

# DRAFT

## CITY OF WHITEHORSE

### BYLAW 2021-??

A bylaw to regulate the control, use and operation of electric bicycles, adaptive mountain bikes, electronic mobility devices and e-scooters in the City of Whitehorse

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WHEREAS section 265(a) of the *Municipal Act* (R.S.Y. 2002) provides that council may pass bylaws for the safety, health, and welfare of people and the protection of persons and property; and

WHEREAS section 265(i) of the *Municipal Act* provides that council may, subject to the *Motor Vehicles Act*, pass bylaws for the use of Motor vehicles or other vehicles, on or off highways, and the regulation of traffic; and

WHEREAS section 266(a) of the *Municipal Act* provides that, without restricting section 265, a council may in a bylaw passed under this division regulate, control, or prohibit; and

WHEREAS section 126(1) of the *Motor Vehicles Act* provides that a municipality may, with respect to highways under its direction, control and management, make bylaws controlling and regulating the use of all highways, sidewalks, and other public places and delegating to the chief constable or municipal manager any powers in connection therewith including delegating to the municipal manager the power to prescribe where traffic control devices are to be located, which shall be deemed to be made by bylaw of the municipality, and that records of all such locations shall be kept and be open to public inspection during normal business hours; and

WHEREAS section 126(2) of the *Motor Vehicles Act* provides that a municipality may make bylaws for the purposes of controlling or preventing the riding of bicycles on any sidewalk, controlling and regulating the operating of bicycles on highways and other public places, and providing for the seizure or impounding for a period not exceeding 60 days of any bicycle used or operated in contravention of any bylaw; and

WHEREAS section 126(4) of the *Motor Vehicles Act* provides that a municipality may make bylaws prohibiting, controlling and regulating the use of vehicles, including vehicles operated exclusively off-highway, on land that is not a highway; and

WHEREAS section 249(2) of the *Motor Vehicles Act* provides that a municipality may by bylaw confer on an officer or employee of the municipality the powers of a peace officer under any of sections 36, 50, 86, 106, 114, 130, 133-136, 181, 203, 217, 230, and 232 of the *Motor Vehicles Act*, and

# E-Bike Bylaw 2021-

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WHEREAS more people are using electric bicycles as a means of transportation, and the City of Whitehorse promotes this healthy and sustainable form of transportation and strives to be a cycling friendly community;

**NOW THEREFORE** the council of the municipality of the City of Whitehorse in open meeting assembled, hereby ENACTS AS FOLLOWS:

## **SHORT TITLE**

- (1) This bylaw may be cited as the "**E-Bike Bylaw**".

## **DEFINITIONS**

- (2) For the purposes of this bylaw:

"aMTB" (Adaptive mountain bike) means a wheeled recreational cycle designed to be operated by an individual who is unable to use a two-wheeled bicycle due to a disability, special need(s), and/or any other physical or neurological challenge, and includes, but is not limited to: a hand cycle, recumbent leg cycle, or tandem bicycle. An aMTB may have Pedal assist and/or direct Throttle power from an electric motor.

"Bicycle helmet" means a form of CSA approved or equivalent protective head gear specifically designed for bicycle operators to be worn on the head, secured by manufacturer's straps and fasteners;

"Bicycle lane" means a lane on a highway or portion of highway that has been so designated by authorized signs or painted markings and is primarily used by bicycles, and does not include a turning lane where there are dashed lines painted on the Roadway or signage indicating the lane is a turning lane.

"Bicycle trailer" means any single or two wheeled device which has been specifically designed and manufactured to tow behind a bicycle and is attached to a bicycle by means of a rigid tow bar;

"Central business district" means the area bounded on the north by the northern street line of Wood Street, on the east by the eastern street line of Front Street, on the south by the southern street line of Elliott Street, and on the west by the western street line of Fifth Avenue;

"City" means the City of Whitehorse;

"Council" means the council of the City of Whitehorse;

"e-bike" means a bicycle with an electric motor mounted either at the bottom bracket (mid-drive) or at either wheel hub, which provides power to the bicycle's drivetrain. Engagement of the motor varies from pedal feedback over a specific wattage to direct Throttle control.

"e-mobility device" means a self-balancing transport device powered by an electric motor which uses the shifting weight of the rider to balance the device,

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and includes devices such as a hoverboard, electric unicycle, and electric skateboard.

