

# **The Corporation of the City of Guelph**

## **By-law Number (2023) - 20819**

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

**WHEREAS** Ontario Regulation 389/19 made under the Highway Traffic Act provides that no person shall operate an electric kick-scooter on a highway, sidewalk, trail, path or walkway or in a public park or exhibition ground under the jurisdiction of a municipality unless such operation is permitted by and in accordance with a municipal by-law;

**AND WHEREAS** it is the desire of The Corporation of the City of Guelph to permit persons to operate electric kick-scooters on certain portions of the highways and multi-use pathways that are under the jurisdiction of the City on the terms and conditions as set out in this By-law;

**The Council of The Corporation of the City of Guelph hereby enacts as follows:**

### **1. Short Title**

1.1 This By-law may be cited as the "E-scooter By-law".

### **2. Definitions**

In this By-law:

- 2.1 "authorized sign" means any sign placed upon a highway or on municipal property under the authority of this By-law;
- 2.2 "Bicycle" includes without limitation:
  - (i) an electric bicycle (e-bike) or power assisted bicycle;
  - (ii) a unicycle or tricycle that has any wheel greater than 0.6 meters in diameter;
- 2.3 "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;
- 2.4 "Chief of Police" means the Chief of Police of the Guelph Police Services or an authorized representative;
- 2.5 "City" means the municipal corporation of The Corporation of the City of Guelph or the geographic area as the context requires;
- 2.6 "curb" means the lateral boundary of the roadway, whether such lateral boundary is physically marked or not;
- 2.7 "designated bicycle lane" means that portion of a highway that is set apart by the Traffic Control Device for the use of Bicycles;
- 2.8 "Deputy CAO" means the Deputy CAO of Public Services or the Deputy CAO of Infrastructure, Development and Enterprises or their designate;
- 2.9 "electric kick-scooter" means a vehicle that has,
  - (i) two wheels placed along the same longitudinal axis, one placed at the front of the kick-scooter and one at the rear,
  - (ii) a platform for standing between the two wheels,

- (iii) a steering handlebar that acts directly on the steerable wheel,
  - (iv) an electric motor not exceeding 500 watts that provides a maximum speed of 24 kilometres per hour, and
  - (v) a maximum weight of 45 kilograms (kg) and wheels with a diameter of not more than 430 millimetres;
- 2.10 "electric kick-scooter parking facilities" include ring and post racks, ring racks, charging stations, corrals that support electric kick-scooters in an upright position or enable the frame to be secured, or an area designated by pavement marking or official or authorized sign for parking of electric kick-scooters, and which facilities are predominantly located within the City right-of-way or within a municipal parking lot and may be located in select designated and delineated on-street parking spaces or sidewalks, but do not include light standards, utility poles, sign posts, fences, street furniture, or similar infrastructure within the City right-of-way;
- 2.11 "Furniture zone" means the portion of a sidewalk that buffers pedestrians from the adjacent highway or roadway and where elements such as trees, streetlights, hydrants, parking meters, or street furniture are typically located;
- 2.12 "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for, or used by, the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- 2.13 "Highway Traffic Act" means the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended or replaced;
- 2.14 "multi-use pathway" means an in-boulevard path physically separated from motor vehicle traffic for use by cyclists, pedestrians and other non-motorized users as more particularly set out in Schedule "A" of this By-law;
- 2.15 "Municipal Act" means the Municipal Act, S.O. 2001, c. 25, as amended or replaced;
- 2.16 "Ontario Regulation 389/19" means the Ontario Regulation 389/19: Pilot Project – Electric Kick-Scooters under the Highway Traffic Act, as amended or replaced;
- 2.17 "official sign" means a sign on the highway approved by the Ministry of Transportation of Ontario;
- 2.18 "pedestrian" includes a person on foot and a person in a wheelchair, carriage, stroller or the like;
- 2.19 "Police Services Act" means the Police Services Act, R.S.O. 1990, c. P. 15, as amended or replaced;
- 2.20 "Private Property Parking By-Law" means the City's Private Parking By-Law Number (1997) - 15402, as amended or replaced;
- 2.21 "Provincial Offences Act" means the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended or replaced;
- 2.22 "Repair and Storage Liens Act" means the Repair and Storage Liens Act, R.S.O. 1990, c. R. 25, as amended or replaced;
- 2.23 "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;

