



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2013-14

A BY-LAW TO REGULATE THE USE AND ENJOYMENT OF MUNICIPAL PARKS IN THE TOWN OF NEWMARKET.

WHEREAS section 9 to 11 of the *Municipal Act, 2001, c.25*, as amended (the "*Municipal Act*") confer the power to a municipality to pass by-laws regulating and prohibiting with respect to culture, parks, recreation and heritage;

AND WHEREAS section 9 to 11 of the *Municipal Act* confer the power to a municipality to pass-by-laws regulating and prohibiting with respect to parking on municipal parking lots and structures;

AND WHEREAS section 8 (3) of the *Municipal Act* confers the power upon a municipality, in exercising its powers to regulate and prohibit respecting matter, to provide for a system of licenses, permits, approvals or registrations respecting the matter, and to impose conditions as a requirement of obtaining, continuing to hold or renew a license, permit, approval or registration;

AND WHEREAS the Council of the Town of Newmarket deems it advisable to pass such a by-law;

THEREFORE BE IT ENACTED by the Council of the Corporation of the Town of Newmarket as follows:

1.0 DEFINITIONS:

The following words shall have the following meanings in this By-law:

"ACT" means the *Highway Traffic Act*, R.S.O. 1990, c. H.8., as amended

"ADVERTISING DEVICE"– means any designed device or object creating a design and intended to be erected or located or affixed on any property; this shall include flags, banners, pennants, lights, inflatable devices, or any object intended for advertising purposes.

"BICYCLE" – Includes a bicycle, tricycle, power assisted bicycle, or other similar vehicle.

"COUNCIL" – The elected municipal officials of the Town of Newmarket.

"DESIGNATED AREA" - An area defined or constructed for a specific use that may include posted conditions.

"DIRECTOR" – means the Director, Recreation and Culture or Director, Public Works Services, of the Town of Newmarket and his/her designate;

"MOTOR VEHICLE" – includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;

"MOTORIZED RECREATIONAL VEHICLE" - A snowmobile, go cart, trail bike, mini bike, all – terrain vehicle, or similar vehicle, whatever the mode of power, but does not include a scooter.

"ORGANIZED SPORT OR ACTIVITY" - A sport, game or activity pre-planned by a group or organization whether or not it is formally constituted or uniforms are worn by the players.

“OFFICER” – a Police Officer as defined under the *Police Services Act*, R.S.O. 1990, c. P15, as amended, an individual appointed by the Town as a Municipal Law Enforcement Officer pursuant to section 15 of the *Police Services Act*, as amended, or any other individual designated by the Town to enforce this By-law;

“PARK” – Land owned by or made available by lease, agreement, or otherwise to the Town excluding property leased to a third party by the Town, that is or may be established, dedicated, set apart or made available for use as public space, accessory to the use of the public space as a park including any and all buildings, structures, facilities, trails, and improvements located in or on the land.

“PARKING LOT” – An open area of land owned by the town within a park, other than a street, used for the temporary parking of 5 or more motor vehicles and available for public use.

“PERMIT” – Any written authorization of Council or a Town Department issued to a person under delegated authority.

“PERSON” – means an individual, partnership, association, firm, or corporation and in the case of a minor, includes the person having custody of the minor.

“PERSON WITH A DISABILITY” – includes a person with any of the following:

- a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- b) a condition of mental impairment or a developmental disability,
- c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- d) a mental disorder, or
- e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*.

“PERSONALLY POWERED DEVICE” – Skateboards, longboards, roller blades, inline skates, scooters, or similar apparatus and includes a bicycle.

“PICNIC” – Social gatherings of between 26 and 200 people.

“POSTED AREA” – means an area where signs are erected by the Town.

“POWER ASSISTED BICYCLE” - “power-assisted bicycle” means a bicycle that,

- a) is a power-assisted bicycle as defined in subsection 2 (1) of the Motor Vehicle Safety Regulations made under the *Motor Vehicle Safety Act* (Canada),
- b) bears a label affixed by the manufacturer in compliance with the definition referred to in clause (a),
- c) has affixed to it pedals that are operable,
- d) is capable of being propelled solely by muscular power and
- e) is similar in design as per Schedule A, and
- f) is not a “ Motor Scooter” style power assisted vehicle which are not permitted to be used on a Town trail or in a Town park.

“SPECIAL EVENT” – A picnic, walkathon, fundraiser or gathering of over 200 persons or any event that requires staff support, specific permissions or the provisions of materials or equipment such as, but not limited to, the use of sound amplification, acceptance of donations, installation of tents, vehicle, access, electrical access or request to borrow equipment, beyond that typically provided at the subject location.

“TREES” – means any species of woody perennial plant including its root system.

