



AMHERST POLICE DEPARTMENT

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MEMORANDUM

DATE: 18-01-11

TO: Mayor and Council

FROM: Chief Ian Naylor

RE: Motorized Wheel Chairs - Scooters

The use of motorized wheelchairs on streets is covered under the Motor Vehicle Act. Under the Act persons in wheel chairs are considered pedestrians.

***“Pedestrian”** means a person afoot and **includes a person in a wheelchair** and a person riding on a motorized cart designed for and being used to transport golfers and equipment over a golf course while travelling from one part of it to another in a crosswalk marked for the purpose on the roadway and approved by a traffic authority appointed pursuant to this Act.”* (Emphasis added)

The definition does not specify types of wheelchairs therefore all wheelchairs are included. For the purposes of the Motor Vehicle Act mobility scooters, commonly referred to as “rascal scooters”, are considered wheelchairs.

In an August 2017 news article on a serious accident between a mobility scooter and a vehicle on Highway 1 near Middleton NS, Brian Taylor, media relations for the Department of Transportation and Infrastructure renewal states:

“When it comes to the rules of the road, mobility scooters and wheelchair users are considered pedestrians under the motor vehicle act. In the legislation, the definition of a pedestrian includes a person in a wheelchair. It does not specify if the wheelchair is manually operated or motorized. Therefore, electric wheelchairs and rascal style scooters for those mobility issues would be considered pedestrians and must follow the rules of the road applicable to a pedestrian”.

FAQ

Can they be operated on a sidewalk?

Yes. In fact, they are required to operate on a sidewalk when one is “provided”. Section 127 (2) states: “*Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent highway.*” (Emphasis added)

What if the sidewalk is not suitable for a wheelchair/scooter?

The Act is silent on this issue. Officers are required to assess each case based on its unique circumstances. The term “provided” is subject to interpretation and could be interpreted to mean the sidewalk must be in a condition required for the wheelchair to operate relatively easily and safely. Sidewalks in a condition which does not provide a practical and safe operation of a wheelchair/scooter require officers to use discretion when assessing whether operating on the street is a violation of the Act.

Can they be operated on a street?

Yes, but only when no sidewalk is “provided”.

When legally able to travel on a street are they to travel on the right hand side of the street with the flow of traffic, or travel on the left hand side of the street facing traffic?

This is open to interpretation and discretion. The Act says on the left hand side facing traffic. They are considered pedestrians and Section 127 (3) states “*Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.*” The meaning of “when practicable” can be interpreted to include “*when safe to do so.*” I have spoken with other police officers and TIR staff and all agree it is too dangerous for wheelchairs and mobility scooters to travel facing traffic. The dangers of travelling facing traffic, makes it impracticable to travel in the direction facing oncoming traffic. Officer discretion can be applied when compliance with a law would place an individual in a position of significant risk of injury or death. The consensus of police officers I have spoken to is it is too dangerous to travel facing traffic and tickets are not issued for travelling with the flow of traffic.

Is there a requirement to have lights, or reflective signage?

There are no requirements.

Is the Province going to amend the Motor Vehicle Act to address and clarify issues around the electric wheelchairs and mobility scooters?

There is a provincial committee which is reviewing the current Act and making some changes. I have made inquiries and the initial indications are the issue of wheelchairs and mobility scooters is not being reviewed. TIR is following up on this specific question for me. As of the date of

submitting this report I have not heard back. Should I receive additional information prior to the January 15th COW I will provide a verbal update.

STRATEGY GOING FORWARD

Until the legislation is amended police will continue to rely on discretion and common sense. In addition we feel a strategy which includes public education and measured enforcement is the most effective method of improving safety.

Cst. Tom Wood will be tasked to develop and implement the education strategy. S/Sgt White will develop and oversee the enforcement strategy. Any enforcement initiative will have a measured approach. The overall emphasis will be on education. The education strategy would include meeting with operators of the wheelchairs/mobility scooters to seek their input, and partnerships with local agencies and stakeholders such as the Department of Health, nursing homes, retailers of the wheelchairs/mobility scooters, Cumberland Seniors Safety Coordinator and the Town of Amherst.

K. Ian Naylor
Chief of Police