- 2.24 "Commercial Electric Kick-Scooter" means an electric kick-scooter that is owned by a corporation or individual that allows other individuals or corporations to use the electric kick-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 electric kick-scooter;
- 2.25 "shoulder" means that portion of the highway that is paved or has a gravel surface, which is immediately adjacent to the curb;
- 2.26 "sidewalk" means the finished portion of a highway that is situated,
- (i) between the shoulder of the roadway and the lateral property line of the highway; and
  - (ii) where there is no shoulder, between the curb and the lateral property line of the highway
- and is designated for the use of pedestrians;
- 2.27 "Traffic" includes a pedestrian, ridden or herded animal, vehicle, or other conveyance either singularly or together, while using any highway for the purpose of travel;
- 2.28 "Traffic By-Law" means the City's Traffic By-Law Number (2002) - 17017 as amended or replaced;
- 2.29 "Traffic Control Device" means any sign, traffic control signal, roadway, curb or sidewalk marking, or other device erected or placed under the authority of the Traffic By-Law or of the City for the purposes of guiding, directing, or regulating Traffic;
- 2.30 "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, roadbuilding machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle.

### **3. Application and Interpretation**

- 3.1 This By-law applies to all highways, sidewalks, trails, paths, walkways, parks, multi-use pathways or any other property under the jurisdiction of the City.
- 3.2 This By-law is subject to the provisions of the Highway Traffic Act.

### **4. Prohibition**

- 4.1 No person shall operate, or cause to be operated, or use an electric kick-scooter on a highway, sidewalk, trail, path, walkway, park, multi-use pathway or any other property under the jurisdiction of the City unless:
- (i) permitted by and in accordance with the provisions of the Highway Traffic Act and Ontario Regulation 389/19;
  - (ii) operated in accordance with the applicable provisions of the Traffic By-law and the Private Parking By-law pertaining to vehicles; and
  - (iii) permitted by and in accordance with the provisions of this By-law.
- 4.2 Subject to subsection 4.3 no person shall operate, or cause to be operated, or use an electric kick-scooter anywhere but on:
- (i) A multi-use pathway;
  - (ii) A designated bicycle lane;

- (iii) The shoulder of a highway with a posted rate of speed of 50 kilometer per hour or less if the highway has no designated bicycle lane;
  - (iv) The roadway of a highway with a posted rate of speed of 50 kilometers per hour or less if the highway has no designated bicycle lane.
- 4.3 Section 4.2 shall not apply if an authorized sign is posted on a multi-use pathway, designated bicycle lane, highway, roadway, or shoulder that electric kick-scooters are not permitted.
- 4.4 Where designated bicycle lanes are not provided on a highway with a posted rate of speed of 50 kilometers per hour or less, the operator of an electric kick-scooter shall:
  - (i) If there is a shoulder on the highway, stay on the shoulder as close as practical to the right-hand curb or edge of the roadway or on the paved shoulder, except while overtaking or passing another vehicle, or while preparing for a left turn at an intersection or into a private road or driveway;
  - (ii) If there is no shoulder on the highway, stay on the right side of the roadway as close practical to the edge of the roadway, except while overtaking or passing another vehicle, or while preparing for a left turn at an intersection or into a private road or driveway.
- 4.5 No person shall operate an electric kick-scooter on any section of a multi-use pathway, designated bicycle lane, roadway or shoulder that is closed for maintenance, construction, or emergency reasons.
- 4.6 No person shall operate, or cause to be operated, or use an electric kick-scooter while under the influence of drugs or alcohol.
- 4.7 No person shall operate, or cause to be operated, or use an electric kick-scooter on a sidewalk, unless permitted by an official or authorized sign.
- 4.8 No person shall operate, or cause to be operated, or use an electric kick-scooter where cycling, skateboarding or rollerblading is prohibited.
- 4.9 No person shall operate or cause to be operated, leave, or park an electric kick-scooter on private property without the consent of the owner or of the occupant of such property.