“TOWN” – means the Corporation of the Town of Newmarket.

“VEHICLE” – Includes a motor vehicle, and any bicycle, scooter, carriage, wagon, sleigh or other vehicle or conveyance of every description, whatever the mode of power, but excludes a baby carriage or cart, child’s wagon, child’s stroller, child’s sleigh, wheelchair or similar device (powered or otherwise) used by an individual due to a disability, or other similar conveyance.

“WILDLIFE” – Includes any coyote, fox, raccoon, bird, waterfowl, fish, goose or other animal.

2.0 CONDUCT:

2.1 RESTRICTED AREAS

While in a park, no person shall enter into areas posted to prohibit or restrict admission of the public.

2.2 GENERAL CONDUCT

2.2.1 While in a park, no person shall:

- a) indulge in any violent, threatening, or illegal conduct or use profane or abusive language;
- b) cast, throw or in any way propel any object in a manner that may or does endanger or cause injury or damage to a person or property;
- c) create a nuisance by loitering, spying, accosting, frightening, annoying or otherwise disturbing other persons;
- d) create a nuisance or in any way interfere with the use and enjoyment of the park by other persons;
- e) remove, disturb, relocate, damage or destroy protective fencing, lifesaving equipment, barriers and warning signage put in place for protection of the public or
- f) release any balloons filled with lighter-than-air gases.

2.3 FIREARMS AND OFFENSIVE WEAPONS

While in a park, no person shall be in possession of or use a firearm, air gun, cross bow, bow and arrow, axe, paint guns, or offensive weapon of any kind unless authorized by permit.

2.4 FIREWORKS

- 2.4.1 While in a park, no person shall ignite, discharge, or set off firecrackers, rockets or other fireworks unless in accordance with the Fireworks By-law or any successor by-law.

2.5 INJURY AND DAMAGE

2.5.1 While in a park no person shall:

- a) climb a building, structure or equipment, unless it is equipment designed for climbing;
- b) break, injure, deface, move or remove the whole or any part of a flower, plant material, fungus, tree or other vegetation;
- c) break, injure, deface, move or remove the whole or any part of building, structure, equipment or other property of the Town;
- d) climb, move or remove the whole or any part of a tree, rock, boulder, rock face or remove soil, sand or wood; unless authorized by permit,
- e) disturb ground which is under repair, prepared for planting, has been newly seeded or sodded or is in an area posted to that effect;
- f) drive, park, walk in an area posted to prohibit the activity; or
- g) place, throw, cast or otherwise deposit snow, unless authorized by permit.

2.6 ENCROACHMENT

Unless authorized by permit, no person shall encroach upon or take possession of a park by any means whatsoever, including the construction, installation, or maintenance of a fence or structure, the dumping or storage of materials or plantings, or planting, cultivating, grooming or landscaping.

2.7 ALCOHOL

While in a park, no person shall consume, serve or sell alcoholic beverages unless in a designated area, authorized by permit, and with the approval of the Liquor Licence Board of Ontario.

2.8 SMOKING

2.8.1 While in a park, no person shall smoke tobacco or hold lighted tobacco:

- a) Anywhere within the boundaries of the property designated by the Town as Sunnyhill Park.
- b) Within a 10 metre radius surrounding the edge of all municipal sports surfaces, play structures\areas or other outdoor youth related pilot project sites.
- c) Within a 10 metre radius surrounding an entrance/exit to a facility except where otherwise posted.

2.9 TREES

2.9.1 While in a park, no person shall:

- a) Remove, cut down, destroy or injure a tree or part of a tree located on municipal property;
- b) Mark, cut, break, peel, deface or bury the roots of a tree or any part of a tree located on municipal property; or
- c) Attach in any manner any object or thing (including but not limited to decorative lights) to a tree or part of a tree located on municipal property except with prior written approval of the Town.

3.0 PARKS USE:

3.1 ACCESS

- a) unless authorized by permit, no person shall access or occupy a park for non-recreational uses.
- b) unless authorized by permit, no person shall use, enter or gather in a park between the hours of 11:00 p.m. and 5:00 a.m.

3.2 CAMPFIRES AND BARBEQUES

3.2.1 While in a park, no person shall:

- a) light, build or stoke an open fire or bonfire unless authorized by permit in accordance with By-law 2009-64 (A By-law to Regulate Outdoor Burning) as amended;
- b) use any portable barbeques unless authorized by permit or where posted to allow the use;
- c) use fuel other than charcoal or briquettes in permanently affixed barbeques; or
- d) leave a barbeque or campfire without extinguishing the fire and ensuring that the embers are cold.

