
From: Paul Bigioni
Director, Corporate Services & City Solicitor

Subject: Electric Kick Scooter By-law
- File: L-2100

Recommendation:

1. That the draft Electric Kick Scooter By-law (Attachment No. 1 to this Report) be received;
2. That staff be directed to proceed with a public consultation to obtain feedback from residents regarding the attached By-law;
3. That staff be directed to report back to Council in February, 2023 with the results of the public consultation and any recommended revisions to the attached By-law; and,
4. That appropriate City of Pickering officials be authorized to take the actions necessary to implement the recommendations in this Report.

Executive Summary: On January 1, 2020, the Ministry of Transportation (“MTO”) introduced a five year pilot program to permit Electric Kick Scooters (“E-scooters”) on Ontario’s roads. Pursuant to the five year pilot project, the MTO has provided municipalities with the ability to regulate the use of devices on roads, paths and other property under their jurisdiction.

The pilot project requires a municipality to pass a by-law to permit the use of E-scooters. Without a by-law, the use of E-scooters within the municipality is not permitted. On April 27, 2022, the Region of Durham passed By-law 23-2022 permitting the use of E-scooters on Regional roads. As a result, E-scooters are now permitted on Regional roads in Pickering, but not on City roads. In order to have a consistent approach to E-scooters on all roads in Pickering, staff have drafted the attached Electric Kick Scooter By-law. The By-law is consistent with the regulations implemented by the Region of Durham, but includes further restrictions prohibiting the use of these devices anywhere other than roadways. The By-law also provides enforcement authority to the Durham Regional Police Service.

The use of E-scooters does, however, raise some safety concerns. Staff recommend that the attached draft By-law be circulated for public consultation, and that Council consider the attached By-law, together with the results of the public consultation, at a subsequent meeting.

Financial Implications: There are no financial implications arising directly from this Report. The enforcement of the attached By-law will be conducted by Durham Regional Police.

Discussion: Regional By-law 23-2022 creates an awkward situation in which E-scooters are permissible on some, but not all roads in Pickering. Approval of the draft By-law (Attachment #1 to this Report) would correct this problem by allowing E-scooters on all City roads. The implementation of the Electronic Kick Scooter By-law will allow residents to access an additional sustainable transportation option. It will provide an economical, clean-energy solution for transportation. This will assist in the reduction of traffic congestion, pollution and reliance on motor vehicles, especially as the use of E-scooters increases. It will also assist to fill a void where public transportation cannot address the “first or last-mile” of many commutes. The use of these devices will allow a wider range of choices for residents.

At the same time, the use of E-scooters creates some safety concerns. A study conducted by the Insurance Institute for Highway Safety found that E-scooter riders were twice as likely to be injured because of potholes, pavement cracks and collisions with light posts/signposts than cyclists. In best practice reviews by other municipalities, there have been concerns raised regarding the safety of the use of these devices. Concerns related to rider safety are addressed by the proposed By-law’s safety requirements and are also included within Ontario Regulation 389/19. This Regulation places restrictions on both the rider and the equipment itself. There is still concern that injury to a rider may occur in a collision with a motor vehicle. This risk is similar to the risk associated with cycling.

Specific insurance is not required, as an E-scooter is not considered to be a motor vehicle under the *Highway Traffic Act*. In the event of an accident, the same insurance rules that apply to cyclists would apply to E-scooter riders. The Province’s “no fault” insurance coverage requirement would apply to any collisions involving motorists or cyclists. Any claims made against the City of Pickering that involve E-scooters would be handled in the same manner as claims made by pedestrians, cyclists and operators of motor vehicles.

To address concerns related to pedestrian safety, the draft By-law prohibits the use of E-scooters on sidewalks, trails or in parks. Given the speed and lack of audible emission from E-scooters, it is not recommended that they be used in areas frequented by pedestrians. The potential for collision-related injury to a pedestrian is increased if these devices are permitted to be operated anywhere other than on an open, travelled roadway. The attached By-law has been drafted accordingly.

With traffic management and intensification plans for Kingston Road, including the Region’s Bus Rapid Transit (BRT) plans, it is possible for Regional and City planners to consider dedicated lanes for E-transport, along with bicycle lanes. Alternate forms for transportation will be increasing, and new infrastructure should be required to accommodate these new methods of transportation. Wider bicycle lanes or dedicated electronic mobility device lanes should be considered based on observations made regarding usage of these devices.

