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Information Item No. 2
Transportation Standing Committee
Special Meeting
January 21, 2021

TO: Chair and Members of Transportation Standing Committee

SUBMITTED BY: *-Original Signed-*

Brad Anguish, P.Eng., Executive Director, Transportation & Public Works
-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: November 26, 2020

SUBJECT: Third Party Docked and Dockless Bike and Scooter Share

INFORMATION REPORT

ORIGIN

- May 23, 2019, motion of the Transportation Standing Committee:

MOVED by Councillor Cleary, seconded by Councillor Mason

THAT the Transportation Standing Committee request a staff report on third party docked and dockless bike and scooter share. The report should indicate what by-law changes might be required, and identify any issues surrounding encroachments, etc. MOITON PUT AND PASSED.
- Action #88 of Halifax's Integrated Mobility Plan (IMP): Complete a bicycle share feasibility study by 2019.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter

S. 188(1) The Council may make by-laws, for municipal purposes respecting ...

- (c) persons, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances ...

(e) transport and transport systems;

(f) businesses, business activities and persons engaged in business;

s. 191 Without limiting the generality of Section 188 but notwithstanding the Motor Vehicle Act, the Council may, by by-law, regulate vending, any class of vending, mobile vendors and the placement of vending machines on the streets of the Municipality

s. 319(4) The Council may, by by-law, ... (b) prohibit any person from using any vehicle or apparatus on a sidewalk in the Municipality;

s. 324(2) The Council may, by by-law, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments.

s. 327(2) The Council may, by policy, prescribe the terms upon which a permit to break the surface of a street may be granted, including setting a fee for the permit and requiring security to be posted to ensure that the street is restored.

BACKGROUND

“Shared micromobility” is an umbrella term for services that provide shared public access to personal devices for transportation purposes. Bike share systems are the most common service, but many cities are also permitting or procuring e-scooter shared services.

In 2019, HRM staff hired a consultant, Alta Planning + Design, to study the options for shared micromobility within HRM. The first phase of the consultant’s study was delivered to HRM in March 2020 and informs the content of this report and identifies the existing Provincial, Municipal and other policies and legislation which could affect the implementation of a shared micromobility plan in HRM.

The second phase of the consultant’s report will focus on determining the readiness of implementing a shared micromobility system in the municipality. Further information about any required by-law amendments and other policy amendments will be considered after the completion of the readiness study. The “HRM Shared Micromobility Readiness Study” will address lessons learned from other jurisdictions, outline emerging best practices and outline a proposed implementation plan. That report is expected to arrive at the Transportation Standing Committee in 2021.

DISCUSSION

The *Nova Scotia Motor Vehicle Act* and several Municipal By-Laws would need to be considered for the potential implementation of any shared micromobility system in the municipality as the current regulatory framework poses a few challenges.

Nova Scotia Motor Vehicle Act

The *Nova Scotia Motor Vehicle Act* (MVA) defines the types of vehicles and devices that can be used on public streets and sidewalks and sets out conditions on how they may be used. This includes bicycles, power-assisted bicycles and personal transporters (such as Segways). The MVA does not specifically contemplate how e-scooters are to be regulated.

The current definition for a “personal transporter” is narrow in the MVA and would not include electric assisted scooters (e-scooters):

“Personal transporter” means a self-balancing electric vehicle with two side-by-side wheels and designed for the personal transportation of a single person and, for greater certainty, includes a Segway;

The regulatory framework as it relates to e-scooters is therefore unclear. Arguably under the present legislation, e-scooters are not permitted to operate on public streets or sidewalks. Despite this, one local e-scooter share company has been operating in the urban core, citing the “grey area” of legislation¹. Meanwhile, three other scooter share companies have expressed varying levels of interest, but so far are waiting for greater certainty regarding the regulatory framework for scooter share systems. Before establishing any regulatory framework for scooters, we must be confident that these devices can legally be operated on public roads or sidewalks.

In June 2020, HRM’s Chief Administrative Officer wrote to the Deputy Minister of Transportation and Infrastructure Renewal (TIR), seeking clarification about the regulatory framework for e-scooter operation on public highways. In their response, TIR staff indicated that *“the MVA does not provide for the use or regulation of e-scooters and a strict reading of the MVA would mean that e-scooters are not authorized to use public roads”*.