3.3 ORGANIZED ACTIVITIES, SPECIAL EVENTS, FESTIVALS, AND PICNICS

3.3.1 While in a park, no person shall:

- a) unless authorized by permit, hold a picnic, organized activity or special event for more than 25 people;
- b) interfere with a picnic, organized gathering or special event authorized by permit; or
- c) move park furniture from an area to another area to accommodate their picnic, organized activity or special event.

3.4 AMPLIFIERS AND LOUD SPEAKERS

Unless authorized by permit, no person shall operate loud speakers or amplifying equipment from any source in a park.

3.5 CAMPING AND LODGING

Unless authorized by permit, no person shall dwell, camp or lodge in a park.

3.6 TENTS AND STRUCTURES

Unless authorized by permit, no person shall place, install, attach or erect a temporary or permanent tent, structure or shelter at, in or to a park.

3.7 BATHING, SWIMMING, AND SUN BATHING

3.7.1 While in a park, no person shall:

- a) enter a public swimming pool except at times designated for swimming;
- b) In or adjacent to a swimming pool, fail to comply with posted signs or obey the instructions of any lifeguard or other authorized person; or
- c) swim, bathe or wade in a pond, lake or stream.

3.8 USE OF WASHROOMS AND CHANGE ROOMS

In a park, no person over the age of 7 shall enter any portion of any washroom, bathhouse, change room or recreation facility set apart for the opposite sex.

4.0 GAMES, SPORTS, AND ORGANIZED ACTIVITIES:

4.1 ORGANIZED SPORTS OR ACTIVITIES

4.1.1 While in a park, no person shall:

- a) arrange or engage in an organized sport or activity, unless authorized by permit;
- b) interfere with an organized sport or activity authorized by permit; or
- c) utilize a designated area without a permit where it is posted to prohibit or restrict such use.

4.2 GOLF

While in a park, no person shall play or practice golf or strike a golf ball.

4.3 MODEL AIRCRAFT AND ROCKETS

While in a park, no person shall operate powered models of aircraft, rockets, or vehicles unless authorized by permit.

4.4 GLIDERS AND HOT AIR BALLOONS

Unless authorized by permit, no person shall tether, launch, or land a hot air balloon, hang glider, ultra-light aircraft, or similar conveyance in a park.

4.5 SKATING

4.5.1 No person shall access or skate on a natural ice surface or artificial ice surface in a park unless posted to allow such activities and only under the posted conditions:

4.5.2 On a natural ice surface posted and designated for skating, or an artificial ice surface located in a park, no person shall:

- a) Use speed skates unless authorized by permit or in a posted area in accordance with posted conditions;
- b) Skate or act in a manner as to interfere with or endanger any other person using the surface;
- c) Use a stick of any kind except with posted conditions; or
- d) Disregard the instructions or information provided by designated ice patrollers or maintenance staff.

4.6 SKIING, TOBOGGANING AND SLEDDING

4.6.1 While in a park, no person shall:

- a) ski, toboggan, snowboard, skibob or sled unless posted to allow such activities; or
- b) fasten or attach a ski, toboggan, snowboard, skibob or sled to any vehicle, motorized vehicle or motorized recreational vehicle for the purposes of being towed, dragged or otherwise pulled.

4.7 **ROLLERBLADES, SKATEBOARDS AND LONGBOARDS**

4.7.1 **While in a park no person shall:**

- a) Operate or utilize skateboards or longboards on the trail in a posted area;
or
- b) obstruct, inconvenience or endanger others using the park while operating or utilizing rollerblades, skateboards, longboards or similar conveyances.

4.8 **TENNIS**

No person shall enter, walk, or play upon a designated area for tennis in a park, except in accordance with the posted rules and regulations.

4.9 **KITES**

4.9.1 **While in a park, no person shall:**

- a) Fly a kite with a line that is metallic or contains wire;
- b) Fly a kite within 25 metres of any tree, building, light pole or hydro or other utility pole;
- c) Fly a kite in parking lots, roadways or pathways; or
- d) Leave any part of the kite, including the string or other type of tethering material that could cause damage to any person, property or wildlife, in the park.

5.0 **VEHICLES:**

5.1 **BICYCLES**

5.1.1 **While in a park, no person shall:**

- a) ride or operate a bicycle where signage is posted to prohibit bicycle riding;
- b) obstruct, inconvenience or endanger other users of the park while riding or operating a bicycle;
- c) construct or assemble any ramps, jumps, pathways or obstacle courses; or
- d) ride or operate a bicycle in a manner which results in damage to trails, parks, vegetation, trees, fauna or other natural features.

5.2 **MOTORIZED RECREATIONAL VEHICLES**

No person shall ride, drive, park or be in possession or control of a motorized recreational vehicle in a park except in a designated area.