Enforcement related to the use of E-scooters on roads is within the jurisdiction of the Durham Regional Police Service (“DRPS”). DRPS have the powers necessary to enforce provisions related to E-scooters, as DRPS officers have the power to stop a moving vehicle and demand identification from the vehicle operator. (This power is not conferred on Municipal Law Enforcement Officers.) To assist DRPS in enforcement, the provisions for on-road use of E-scooters mirror the ones in the Region of Durham’s By-law 23-2022.

The City’s Parks By-law prohibits the use of a vehicle in a park. An E-Scooter meets the definition of a vehicle under the Parks By-law, so the City’s Municipal Law Enforcement Officers can and will address the unauthorized use of E-scooters in parks. The rider can be asked to leave the park or be fined for contravening the Parks By-law. City enforcement in parks can be escalated to DRPS as may be required.

Municipal Law Enforcement Services section will work with Corporate Communications Division and Engineering Services Department to develop the community consultation plan regarding the use of E-scooters on roadways.

Attachments:

- 1. Draft Electric Kick Scooter By-law

Prepared By:

Original Signed By:

Jason Litoborski, CPSO
Supervisor, Licensing & Enforcement

Prepared By:

Original Signed By:

Kimberly Thompson
Manager, Municipal Law Enforcement Services

Approved/Endorsed By:

Original Signed By:

Paul Bigioni
Director, Corporate Services & City Solicitor

Recommended for the consideration
of Pickering City Council

Original Signed By:

Marisa Carpino
Chief Administrative Officer

The Corporation of the City of Pickering

By-law No. /22

Being a by-law to regulate the operation and use of electric kick-scooters in the City of Pickering.

Whereas the *Municipal Act, 2001*, *Highway Traffic Act* and Ontario Regulation 389/19 allow municipalities to regulate the use of electric kick scooters,

And Whereas the Council of the City of Pickering desires to allow the operation of electric kick-scooters on municipal roadways;

And Whereas the Council of the City of Pickering desires to restrict the use of electric kick-scooters on certain municipal property.

Now therefore the Council of The Corporation of the City of Pickering hereby enacts as follows:

1. Short Title

1.1. This By-law may be referred to as the “E-Scooter By-law”.

2. Definitions

In this By-law:

- 2.1 “boulevard” means all parts of a highway including the sidewalk, but excluding the roadway and shoulder.
- 2.2 “cargo” means goods carried on an electric kick-scooter by putting them on a platform, basket or container for carrying parcels or goods. Purses, backpacks or bags that are safely and securely attached to the operator are not considered cargo.
- 2.3 “Chief of Police” means the Chief of Police of the Durham Regional Police Service or an authorized representative.
- 2.4 “City” means the geographic area of the City of Pickering or The Corporation of the City of Pickering, as the context requires.
- 2.5 “e-scooter” means an electric kick-scooter vehicle that has:
 - (a) two wheels placed along the same longitudinal axis, one placed at the front of the kick-scooter and one at the rear,
 - (b) a platform for standing on between the two wheels,
 - (c) a steering handlebar that acts directly on the steerable wheel,
 - (d) an electric motor not exceeding 500 watts that provides a maximum speed of 24 kilometres per hour, and

- (e) a maximum weight of 45 kilograms (kg) and wheels with a diameter of more than 430 millimetres.
- 2.5 “highway” has the same definition as in subsection 1 (1) of the HTA.
- 2.6 “HTA” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended.
- 2.7 “multi-use pathway” means an in-boulevard path physically separated from motor vehicle traffic for use by cyclists, pedestrians and other non-motorized users.
- 2.8 “official sign” means a sign required by or erected on behalf of any federal, provincial, regional, or municipal government or agency thereof or board or commission or public utility, including, but not limited to, signs designating hospitals, schools, libraries, community centres, arenas or other public government uses.
- 2.9 “pedestrian” means,
- (a) a person on foot;
 - (b) a person in a wheelchair; or
 - (c) a child in a carriage, stroller or play vehicle.
- 2.10 “Region” or “Regional” means the municipal corporation of The Regional Municipality of Durham or the geographic area as the context requires.
- 2.11 “reserved bicycle lane” means those parts of the highway set aside for the use of cyclists and designated by an official or authorized sign or by pavement markings.
- 2.12 “roadway” means that part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively.
- 2.13 “shoulder” means that part of the highway immediately adjacent to the roadway and having a surface which has been improved for the use of vehicles with asphalt, concrete or gravel.
- 2.14 “sidewalk” means those parts of a boulevard set aside for the use of pedestrians.
- 2.15 “vehicle” includes a motor vehicle as defined in the HTA.