## **5. General Regulations**

- 5.1 No person under the age of 16 years shall operate an electric kick-scooter.
- 5.2 No person under the age of 18 years old shall fail to wear a helmet that complies with the Highway Traffic Act when operating an electric kick-scooter.
- 5.3 No person operating an electric kick-scooter shall carry any other person thereon.
- 5.4 No person operating an electric kick-scooter shall tow another person, vehicle or device.
- 5.5 No person operating an electric kick-scooter shall attach themselves to another electric kick-scooter, vehicle or device for the purpose of being drawn or towed.
- 5.6 No person operating an electric kick-scooter shall operate it in any position other than standing at all times.

- 5.7 No person operating an electric kick-scooter shall carry cargo on an electric kick-scooter.
- 5.8 No person shall park, stop, or leave an electric kick-scooter or permit an electric kick-scooter to remain parked or stopped on a highway, roadway, sidewalk or trail, path, walkway, park, or multi-use pathway, except where electric kick-scooter parking facilities are provided.
- 5.9 No person shall park or stop an electric kick-scooter or permit an electric kick-scooter to remain parked or stopped within a furniture zone, unless authorized by the City.
- 5.10 No person shall park or stop an electric kick-scooter or permit an electric kick-scooter to remain parked or stopped on a highway, roadway, sidewalk or trail, path, walkway, park, exhibition ground or multi-use pathway in such a manner that obstructs the flow of pedestrian, vehicular or cyclist traffic.

## **6. Safe Operation**

- 6.1 The operator of an electric kick-scooter shall keep a safe distance of at least one metre from pedestrians and other users of the roadway, shoulder, sidewalk, trail, path, walkway, park, or multi-use pathway 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 electric kick-scooter to pass.
- 6.2 No person shall operate an electric kick-scooter on a multi-use pathway at a speed that is markedly greater than the speed of pedestrians who are proximate to the electric kick-scooter.
- 6.3 No person shall operate an electric kick-scooter within a crosswalk or pedestrian crossover, as those terms are defined in the Highway Traffic Act.
- 6.4 Every electric kick-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.
- 6.5 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 unfavourable atmospheric conditions, persons and vehicles are not clearly discernible at a distance of 150 metres or less, every electric kick-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 electric kick-scooter or may be carried or worn by the operator on such operator's person.
- 6.6 No person shall operate or use an electric kick-scooter in such a manner that it may harm, injure or damage, either directly or indirectly, any person or property.
- 6.7 No person shall operate or push an electric kick-scooter along a designated bicycle lane, roadway or shoulder abreast of another electric kick-scooter or bicycle.
- 6.8 No person shall operate or use an electric kick-scooter on a multi-use pathway, designated bicycle lane, roadway or shoulder in such a way as to prevent that person from maintaining one hand on the handlebars at all times, including while signaling for a turn or stop and, in any case, no person shall fail to maintain control of the an electric kick-scooter.