“e-scooter” means a vehicle that is equipped with a standing surface and is designed to be operated by a single user from a standing position, has one or more electric motors, has steering handlebars, possesses not more than 3 wheels, and is capable of being propelled by muscular power;

“Head light” means a light mounted on the front of the bicycle that emits a white light in front of the bicycle that is visible to persons and/or vehicles at a distance of no less than 200 metres;

“Impassable” means impracticable or unsafe to cross or travel along;

“Motor vehicle” means a motor vehicle as defined in the MVA, except where otherwise specified in this bylaw

“*Motor Vehicles Act*” or “MVA” means the Yukon *Motor Vehicles Act* and Regulations as may be amended from time to time;

“Night time” means the period commencing at sunset and ending at the following sunrise and includes daylight hours where atmospheric conditions reduce visibility to less than 200 metres;

“Nominal power” means the maximum continuous power output that an e-bike can produce without overheating the motor;

“Officer” means a City Bylaw Services Constable, employee of the City of Whitehorse, or any Peace Officer as defined by the MVA

“Ordinary walking speed” means the speed at which a person would ordinarily walk, and includes a fast-paced walk but excludes running or jogging;

“Pedal assist” means a mode of power engagement that requires pedalling input from the user to engage the motor;

“Prepared crossing” means that portion of a Sidewalk that intersects or crosses a bike path, or a cross-walk that adjoins a bike path.

“Roadway” means that portion of a street improved, designed or intended for use by vehicles or Motor vehicles, such as bicycles, cars, trucks and vans;

“Sidewalk” means that part of a street designed or intended for use by pedestrians;

“Tail light” means a light mounted on the rear of the bicycle that emits a red light or red flashing light to the rear of the bicycle that is visible to persons and/or vehicles at a distance of no less than 200 metres;

“Throttle” means a mode of power engagement that allows the user to engage the motor via a switch on the handlebar of the E-bike regardless whether the user is providing pedaling input;

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“Trail” means a trail which meets the criteria for any of the classes of trail set out in Schedule “A” of this bylaw, and includes, without limiting the generality of the foregoing, a trail adopted by the City pursuant to the Trail Maintenance Policy, as amended, from time to time;

“Whitehorse Transit” means a Motor vehicle operated by or for the City of Whitehorse Transit System.

### **E-bike Classification**

- (3) The City will employ existing e-bike classifications and industry standards to maintain consistency with adjacent jurisdictions and manufacturer standards. Three categories of e-bike classifications will apply:
- (i) Class 1 e-bike: includes a bicycle equipped with an electric motor with Nominal power output rating of 500 Watts or less, which may be Pedal assist or a motor that can be used exclusively to propel the bicycle, and that ceases to provide assistance when the bicycle reaches a speed of 32 kilometres per hour. For the purposes of this bylaw, a Class 1 e-bike is not considered a Motor vehicle.
  - (ii) Class 2 e-bike: includes bicycles equipped with a Throttle and an electric motor with Nominal power output rating of 500 Watts or less that can be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches 32 kilometres per hour. For the purposes of this bylaw, a Class 2 e-bike is not considered a Motor vehicle.
  - (iii) Class 3 e-bike: includes a bicycle equipped with a Pedal assist electric motor with Nominal power output rating of 500 Watts or less and that ceases to provide assistance when the bicycle reaches 45 kilometres per hour. For the purposes of this bylaw, a Class 3 e-bike is not considered a Motor vehicle.
- (4) An Adaptive Mountain Bike (aMTB) is not considered a Motor vehicle for the purposes of this bylaw.

### **OPERATION**

- (5) All e-bikes shall be equipped with brakes on each wheel or on each axle, and be capable of bringing the e-bike to a full stop from an operating speed of 32 km/hr within 9 metres.
- (6) All electrical terminals on an e-bike, e-scooter, e-mobility device, or aMTB must be completely insulated or covered.