Application and Interpretation

- 3.1 This By-law applies to the City of Pickering.

Prohibition

- 4.1 No person shall operate, or cause to be operated, or use an e-scooter on a highway or any other property under the jurisdiction of the City unless:

- (a) permitted by and in accordance with the provisions of the HTA and Ontario Regulation 389/19, as amended;
 - (b) permitted by and in accordance with any applicable traffic by-laws; and
 - (c) permitted by and in accordance with the provisions of this By-law.
- 4.2 No person shall operate, or cause to be operated, or use an e-scooter on a highway with a legal speed limit greater than 60 kilometres per hour, unless within a reserved bicycle lane.
- 4.3 No person shall operate, or cause to be operated, or use an e-scooter where cycling, skateboarding or rollerblading is prohibited.
- 4.4 No person shall operate, or cause to be operated any e-scooter on any sidewalk, trail, park or multi-use pathway under authority of the City.

General Regulations

- 5.1 No person under the age of 16 years shall operate an e-scooter.
- 5.2 No person under the age of 18 years old shall fail to wear a helmet that complies with the HTA when operating an e-scooter.
- 5.3 No person operating an e-scooter shall carry any other person thereon.
- 5.4 No person operating an e-scooter shall tow another person, vehicle or device.
- 5.5 No person operating an e-scooter shall attach himself or herself to another e-scooter, vehicle or device for the purpose of being drawn or towed.
- 5.6 No person operating an e-scooter shall operate it in any position other than while standing at all times.
- 5.7 No cargo may be carried on an e-scooter.
- 5.8 No person shall park or stop an e-scooter or permit an e-scooter to remain parked or stopped on a roadway, shoulder, boulevard or any other public property in Pickering unless authorized by the City of Pickering.

Safe Operation

- 6.1 The operator of an e-scooter shall keep a safe distance of at least one metre from pedestrians and other users of the roadway or shoulder at all times and shall give way to a pedestrian or bicycle by slowing or stopping where there is insufficient space for the pedestrian or bicycle and the e-scooter to pass.
- 6.2 Where reserved bicycle lanes are provided on a highway, an e-scooter shall only be operated in the reserved bicycle lane.
- 6.3 Where no reserved bicycle lanes exist on a highway where e-scooters are permitted to operate, the operator of an e-scooter shall ride as close as practicable to the right-hand curb or edge of the roadway or on the paved shoulder.

- 6.4 No person shall operate an e-scooter within a crosswalk or pedestrian crossover, as defined in the HTA.
- 6.5 Every e-scooter shall be equipped with a bell or horn which shall be kept in good working order and sounded to notify cyclists, pedestrians or others of its approach.
- 6.6 When operated at any time from one-half hour before sunset to one-half hour after sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles are not clearly discernible at a distance of 150 metres or less, every e-scooter shall carry a lighted lamp displaying a white or amber light at the front and a lighted lamp displaying a red light at the rear. The lamps may be attached to the e-scooter or may be carried or worn by the operator on his or her person.
- 6.7 No person shall operate or use an e-scooter in such a manner that it may harm, injure or damage, either directly or indirectly, any person or property.

Enforcement

- 7.1 The provisions of this by-law may be enforced by a police officer pursuant to subsection 42(1)(h) of the *Police Services Act*, R.S.O. 1990, c. P.15.

Offences and Fines

- 8.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence.
- 8.2 Every person who is convicted of an offence is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

Effective Date

- 9.1 This By-law shall come into force on September xxx, 2022 and shall be repealed on the earlier of:
- (a) the revocation of Ontario Regulation 389/19: Pilot Project – Electric Kick Scooters; and
 - (b) November 27, 2024.

By-law passed this day of September, 2022.

David Ryan, Mayor

Susan Cassel, City Clerk