

Active Trails Whitehorse Association Response to the Draft E-Bike Bylaw

To: Meagan Wilson (Projects and Trails Coordinator City of Whitehorse)
From: Keith Lay (Active Trails Whitehorse Association)
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Definitions:

The definition of a motorized multiple use trail should be included in the *Definition* section, particularly as this definition has changed significantly as a result of the passage of the new Trail Plan. As well, it is a term that is used in the document in the *Operation* section.

The new definition reads as follows:

Trails designed and designated by the City to be used by both non-motorized and motorized users including snowmobilers.

It also might be helpful if a reference is made after the definition to (what will soon be) an updated Motorized Multiple Use Trail Map. The map should be found in an Appendix attached to the E-Bike Bylaw.

E-bike Classification

Below you will find the Draft E-Bike Bylaws definitions of the three classes of e-bikes. If these are to be used then there are a few suggestions (in red) found in the definitions of Class 2 and 3 bikes that might provide additional clarity.

However, it is our suggestion that these definitions be replaced by the ones used by the Resort Municipality of Whistler, which seem to be more clear and, as a result, more understandable.

Current Draft E-Bike Classifications:

“(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 [,] **which** 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.”

Questions:

Clarification is needed with regard to the definition of a Class 1 e-bike. The phrase “which may be Pedal assist *or* a motor that can be used *exclusively* to propel the bicycle” is unclear as to meaning.

Is it not true that a Class 1 e-bike can be powered **by pedaling alone**? Is it not true that Class 1 e-bikes are equipped with a motor that **can be used** to provide assistance when the operator is pedaling? Is it not true that the motor on a Class 1 e-bike **cannot be exclusively used** to power the e-bike, as one must be **actively turning the pedals** to gain motor assistance? If these statements are correct, then that should be made clear in the definition.

Is it not true that the only difference between a Class 1 e-bike and a Class 3 e-bike is that the latter ceases to provide motor assistance when the bike reaches 45 kilometres an hour, as opposed to the former’s 32 kilometres an hour? In which case, why are the definitions for each class so different? It just serves to confuse the reader, or at least those of us who are not cognizant of the in’s and out’s of e-bikes.

The Resort Municipality of Whistler’s definitions of the three classes of e-bikes (definitions which conform to the requirements of provincial rules/regulations/acts) are very clear and easy to understand. It is not possible just to adopt their definitions?

The following are the definitions used by the Resort Municipality of Whistler:

Class 1: A bike equipped with a motor that provides assistance only when the rider is pedalling (pedal assist) and ceases to provide assistance when the bike reaches 32 km/h and has a maximum continuous wattage output of 500 watts. **For the purposes of this bylaw, a Class 1 e-bike is not considered a Motor vehicle.**

Class 2: A bike equipped with a motor that can be used exclusively to propel the bike (throttle equipped) and ceases to provide assistance when the bike reaches 32 km/h. **For the purposes of this bylaw, a Class 1 e-bike is not considered a Motor vehicle.**

Class 3: A bike equipped with a motor that provides assistance only when the rider is pedalling (pedal assist) and ceases to provide assistance when the bike reaches 45 km/h. **For the purposes of this bylaw, a Class 1 e-bike is not considered a Motor vehicle.**

(See https://www.whistler.ca/sites/default/files/2019/Jul/related/25085/appendix_a.pdf.)

Comment:

1. As mentioned in previous correspondence, the territorial Motor Vehicles Act is under

review. At present, it seems the only e-bike definition it contains refers to a Class 1 e-bike. What will happen if the new MVA defines Class 1 and/or Class 2 e-bikes as motorized vehicles as other jurisdictions do? In that case, neither would be allowed on any non-motorized multiple use trail in Whitehorse, as per the new Trail Plan and its definition of such a trail.

Perhaps the City has already had discussions with the territorial government concerning this issue, and has determined that the concern will not arise. However, in the administration package to City Council on the e-bike bylaw, it would be appreciated if this potential issue could be addressed.

OPERATION

There are a number of additions that ATWA would ask be considered for addition to this section.

