

REPORT

Engineering Services

To: Mayor Johnstone and Members of Council
Date: November 6, 2023

From: Lisa Leblanc
Director, Engineering Services
File: 05.1035.10
(Doc# 2379257)

Item #: 2023-727

Subject: Report Back on Motion Regarding Speed Limits for Motorized Devices Operating on Sidewalks

RECOMMENDATION

THAT Council receive this report for information.

PURPOSE

To report back on Council's motion regarding speed limits for motorized devices operating on sidewalks.

BACKGROUND

The following motion was passed by Council at the Council Meeting of September 25, 2023:

“**THAT** Council direct staff report back to Council regarding the operational and budget considerations pertaining to the implementation of a by-law that would impose speed limits on our sidewalks to help reduce the risk of pedestrian injuries; and

THAT a public education campaign be undertaken.”

DISCUSSION

Provincial Pilot Program

Electric kick scooters (e-scooters), electric skateboards and similar micromobility devices that operate by electric battery and do not require human-powered propulsion are not allowed on public roads or sidewalks in B.C. However, in 2021 the provincial government adopted B.C. Reg 90/2021 (Regulation) of the *Motor Vehicle Act* (MVA) outlining regulations for an e-scooter pilot project (Electric Kick Scooter Pilot Project Regulation) to test ways to safely introduce e-scooters in the province. The Regulation is in effect until April 5, 2024 when it will be automatically repealed. During this pilot project period, communities that have signed on to participate, currently numbering 12, are permitted through their own municipal bylaw regulations to allow the operation of e-scooters within their municipal boundaries. The Regulation provides for the participating municipality to designate where e-scooters are permitted to operate, which “may include any part of a municipal highway within the pilot community, including a boulevard, lane, sidewalk, walkway and path” (B.C. Reg. 90/2021, Sec. 15(2)).

The pilot project provides an opportunity for participating municipalities to research, test, and evaluate the safety of e-scooters prior to the province amending the MVA and/or creating more permanent regulations. It is currently expected the province will assess the pilot program findings and draft MVA amendments and regulations later in 2024.

The City of New Westminster is not a participant in the pilot project and, given the five-month remaining time period for when the Regulation will be repealed, it is recommended the City await the pilot project learning outcomes, and provincial direction regarding how e-scooters, and potentially other electric-powered micromobility devices, will be regulated in the future.

As part of the report back to Council, City staff attempted to reach provincial staff at the Ministry of Transportation and Infrastructure (MoTI) responsible for overseeing the pilot program to obtain more current information regarding the timing of outcomes. City staff did not receive a response back.

Street and Traffic Bylaw

The Street and Traffic Bylaw (Bylaw No. 7664, 2015) permits persons to ride a Cycle on a sidewalk except on street segments identified in Schedule B of the Bylaw (Fig. 1).

Fig. 1 – Schedule B of Street and Traffic Bylaw

SCHEDULE "B"

SIDEWALKS, FOOTPATHS AND WALKWAYS WHERE CYCLING,
 INLINE ROLLER BLADING, ROLLER SKATING, LONGBOARDING, AND
 SKATEBOARDING IS PROHIBITED

1. Sixth Street from Tenth Avenue to Front Street
2. Seventh Street from Fifth Avenue to Sixth Avenue
3. Twelfth Street from Tenth Avenue to Fifth Avenue
4. Twentieth Street from Dublin Street to Hamilton Street on the west side only.
5. Sixth Avenue from Fifth Street to Eighth Street
6. Belmont Street from Sixth Street to Seventh Street
7. Columbia Street from Tenth Street to Elliott Street
8. Columbia Street East from Brunette Avenue to Braid Street

Cycle is defined in Bylaw No. 7664, 2015 as follows:

“Cycle means a device having any number of wheels that is propelled by human power and on which a person may ride and includes a Motor Assisted Cycle, but does not include any device that is gas powered, a skate board, roller skates or inline roller blades;”

The definition does not include e-scooters, e-skateboards or other electrically-powered micromobility devices given the MVA does not currently permit or regulate them. Given the likelihood the province will be amending the MVA after conclusion of the pilot program, City staff will prepare recommendations at that time to amend the Street and Traffic Bylaw to align with new provincial regulations.

