

Staff Report to Council

Title: Bike Lane Use by Mobility Scooters

Report Number: Operations-2024-07

Director: Infrastructure & Development

Manager: Operations

Meeting Date:
Wednesday, April 10, 2024

Date to be considered by Council:
Wednesday, April 10, 2024

Recommendation:

That Council approve the uses within Municipal Road allowances for the purpose of bike lanes per Report Operations 2024-07; and further

That mobility scooters are not permitted on the road within the bike lanes and shall continue to use sidewalks where available per the Highway Traffic Act.

Executive Summary:

The Municipal Accessibility Advisory Committee (AAC) requested consideration for usage of designated bike lanes for mobility scooters. Staff consulted with others and through legal advice are suggesting that Council not permit the use of mobility scooters within Municipal bike lanes.

Strategic Priorities:

C.12-Support community wellness in the Municipality of Kincardine

Financial Considerations:

No impact if not permitting mobility scooters within the bike lanes. If they are permitted there will be a cost to purchase signage and to complete communications. Nothing has been allocated within the operating budget to complete this consideration.

Policy:

N/A

Context and Background Information:

The AAC requested consideration for usage of designated bike lanes for mobility scooters. Staff conducted a review of best practices, along with obtaining legal advice on the considered use.

A person using a motorized scooter is classified as a pedestrian and must follow the rules for pedestrians under the Highway Traffic Act. The implication of the section below is that pedestrians shall use sidewalks when provided. If not provided, they can travel on the roadway and when on the roadway they need to face oncoming traffic.

HTA PROVISIONS

Regulating or prohibiting use of highway by pedestrians, etc.

185 (1) The Minister may make regulations prohibiting or regulating the use of any highway or part thereof by pedestrians or animals or any class or classes of vehicles. R.S.O. 1990, c. H.8, s. 185 (1).

Prohibiting motor assisted bicycles, etc., on municipal highways

(2) The council of a municipality may by by-law prohibit pedestrians or the use of motor assisted bicycles, bicycles, wheelchairs or animals on any highway or portion of a highway under its jurisdiction. R.S.O. 1990, c. H.8, s. 185 (2).

Removing pedestrians

(3) Where a pedestrian is on a highway in contravention of a regulation made or by-law passed under this section, a police officer may require the pedestrian to accompany him or her to the nearest intersecting highway on which pedestrians are not prohibited and the pedestrian shall comply with the request.

“wheelchair” means a chair mounted on wheels driven by muscular or any other kind of power that is designed for and used by a person whose mobility is limited by one or more conditions or functional impairments.

The AAC has expressed challenges with meeting pedestrians on sidewalks and further that the use of bike lanes is a smoother ride for scooter users. Staff have concerns that many of our road widths do not offer a wide platform to accommodate the safe usage by scooter users. While completing the master cycling plan the stakeholder group did not see a fit for this type of use within the proposed bike lanes.

Consultation Overview:

Staff consulted amongst staff, OPP, reviewed other best practices, and consulted with municipal legal Counsel.

Legal Counsel shared that Section 185 of the Highway Traffic Act allows municipalities to prohibit scooters. The right to prohibit wheelchairs is set out in Section 185(2) of the HTA. While Section 185 of the HTA provides municipalities with the right to prohibit scooters/wheelchairs, they do not think it follows that Ontario municipalities have the right by By-law to permit scooters/wheelchairs on highways.

Section 195 confirms that municipal By-laws that are not consistent with the HTA and (i) regulate traffic on highways or (ii) prohibit or regulate the operation of motor vehicles or any class of motor vehicles on highways is deemed to be repealed. Section 195 of the HTA is not on point because wheelchairs/scooters are not motor vehicles. However, since municipal By-laws are deemed repealed in the above circumstances and there is nothing in the HTA that expressly permits an Ontario municipality to permit scooters/wheelchairs, the right of Ontario municipalities to pass a By-law that permits the scooters/wheelchairs is not expressly authorized in the HTA.

The Regulations under the HTA did not provide any express authorization for Ontario municipalities to pass a By-law that permits scooters/wheelchairs on highways. Therefore, the legal Counsel advised that Kincardine should not pass a By-law authorizing scooters/wheelchairs in bike lanes/highways.

Origin:

AAC requested consideration.

Implementation Considerations:

There is no impact by not permitting mobility scooters within the bike lanes as they currently do not use them. However, should they be entertained communications and signage would need to be considered.

Risk Analysis:

Placing mobility scooters within the travelled portion of the roadway imposes risks to the users of the road. Staff's opinion is that having these scooters travel on the sidewalk as intended for pedestrians under the Highway Traffic Act is the safest location for all users.

Attachments: N/A

Prepared by: Adam Weishar, Director of Infrastructure & Development

Submitted by: Adam Weishar, Director of Infrastructure & Development