1. Since speed is mentioned numerous times in this draft bylaw it is essential that e-bike operators know how fast they are travelling, so the City should require all e-bikes to be **equipped with a speedometer**. (It is our understanding that most if not all e-bikes are so equipped. However, if there is no legal requirement for a speedometer, then there may be some e-bikes that are distributed (or have been distributed in the past) without having one.)

2. There should be a weight limitation. Other jurisdictions impose a **weight limit of 120 kg, which includes the bike and its battery**. However, as the average electric bicycle apparently weights around 18-22 kg, one wonders why the weight limit in these jurisdictions is so high.

In any case, as e-bikes on average are about twice the weight of a regular bike, one can readily see that it might be wise to establish a weight limit. Should an e-bike hit someone the potential damage could be far greater than a regular bike due to the former's weight.

3. All operators and passengers should be 16 years of age or older. Again, other jurisdictions have this requirement. It would seem that the latter recognize e-bikes are more difficult to control/handle than regular bikes due to their increased weight.

As well, because they can go faster than regular bikes, there is an increased level of responsibility that must be assumed, and it is suspected that some jurisdictions feel that is more often to be demonstrated by those 16 and over.

The new Yukon Motor Vehicles Act may also impose age restrictions as other jurisdictions have done in which case Whitehorse would have to follow suit.

Again, in the administration package to City Council on the e-bike bylaw, it would be appreciated that this potential issue could be addressed. It would be interesting to learn why administration feels that it is not necessary to impose an age restriction. (Even Alberta restricts the use of e-bikes to those 12 years and older.) Please note that the

age restriction would apply only to those operating the three classes of e-bikes.

4. Owner's of e-bikes should not be permitted to **modify bike motors to exceed a power output greater than 500W**. (Note: There are modification restrictions in both the Snowmobile and ATV bylaws.)

5. Number 5 under **Operation** reads as follows:

“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.”

As Class 3 e-bikes can easily reach a speed of 45 km/h, should there not be a similar requirement for that speed?

6. Permitted areas of use for each type of device are listed under **Operation**: 11, 12, and 13. To this should be added a statement saying that operators of electric bicycles, adaptive mountain bikes, electronic mobility devices and e-scooters are not permitted to enter the City's greenbelts, and open spaces.

A proliferation of trails could be the result should this not be made clear in the bylaw. In other words, operators should stay on permitted trails.

7. There does not appear to be any indication in the bylaw of how fast e-bikes are allowed to go on the various types of City trails. This is especially concerning considering the fact that a Class 3 e-bike can reach 45 km per hour. Both the Snowmobile Bylaw and ATV Bylaw have speed limit requirements. So should the E-Bike Bylaw.

8. From what we are told from dealers in Whitehorse there is no sticker/label on e-bikes sold in Canada that would identify them as being Class 1, Class 2, or Class 3 e-bikes.

The current Yukon Motor Vehicles Act says an e-bike must bear “a label that is permanently affixed by the manufacturer and appears in a conspicuous location stating that the vehicle is an electric power-assisted vehicle as defined in [the Act].” (p. 4)

However, the Act seems to be referring only to Class 1 e-bikes, as the description given of an electric power-assisted e-bike, seems to refer to that particular class. So Class 2 and 3 e-bikes may not be subject to the same requirement.

As well, the label to which the Act refers may not be sufficient for identification purposes. In another words, it may be too small to see from any distance and/or it may not state the actual e-bike class.

We understand that in the U.S. that “after January 1, 2017, manufacturers and distributors of electric bicycles [had to] apply a label that [was] permanently affixed, in a prominent location, to each electric bicycle. The label [contained] the classification number, top assisted speed, and motor wattage of the electric bicycle, and [had to] be

printed in Arial font in at least 9-point type.” (See https://b.3cdn.net/bikes/89389af069d71fb389_nzm6bh88i.pdf.)

Unfortunately, it may be very difficult for the average citizen (and possibly Bylaw Officers) to identify which of the three types of e-bikes an operator is riding. This could lead to conflict as riders may be challenged when riding on certain trails, simply because the **challenger** believes the operator is riding a class of e-bike that is not permitted on said trails.

All bikes should have an identifying sticker indicating its specific class. This should be placed in a position on the bike where it can be clearly seen. Of course, it also has to be of sufficient size for identification purposes.