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- (7) This bylaw shall not apply to an Officer, an enforcement officer appointed by the Federal Government of Canada, or an enforcement officer appointed by the Government of Yukon, who is acting in the course of lawful duties.
- (8) A person operating an e-bike, e-scooter, e-mobility device or aMTB upon a highway shall have the same rights and duties as a driver of a vehicle as prescribed in the *Motor Vehicles Act* of the Yukon Territory and the *City Traffic Bylaw*, with such modifications as are necessary.
- (9) A person shall not operate an e-bike, e-scooter, e-mobility device or aMTB, ride as a passenger on an e-bike, e-scooter, e-mobility device, or aMTB or ride as a passenger in a Bicycle trailer without wearing a Bicycle helmet.
- (10) A parent or guardian of a person under the age of 16 years shall not authorize or knowingly permit that person to operate or ride as a passenger on an e-bike, e-scooter, e-mobility device, or aMTB unless the person is wearing a Bicycle helmet.
- (11) Class 1 e-bikes and aMTBs are permitted on all Trails and Bicycle lanes.
- (12) Class 2 e-bikes, e-scooters and e-mobility devices, are permitted only on Type 1 Trails described in Schedule “A” of this bylaw, and Bicycle lanes.
- (13) Class 3 e-bikes are permitted only on Roadways, Bicycle lanes, motorized multiple use trails and the Two Mile Hill multiple use trail.
- (14) A person shall not operate an e-bike, e-scooter, e-mobility device or aMTB on a Sidewalk or marked crosswalk except:
  - (1) at a lane crossing;
  - (2) at a Prepared crossing;
  - (3) in an unmarked crosswalk;
  - (4) to cross over a crosswalk while traveling in a bike lane or traffic lane;
  - (5) where a Bicycle lane on the Roadway adjacent to the Sidewalk or marked crosswalk is impassable; or
  - (6) where a cyclist or e-device user would be forced to travel in a lane of traffic on the Roadway adjacent to the Sidewalk due to the edge or shoulder of the Roadway being impassable.
- (15) When permitted to operate an e-bike, e-scooter, e-mobility device or aMTB on a Sidewalk pursuant to section 19 of this bylaw, a person commits an offense of unsafe operation of an e-bike on a Sidewalk if the person:
  - (1) operates the e-bike, e-scooter, e-mobility device or aMTB so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard; or

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- (2) operates the e-bike, e-scooter, e-mobility device or aMTB at a speed greater than Ordinary walking speed when approaching or entering a crosswalk, approaching or crossing a driveway, or crossing a curb cut or pedestrian ramp when a Motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.
- (16) A person operating an e-bike, e-scooter, e-mobility device or aMTB in a Prepared crossing or on a Sidewalk as permitted by section 19 of this bylaw shall:
  - (1) yield the right of way to pedestrians;
  - (2) give an audible signal by voice, bell or other signalling device before overtaking another crossing or Sidewalk user; and
  - (3) pass pedestrians at a speed no greater than Ordinary walking speed.
- (17) Notwithstanding any other provision in this bylaw, a person shall not operate an e-bike, e-scooter, e-mobility device or aMTB on a Sidewalk in the Central business district.
- (18) A person operating an e-bike, e-scooter, e-mobility device or aMTB on a Trail or on a Sidewalk as permitted in section 19 of this bylaw shall:
  - (1) yield the right of way to pedestrians;
  - (2) exercise due care and attention to avoid colliding with any other Trail or Sidewalk user;
  - (3) exercise reasonable consideration for any other Trail or Sidewalk user;
  - (4) slow down and pass other Trail and Sidewalk users in a safe manner,
- (19) Notwithstanding any other provisions of this bylaw, unless a person operating an e-bike, e-scooter, e-mobility device or aMTB can provide more than one metre of separation when overtaking another Trail user, the person operating an e-bike shall give an audible signal by voice, bell or other signalling device before overtaking another Trail user.
- (20) A person shall not operate an e-bike, e-scooter, e-mobility device or aMTB upon a Roadway while wearing headphones or any other manufactured device capable of transmitting sound, over or in close proximity to both ears, unless the device is designed and worn for the purpose of improving the wearer's ability to hear.
- (21) A person shall not operate an e-bike, e-scooter, e-mobility device or aMTB upon a Roadway or Trail when there is signage indicating such use is prohibited.
- (22) An e-bike, e-scooter, e-mobility device or aMTB shall yield the right of way to a Motor vehicle when entering any Roadway from a Trail unless indicated otherwise by a traffic control device.
- (23) Every e-bike, e-scooter, e-mobility device or aMTB operated on a Roadway at any time during the Night time hours shall be equipped with:

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- (1) At least one Head light; and
  - (2) At least one red Tail light.
- (24) A person shall not tow anything behind an e-bike other than a Bicycle trailer, and such Bicycle trailer shall:
- (1) be equipped with a red reflector, Tail light, or orange flag at the rear;
  - (2) be equipped with a Tail light when operated on a Roadway at Night time; and
  - (3) not exceed the manufacturer's occupancy limit.

### **MOTOR VEHICLES SHARING THE ROADWAY**

- (25) A person operating and making a turn with a Motor vehicle on a Roadway shall yield to an e-bike, e-scooter, e-mobility device or aMTB being operated on the Roadway.
- (26) A operator of a Motor vehicle shall not pass an individual that is operating an e-bike, e-scooter, e-mobility device or aMTB that is travelling in the same direction as the Motor vehicle on the Roadway, on the shoulder, or in an adjacent Bicycle lane unless the operator leaves at least one meter of open space between the Motor vehicle and the bicyclist.