There is general agreement that the current MVA is outdated and ill-equipped to regulate e-scooters and other future emerging devices. The *Traffic Safety Act (TSA)* was passed by the Province in 2018 but it has not yet been proclaimed into force. The TSA will replace the MVA, but it is currently pending the development of related regulations and proclamation. The TSA will allow municipalities to regulate the use of certain kinds of devices/vehicle in bike lanes, sidewalks, trails and municipal highways through by-laws. However, currently it is unknown whether e-scooters will be included in the TSA regulations as a personal transporter, recreational apparatus or otherwise. The Province has indicated that it intends to address e-scooters in the TSA regulations, but it is unclear what the rules will be or when they will be in place. In September 2020, the Province started to release the draft TSA regulations in sections for public feedback. Staff is actively engaged in the process, including having several meetings with Provincial staff. With respect to e-scooter TSA regulations, the Province is committed to a collaborative effort to achieve the desired results.

It should be noted that the MVA requires helmets to be worn by anyone operating, or who is a passenger of, a bicycle, personal transporter, scooter, skateboard, in-line skates or roller-skates, wherever operated. The consultant’s report provided to HRM staff suggests that mandatory helmet laws present a challenge when implementing shared micromobility systems, but some jurisdictions, such as Vancouver, BC, are operating systems with a helmet law in place. It would therefore be prudent for any potential vendor wishing to setup a micromobility system in HRM to discuss this law with the Province.

Municipal By-laws

The Municipality is empowered with a variety of tools under the *Halifax Regional Municipality Charter* to potentially regulate shared micromobility systems. For instance, HRM has existing by-laws to regulate streets (S-300), encroachments (E-200), parks (P-600), nuisances (N-300), and vending on municipal lands (C-501). Some aspects of these by-laws would already be applicable to service providers interested in operating a shared micromobility system in the Municipality. In order to address issues specific to shared micromobility systems, it may be necessary to amend some of these by-laws or to draft new ones. This will be examined by HRM’s consultant and staff will return to the Transportation Standing Committee with a recommended approach in 2021.

By-law E-200 – Respecting Encroachments

The existing Encroachment By-law (E-200) would allow docking stations to be installed within the HRM street right of way, if authorized by Council through a permanent encroachment licence agreement. An

¹ <https://www.cbc.ca/news/canada/nova-scotia/e-scooters-live-in-an-unregulated-grey-zone-in-halifax-1.5260343>

encroachment agreement would be drafted in order to set out items including (but not limited to) maintenance responsibilities, insurance requirements, as well as relocation, removal and termination clauses. This agreement would be presented to Council for approval. The encroachment agreement would allow a structure such as a docking station to be located within the street right of way. The encroachment agreement would include an application fee and an annual fee. Permanent encroachments are subject to a yearly encroachment fee, based on the area of the encroachment.

By-Law P-600 – Respecting Municipal Parks

Under the existing Parks By-law (P-600) only bicycles meeting the definition of “Bicycle” from the MVA are permitted in Parks; so, e-scooters would currently be prohibited. Docking stations (for bike share) could be installed within HRM parks if authorized by Council. No person shall be in a park at any time between 10 PM and 5 AM; therefore, any docking stations in Parks could not be accessed during those hours.

By-Law N-300 – Respecting Nuisances and Smoking

This by-law currently prohibits people from causing nuisances on or near a street and sets out requirements for shopping carts and the removal or abandonment of shopping carts. The by-law could be amended to address abandoned shared micromobility devices; however, the effort to pursue non-compliant users who abandon their micromobility device improperly could be significant. Any amendment should consider penalties for abandonment be charged to the device owner / share program operator, not the last individual to use the device.

By-Law S-300 – Respecting Streets

Unless authorized pursuant to another by-law, a Streets and Services Permit would be required for the installation of a docking system within the street right of way. Staff would review the proposed locations of each individual docking station and approve through issuance of a permit. An annual permit could be considered to cover any routine maintenance activities or repairs to existing docking stations.

By-Law C-501 – Respecting Vending on Municipal Lands

This by-law was developed with a focus on regulating newspaper boxes, bicycle wagons and food carts and trucks. Although there are some similarities between these vending activities and a micromobility sharing system, the potential complexities of this type of licencing micromobility is beyond the scope of the current by-law. Significant amendments would be required to comprehensively address micromobility sharing through this existing by-law.

Potential New Standalone By-Law

Given the various issues involved, it may make more sense to draft a standalone by-law to address micromobility sharing systems, as was done for sidewalk cafes. Docking stations located on private property could not be regulated, for instance, through the Encroachment By-law or the Vending By-Law. Drafting a new by-law dedicated to micromobility share would enable system-wide rules more effectively than simultaneously amending multiple other by-laws. This would also consolidate all the regulations pertaining to these devices in one place.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this information report.

COMMUNITY ENGAGEMENT

No engagement was required to address the content of this report. Engagement did take place through the form of an online survey to help inform the feasibility study phase of the work and the results will be presented in the forthcoming recommendation report.

ATTACHMENTS

None.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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