All e-bike retailers should be required to place the appropriate sticker on the e-bike at point of sale, and to ensure that any rental bike has the appropriate sticker at point of rental.

Current e-bike owners should be required to obtain the appropriate sticker by a certain date following the passage of the E-bike Bylaw. Retailers/renters would have to start applying these stickers by the same date. The **certain date** could be a year from the date of passage of the E-bike Bylaw.

The City will have to have the stickers made and ensure they are available at City Hall for distribution to retailers/renters and owners of e-bikes. And yes, the City could charge a minimal amount for each sticker. Discussions with retailers and the CMBC could help determine the design of the sticker and where it should be located on the e-bike, although the reference https://b.3cdn.net/bikes/89389af069d71fb389_nzm6bh88i.pdf provides some excellent designs, as well as indicating the best place for location.

9. Failure to have the required identifying sticker on an e-bike after the decided date should result in an appropriate fine. This offence should be included in Schedule “B” Set Fines.

10. According to the draft bylaw, Class 2 e-bikes are only permitted on Type 1 Trails, which are **double-tracked trails paved with asphalt or chip seal**.

Class 3 e-bikes are only permitted on Roadways, Bicycle lanes, **motorized multiple use** trails and the Two Mile Hill multiple use trail.

Class 1 e-bikes are permitted on **all Trails** and Bicycle lanes.

However, Class-1 e-bikes should **not be using** unsurfaced single-track trails that have not been specifically designed and built for mountain bike use.

To allow heavy and fast e-bikes on unsurfaced single-track trails that have **not been designed** for mountain bike use could be inherently dangerous for the operator. As well, it may well lead to conflict with other non-motorized users who use such trails in order to have a better chance of avoiding mountain bikes for various reasons, including

safety.

It should be relatively easy to identify the single-track trails that have been built and designed primarily for mountain biking, and to request Class 1 e-bike operators to stay on those trails and/or on double-track unsurfaced trails.

11. Although the following cannot be addressed in an e-bike bylaw, we have had several associates raise this concern and they would be interested in knowing what can be done about the situation (if anything):

Since Class 1 e-bikes are heavier and can climb faster than pedal bikes, and are able to do many more circuits of a trail due to motor assistance, there will be increased surface erosion of non-motorized trails. How will the City address this concern, a concern that is already impacting some trails that are seeing increased mountain bike use?

MOTOR VEHICLES SHARING THE ROADWAY

Sections 25 and 26 of the Draft E-Bike Bylaw read as follows:

“(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.”

Comment:

It would be sensible to ensure that the general public is made aware of the fact that aspects to this bylaw apply directly to Motor Vehicle operators. It is doubtful that many motorists would be aware of #26.

Other Comments:

1. The pre-E-bike Bylaw that was presented before member of City Council at a Council and Administration Roundtable Meeting, included the 2015 Motorized Multiple Use trail *map* found on the City’s website. (See <https://www.whitehorse.ca/home/showpublisheddocument?id=4210>.)

That *map* is not attached to the Draft E-Bike Bylaw, probably because it is simply unusable.

However, as Class 1 and Class 3 e-bikes will be allowed on MMU trails, it is essential that there is a usable and updated motorized trail map (and hopefully an app) to which operators can refer.

Action #19 of the 2020 Trail Plan refers to the need “to update the motorized trail use map (2015) to reflect completed Neighbourhood Trail Plans and improve legibility with a legend, north arrow, scale, trail names and labels [and] at the same time incorporate basic information related to seasonal trail use, and safe and respectful riding.”

It is understood that this map is under development, but will not be available at the time the draft bylaw goes before City Council. Administration should provide the public with a completion date for this project.

ATWA has asked many times that an improved and usable MMU trail map be made available (in various forms) for all MMU trail users. However, although promises have been made they have not been fulfilled, hence the need for a specific completion date. This is another item that should be mentioned in the administration package provided City Council when the draft bylaw comes forward for review and approval.

2. An effort should be made by the City to ask e-bike owners to consider obtaining liability insurance. Although this would not be a requirement of the bylaw, the lack of such insurance could have negative consequences for owners should they get into an accident. The City has a responsibility to ensure e-bike owners (in particular) are made aware of such consequences.

Thanks for allowing us to make this submission.

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