

Authority: Item 4, Public Works Committee
Report 20-012 (PED20134/PW20050)
CM: December 16, 2020
Ward: City Wide
Bill No. 270

**CITY OF HAMILTON
BY-LAW NO. 20-270**

A By-law to Regulate the Use of Commercial E-Scooters in Hamilton

WHEREAS Ontario Regulation 389/19 regarding a pilot project for electric kick-scooters (“E-Scooters”), prohibits the operation of electric kick-scooters unless such operation is permitted by and in accordance with a municipal by-law;

AND WHEREAS on December 16, 2020, Council passed a by-law permitting E-Scooters on a Highway within the City of Hamilton;

AND WHEREAS the City is currently seeking proposals for a Commercial E-Scooter operator(s) to run an E-Scooter sharing program in the City of Hamilton;

AND WHEREAS other municipalities have experienced problems regarding commercial E-Scooters being “dumped” in a municipality prior to regulations being in place and E-Scooters being left on sidewalks, boulevards, parks and other areas that cause health and safety concerns as well as nuisance issues for residents;

AND WHEREAS the City considers it desirable and necessary to enact a by-law to prohibit the operation of all Commercial E-Scooters in Hamilton until a Commercial E-Scooter operator has been selected by the City’s procurement process and rules have been implemented regarding the provision and use of Commercial E-Scooters;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

DEFINITIONS

“**City**” means the City of Hamilton;

“**Commercial E-Scooter**” means an E-Scooter that is owned by a corporation or individual that allows other individuals or corporations to use the E-Scooter on a temporary membership basis or fee per use basis or any other commercial arrangement, including free trials, between the parties for the use of the E-scooter;

“**Director**” means the Director of Licensing and By-law Services, or his or her designate;

“**E-Scooter**” means a vehicle that has,

- (a) two wheels placed along the same longitudinal axis, one placed at the front of the e-scooter and one at the rear,
- (b) a platform for standing between the two wheels,
- (c) a steering handlebar that acts directly on the steerable wheel, and

- (d) an electric motor not exceeding 500 watts that provides a maximum speed of 24 kilometres per hour.

“**Officer**” means a Police Officer, a Municipal Law Enforcement Officer, or any staff of the City whose duties include those provided for or assigned under this By-law;

“**Highway**” means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8;

“**Person**” includes an individual or corporation;

“**Police Officer**” includes an officer of the Hamilton Police Service;

PROHIBITIONS

1. No Person shall provide or cause to be provided Commercial E-Scooters anywhere in the City, unless specifically authorized by the corporation of the City of Hamilton by way of permit, licence or contract with the corporation of the City of Hamilton.

EXEMPTIONS

2. For greater clarity, this By-law does not apply to personal E-Scooters that are being used by individuals in the City, in accordance with the relevant by-laws and legislation for personal use on a Highway.

ADMINISTRATION AND ENFORCEMENT

3. The Director is responsible for administration and enforcement of this By-law and may appoint delegates or assign duties to City staff under this By-law.
4. City staff who carry out any action under this By-law are deemed to be Officers for the purposes of this By-law, in the absence of evidence to the contrary.
5. Officers may, at any reasonable time, enter and inspect property that is subject to this By-law for the purposes of determining compliance with this By-law.
6. For the purposes of an inspection under section 5, Officers may,
 - a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purposes of making copies or extracts;
 - c) require information from any person concerning a matter related to the inspection; and
 - d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7. Where any Person contravenes any provision of this By-law, an Officer may direct such Person, verbally or in writing, to comply with this By-law. Every Person so directed shall comply with such direction without delay.
8. Any Commercial E-Scooter found in the City, may be removed immediately by an Officer without notice or compensation.
9. Any Officer is authorized to pick up or remove, without notice, any Commercial E-Scooter that is found in the City in contravention of this By-law and the owner shall pay for any associated expenses incurred by the City.
10. Any Commercial E-Scooter removed as provided for in section 9 shall be stored by the City or an independent contractor for a period of not less than 28 days. During this period, the Commercial E-Scooter owner or his/her agent may redeem the Commercial E-Scooter after completing a signed acknowledgment and release on the prescribed form and after making payment satisfactory to the City of the amounts as outlined in the City's User Fee and Charges Bylaw. Such costs or expenses may be recovered in accordance with section 391 of the *Municipal Act*, S.O. 2001, c.25 as may be amended from time to time.
11. The Director is further authorized to charge a fee as outlined in the City's User Fee and Charges Bylaw to reflect the administrative and enforcement costs of the removal, whether or not the Commercial E-Scooter is returned.

OFFENCES AND PENALTIES

12. Every person, other than a corporation, who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence; and not more than \$25,000 for any subsequent conviction.
13. Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for any subsequent conviction.
14. Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a penalty as set out in the *Provincial Offences Act*, R.S.O. 1990, C. P. 33.
15. The court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted and such order shall be in addition to any other penalty imposed on the person convicted.
16. If any person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be

deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

CONFLICT

17. In the event of a conflict between any provision of this By-law and any applicable Act or regulation, the provision that is the most restrictive prevails.

SEVERABILITY

18. Should any section of this By-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

SHORT TITLE

19. This By-law may be referred to as a By-law to Regulate Commercial E-Scooters in Hamilton.

EFFECTIVE DATE

20. The provisions of this By-law shall become effective on the date approved by City Council.

PASSED this 16th day of December, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

Schedule "A"

| Service or Activity Provided | Fee |
|--|------------|
| Administrative and Enforcement cost of the removal of an Unlawful Commercial E-Scooter | \$246.01 |
| Storage Charge of an Unlawful Commercial E-Scooter- per e-scooter/day | \$62.83 |
| <i>*Note: Fees do not include HST which will be added where applicable</i> | |