## **7. Electric Kick-Scooter Seizures**

- 7.1 Enforcement of this By-law may result in charges to the owner and/or operator of an electric kick-scooter in contravention of this By-law and may result in the removal and storage of the electric kick-scooter.
- 7.2 The City may remove or cause to be removed any electric kick-scooter placed, left, disposed or stopped on City property in contravention of the provisions of this By-Law and may impound or cause to be impounded such electric kick-scooter in a facility.
- 7.3 Upon the impoundment of any electric kick-scooter, pursuant to subsection 7.2, the City shall provide written notice to the owner, if identified, by means of electronic transmission, regular mail or notice delivered to the owners to indicate that the owner's electric kick-scooter has been impounded and setting out a reasonable period of time for the owner to retrieve the electric kick-scooter at the storage facility.
- 7.4 All costs associated with the removal and the storage shall apply to every electronic kick-scooter impounded and stored pursuant to this By-law, and such fee shall be at the expense of and become due and payable by the owner on the date the electric kick-scooter is impounded.
- 7.5 The City shall release or cause to be released an electric kick-scooter to its owners or the owner's agent upon presentation by the owner or the owner's agent of satisfactory identification and full payment of all costs associated with the removal of and storage fees of the electric kick-scooter.
- 7.6 If an electric kick-scooter has been impounded for at least 60 days and its owner cannot be identified by the City, the City may dispose of the electric kick-scooter.
- 7.7 If notice has been provided to an owner under subsection 7.3 and the electric kick-scooter remains unclaimed by the owner for at least 60 days, the City may dispose of the electric kick-scooter pursuant to the Repair and Storage Liens Act.
- 7.8 For the purposes of this section 7, the term "electric kick-scooter" includes a Commercial Electric Kick-Scooter.

## **8. Prohibition of Commercial Electric Kick-Scooters**

- 8.1 No person shall provide or cause to be provided Commercial Electric Kick-Scooters anywhere in the City.
- 8.2 For greater clarity, section 8.1 does not apply to personal electric kick-scooters that are being used by individuals in the City, in accordance with this By-law.

## **9. Enforcement**

- 9.1 The provisions of this By-law may be enforced by:
  - (i) a police officer pursuant to subsection 42(1)(h) of the Police Services Act;
  - (ii) any person appointed for this purpose by a By-law of the City; and/or
  - (iii) all employees of the City whose duties include the enforcement of this By-law.

## **10. Signs by Chief of Police**

- 10.1 The Chief of Police and/or the Deputy CAO are authorized to erect, place and maintain such official and authorized signs as are required to give effect to the provisions of this By-law.

## **11. Offences and Fines**

- 11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person authorized to exercise a power or performing a duty under this By-Law ("Officer").
- 11.2 Every person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of such Officer's duties.
- 11.3 Every person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act.
- 11.4 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act.
- 11.5 Any person who is charged with an offence under this By-law or an order issued pursuant to this By-law or every director or officer of a corporation who knowingly concurs in the contravention by the laying of an information under Part III of the Provincial Offences Act and is found guilty of the offence is liable, pursuant to the Municipal Act, to the following fines:
  - (i) on the first offence, to a fine not more than \$50,000.00; and
  - (ii) on a second offence and each subsequent offence, to a fine of not more than \$100,000.00.
- 11.6 Every person who is issued a Part 1 offence notice or summons upon conviction is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the Provincial Offences Act.
- 11.7 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act.
- 11.8 If a person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## **12. Severability**

- 12.2 If any provision or part of a provision of this By-law is declared by any court or tribunal or any provincial or federal legislation or regulation to be illegal or inoperative, in whole or in part, or inoperative circumstances, the balance of this By-law or its application in any other circumstance shall not be affected and shall continue to be in full force and effect.

## **13. Conflict**

- 13.1 In the event of a conflict between any provision of this By-law and any

applicable Act or regulation, the provision that is most restrictive shall prevail.

#### **14. Effective Date**

14.1 This By-law shall come into force on July 25<sup>th</sup>, 2023, and shall be repealed on the revocation of Ontario Regulation 389/19.

This By-law read and passed on the 25<sup>th</sup> day of July 2023.

#### **Schedule:**

Schedule A: List of multi-use pathways in Guelph where an operator is permitted to operate an electric kick-scooter

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**Cam Guthrie, Mayor**

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**Stephen O'Brien, City Clerk**