Motor Vehicle Act (MVA) and Municipal Bylaw Regulations

Given local governments are empowered by provincial legislation, they must ensure their actions are authorized by any applicable provincial legislation. Accordingly, they can exercise only those powers which are explicitly conferred upon them by a provincial statute¹.

¹ Harding, R., Cockrill, G., Falzon, N. (2020).”Municipal and Provincial Conflicts: Inconsistency or Concurrent Authority”, Young Anderson.

Further, in the absence of provincial legislation or regulation regarding e-scooters, unless a municipality is taking part in the pilot program, the City will not be able to amend the Street and Traffic Bylaw to address the topic.

Status of E-Mobility Strategy Implementation Strategy Objective 1.2

The City's E-Mobility Strategy Objective 1.2 states: Develop an education campaign for safe use and benefits of eMicromobility, led by the Climate Action, Planning & Development Department, which has been identified for implementation as "short-term".

The Climate Action Team (CAT), formed in early 2020, has been focused on developing the climate action strategies and implementation actions required to meet the City's climate action targets. Current work plan tasks related to the E-Mobility Strategy are targeted on the four strategies related to electric vehicles (EV) including improving access to charging in public spaces, at home and at work, which were identified for short-term implementation. Given the current non-legal status of electric micromobility devices in the province, objectives related to e-micromobility have been scheduled for implementation beyond 2026. In addition, current CAT resourcing does not enable the delivery of education and awareness programs at this time and, as such, education programs would likely require outside resourcing to complete. It should be further noted that, given the early stages of e-scooter adoption and use in B.C., guidance and experience with educating the public on use, as well as resources available to educate, are limited.

Master Transportation Plan (MTP)

The Master Transportation Plan (MTP) was amended in 2022 to address New Mobility, including micromobility. The amendments included the following policy actions:

- 9A.2: Through regional partnerships, encourage the Provincial Government to regulate and provide guidance on all micromobility devices under the Motor Vehicle Act.
- 9A.4: Adopt a permitting framework, inclusive of operational parameters, service requirements, data sharing, and pricing controls for future shared e-scooter programs, pending regulation from the Provincial Government.

These actions are identified for medium-term implementation, within 3-5 years of the 2022 amendments, depending on the timing of provincial changes to the MVA.

NEXT STEPS

City staff will continue to stay apprised of potential changes to the MVA as well as the pilot program. Once the requisite changes regarding e-scooters and other currently

unregulated micromobility devices have been made by the province, City staff can commence with proposed changes to the Street and Traffic Bylaw for Council’s consideration. Further, it is recommended that at that time, City Staff also commence with implementing E-Mobility Strategy Objective 1.2: Develop an education campaign for safe use and benefits of e-micromobility.

SUSTAINABILITY IMPLICATIONS

Pending the province’s direction on micromobility, these devices have the ability to support the City’s transportation and sustainability goals, as outlined in the Master Transportation Plan and the Seven Bold Steps toward Climate Action.

FINANCIAL IMPLICATIONS

There are no immediate financial implications to the City associated with this report.

INTERDEPARTMENTAL LIAISON

This report has been prepared in collaboration with the Climate Action group.

OPTIONS

The following options are presented for Council’s consideration:

- 1. THAT Council receive this report for information;
- 2. THAT Council provides alternative direction to Staff.

Staff recommend Option 1.

CONCLUSION

The province is completing a Pilot Program that terminates April 2024, to research, test, and evaluate the safety of e-scooters prior to amending the MVA and/or creating more permanent regulations. The Street and Traffic Bylaw (Bylaw No. 7664, 2015) does not recognize e-scooters, e-skateboards or other electrically-powered micromobility devices given the MVA does not permit or regulate them at this time. City staff will continue to stay apprised of potential changes to the MVA and the pilot program.

APPROVALS

This report was prepared by:

Erica Tiffany, Senior Transportation Planner

This report was reviewed by:

Leya Behra, Manager, Climate Action

Mike Anderson, Manager, Transportation

This report was approved by:

Lisa Leblanc, Director, Engineering Services

Lisa Spitale, Chief Administrative Officer