### **ENFORCEMENT**

- (27) An Officer may stop any person operating an e-bike, e-scooter, e-mobility device or aMTB if that Officer has reasonable and probable grounds to believe that the person is acting in contravention of this bylaw.
- (28) Every person operating an e-bike, e-scooter, e-mobility device or aMTB shall, immediately when signalled or requested by an Officer acting under section 34 of this bylaw,
- (1) bring the e-bike, e-scooter, e-mobility device or aMTB to a stop;
  - (2) furnish any information respecting the person's identity, to the satisfaction of the Officer;
  - (3) remain stopped until such time as the Officer permits him or her to leave; and
  - (4) comply with any request or direction of the Officer.

### **POWERS OF A PEACE OFFICER**

- (29) Every Officer has the powers of a peace officer under any of sections 36, 50, 86, 106, 114, 130, 133-136, 181, 203, 217, 230, and 232 of the MVA, with such

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modifications as are necessary, while engaged in the lawful execution of duties under this bylaw.

- (30) An Officer may, enter upon any land in any area of the city without warrant, except a dwelling house, if the Officer has reasonable and probable grounds to believe that such entry is reasonably necessary for any of the following purposes:
- 1) To prevent the continuation of an offence under this bylaw;
  - 2) To obtain particulars of ownership of an e-bike, e-scooter, e-mobility device or aMTB involved in an offence committed under this bylaw;
  - 3) To determine the identity of the operator of an e-bike, e-scooter, e-mobility device or aMTB involved in an offence committed under this bylaw;
  - 4) To collect or preserve evidence of an offence committed under this bylaw; or
  - 5) Any other valid law enforcement purpose relating to this bylaw
- (31) An Officer may seize and impound any e-bike, e-scooter, e-mobility device, or aMTB being operated in contravention of this bylaw for a maximum of ten days or until determination of the charges respecting such violation:
- (1) if the operator of the e-bike, e-scooter, e-mobility device or aMTB fails or refuses to produce identification to the satisfaction of the Officer; or
  - (2) after a charge has been laid for a breach of this bylaw and the Officer has reasonable and probable grounds to believe that there are safety concerns associated with the continuation of such breach.
- (32) An e-bike, e-scooter, e-mobility device or aMTB that has been impounded under this bylaw shall not be released until the person claiming the e-bike, e-scooter, e-mobility device or aMTB provides photo identification and pays all costs associated with the impoundment including:
- (1) all fines; and
  - (2) all impoundment fees as prescribed in the Fees and Charges Bylaw;
- (33) Where an e-bike, e-scooter, e-mobility device or aMTB has been impounded and is not claimed within six months from the date of seizure, the Manager of Bylaw Services may direct its disposal by public auction, and where an Officer



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has determined the value of such e-bike, e-scooter, e-mobility device or aMTB to be less than \$100.00, the Manager of Bylaw Services may direct that it be disposed of at the City of Whitehorse Waste Management Facility or scrap yard.

### **COMMITTING AN OFFENCE**

- (34) Anyone who violates any provision of this bylaw, fails to do anything required by any provision of this bylaw, or permits anything to be done in contravention of this bylaw is guilty of an offence and subject to the penalties set out in this bylaw
  
- (35) A person who commits an offence under this bylaw is, in addition to any other punishment, liable upon summary conviction to:
  - (1) a set fine, under section 20 of the *Summary Convictions Act*, in respect of an offence specified in Schedule “B” of this bylaw; or
  - (2) a fine not exceeding ten thousand dollars where proceedings are commenced pursuant of the *Summary Convictions Act* of the Yukon.
  
- (36) The fine imposed against a person who has previously been convicted of an offence under this bylaw shall increase for any second and subsequent convictions for any offence under this bylaw.
  
- (37) Where a person is convicted of an offence under this bylaw the Judge may, in addition to any other measure imposed on the person, order that the person pay restitution in accordance with the applicable legal test in section 738 of the *Criminal Code of Canada*, as amended.
  
- (38) Where an offence is committed or continues on more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.
  
- (39) Should a person owning or occupying real property within the City refuse or neglect to pay any fines that have been levied pursuant to this bylaw, the Officer may inform such person in default that, if these charges are unpaid on the thirty-first day of December on the same year, they shall be added to, and form part of, the taxes payable in respect of that real property as taxes in arrears.

### **REPEAL OF PREVIOUS LEGISLATION**

- (40)

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## **COMING INTO FORCE**

(41) This bylaw shall come into full force and effect on and from the final passing thereof.

