION**

The City can choose not to pass a by-law, and E-Scooters would remain prohibited in the City.

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

#### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - Amending by-law to City of Hamilton By-law 01-215

Appendix “B” - By-law to Regulate Commercial E-Scooters

Appendix “C” - Proposed Set Fines for Traffic By-law

Appendix “D” - Amending by-law to City of Hamilton By-law 01-219 and By-law 17-225

Appendix “E” - Ontario Regulation 389/19

Appendix “F” - Ministry of Transportation Best Practices

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