**FIRST and SECOND READING:**

**AMENDMENTS:**

**THIRD READING and ADOPTION:**

*ORIGINAL DOCUMENT SIGNED BY:*

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## SCHEDULE "A"

### TRAIL TYPES

There are four general types of Trails found within the municipal boundaries of Whitehorse. Type 1 Trails have the highest amount of traffic with multiple users and Type IV Trails have the least amount of traffic with specific users.

#### Type I Trails

Type 1 Trails are double-track trails paved with asphalt or chip seal. Typical use includes pedestrian and cycling with limited motorized use. Type I Trails:

- (1) Are within the city core and connecting neighbourhoods;
- (2) Provide a two to three metre tread width;
- (3) Have trailhead signage and enroute signage installed where appropriate;
- (4) Have difficulty and distance markers installed where appropriate;
- (5) Have interpretive signage installed at established points of interest where appropriate;
- (6) Have benches and viewing platforms installed where appropriate; and
- (7) Provide lighting for night-time use if appropriate.

#### Type II Trails

Type II Trails are surfaced single-track or double-track trails. Typical uses include pedestrian and cycling with limited motorized use. Type II Trails:

- (1) Have a single-track tread width up to one metre;
- (2) Have a double-track tread width up to two metres;
- (3) Are machine built;
- (4) Have boardwalks and bridges installed if appropriate;
- (5) Have embedded trail obstacles removed;
- (6) Have trailhead signage and enroute signage installed where appropriate;
- (7) Have difficulty and distance markers installed where appropriate;
- (8) Have interpretive signage installed at established points of interest where

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appropriate;

- (9) Have benches and viewing platforms installed where appropriate; and
- (10) The typical difficulty rating is easy (green circle).

### Type III Trails

Type III Trails are unsurfaced single-track and double-track trails. Typical use includes hiking and mountain biking with limited motorized use. Type III Trails:

- (1) Have a single-track tread width of 50 to 70 centimetres;
- (2) Have a double-track tread width of up to two metres;
- (3) Have trailhead signage and enroute signage installed where appropriate;
- (4) Have difficulty and distance markers installed where appropriate; and
- (5) Have difficulty rating ranges from easy (green circle) to extreme (double black diamond).

### Type IV Trails

Type IV Trails are hinterland trails. Typical use includes hiking and mountain biking. Type IV Trails:

- (1) Plan for a tread width between 30 to 50 centimetres;
- (2) Have minimal trailhead and enroute signage installed if appropriate;
- (3) Have terrain that is sometimes rough with minimal tree grubbing and soil removed;
- (4) Has no high impact users such as horses or motorized vehicles; and
- (5) Have difficulty rating ranges from moderate (blue square) to extreme (double black diamond).

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## SCHEDULE "B" SET FINES

<u>Authority</u>	<u>Description of Offence</u>	<u>Penalty</u>
Section 6	Operate bicycle without wearing Bicycle helmet	\$50.00
Section 7	Allow bicycle operation without wearing Bicycle helmet	\$50.00
Section 19(4)(5)(6)	Operate bicycle on Sidewalk or marked crossing	\$50.00
Section 9	Operate bicycle on Sidewalk in unsafe manner	\$50.00
Section 10(1)	Fail to yield to pedestrian	\$50.00
Section 10(2)	Fail to give an audible signal	\$50.00
Section 10(3)	Pass pedestrian at unsafe speed	\$50.00
Section 11	Operate bicycle on Sidewalk in central business district	\$50.00
Section 12(1)	Allow child to operate bicycle on Sidewalk in central business district	\$50.00
Section 13(1)	Fail to yield right of way to pedestrian	\$50.00
Section 13(2)	Fail to exercise due care and attention	\$50.00
Section 13(3)	Fail to exercise reasonable consideration for other user	\$50.00
Section 13(4)	Fail to slow and pass in safe manner	\$50.00
Section 14	Fail to give audible signal when overtaking another Trail user	\$50.00
Section 15	Operate bicycle while wearing headphones	\$50.00
Section 16	Operate bicycle contrary to signage	\$50.00
Section 17	Fail to yield to Motor vehicle when entering Roadway from Trail	\$50.00
Section 18(1)	Operate bicycle without Head light	\$50.00
Section 18(2)	Operate bicycle without Tail light	\$50.00
Section 19(1)(2)(3)	Improper towing behind bicycle	\$50.00
Section 20	Fail to yield to bicyclist when turning right	\$100.00
Section 23	Pass bicyclist in unsafe manner	\$100.00
Section 25(1)	Fail to bring bicycle to stop for Officer	\$300.00
Section 25(2)	Fail to furnish information to Officer	\$300.00
Section 25(3)	Fail to remain stopped	\$300.00
Section 25(4)	Fail to comply with request or direction of Officer	\$300.00