5.3 **TRUCKS AND COMMERCIAL VEHICLES**

5.3.1 Unless authorized by permit, no person shall drive, operate, pull or ride in a park:

- a) Heavy machinery or equipment of any description and whatever the mode of power;
- b) A truck, trailer or bus whatsoever except a vehicle that is:
 - i) being used for the purpose of making a delivery to a point within the limits of the park while it is proceeding to or from the point of delivery; or
 - ii) operated for personal, recreational, or non-commercial use.

6.0 ANIMALS:

6.1 HORSES

Unless authorized by permit, no person as owner or person having control of a horse shall permit it to enter or remain in a park.

6.2 DOGS

6.2.1 While in a park, no person as owner or person having control of a dog shall:

- a) allow the dog to run at large; excluding a working dog providing a service to the Town;
- b) install or construct any type of dog control fence or barrier;
- c) use a stun gun to harm or control the dog; or
- d) leave a dog unattended.

6.2.2 While in a park, every person having control of a dog shall:

- a) ensure that the dog is on a leash or chain;
- b) pick up and immediately remove excrement left by the dog and dispose of it in a sanitary manner in a receptacle for litter or in some other suitable container, excluding persons with a disability;
- c) keep the dog in sight and under care and control at all times; and
- d) repair any holes made by the dog

6.3 PROTECTION OF WILDLIFE

6.3.1 While in a park, no person shall:

- a) touch, injure, interfere with or remove wildlife without a permit;
- b) touch, injure or remove a habitat, nest or egg without a permit;
- c) feed or attempt to feed or deposit food for consumption by wildlife; or
- d) release into a park pets, animals or domesticated species.

6.4 FISHING

6.4.1 While in a park, no person shall:

- a) fish in an area posted to prohibit fishing;
- b) store or leave any lures, bait, hooks, lines, poles or other equipment in the park in a location or manner that may injure other persons or wildlife.

6.4.2 All permitted fishing must be carried out in compliance with all Ministry of Natural Resources Rules and Regulations.

7.0 COMMERCIAL ENTERPRISES

7.1 SALE OF MERCHANDISE, TRADE OR BUSINESS

7.1.1 Unless authorized by permit, while in a park, no person shall sell or offer or display for sale:

- a) any food, drink or refreshment;
- b) any goods, wares, merchandise or articles, including promotional material, souvenirs and novelties;
- c) any art, skill, service or work.

7.1.2 While in a park no person shall practice, carry on, conduct or solicit for a trade, occupation, business or profession.

7.2 FILMING AND VIDEOTAPING

While in a park, no person shall take or permit to be taken for remuneration any film, photograph, videotape or television broadcast unless authorized by permit.

SECTION 8 REGULATIONS AND ENFORCEMENT:

8.1 PERMITS AND LICENCES

8.1.1 Permits for activities contemplated in this by-law may be obtained by contacting the Recreation and Culture Department.

8.1.2 Permits issued for activities contemplated in this by-law may be subject to fees established by Council in the fees and charges by-law as amended.

8.1.3 permits issued for activities contemplated in this chapter may include conditions as to time, location, area, equipment, number of participants, type of activities, release, indemnity and insurance coverage;

8.1.4 the issuance of a permit under this by-law does not relieve a person from the necessity of acquiring any other licence or permit required for the activity by any governmental or public authority;

8.1.5 no permit contemplated by this by-law shall be issued if it would result in the contravention of other applicable law.

8.2 POSTING OF SIGNAGE

8.2.1 Town staff may post signage of permission, regulation, restriction, warning or prohibition with respect to uses of or activities in a park in accordance with the provisions of this by-law.

8.3 TEMPORARY CLOSURE

8.3.1 Town staff may close off for such temporary period as the Town deems appropriate a park or any part of it to relieve or prevent overcrowding or traffic congestion, or in the interests of public safety, or as may otherwise be authorized by Council.

8.4 EXCLUSIONS AND EXEMPTIONS

8.4.1 **This by-law does not apply to:**

- a) personnel of Emergency Medical Services, York Regional Police or Central York Fire Services or the Town while engaged in the performance of their duties; or
- b) employees or agents of the Town while responding to an emergency situation occurring while engaging in works or services undertaken for or on behalf of the Town, or as authorized by Council or senior staff.

8.5 ENFORCEMENT

- 8.5.1 Any provincial offences officer or employee of the Town designated by Council is authorized to inform a person of the provisions of this by-law and to request compliance with it.
- 8.5.2 Any provincial offences officer or employee of the Town whose duties include the enforcement of this by-law is authorized to order a person believed by the officer or employee to be contravening or who has contravened any provision of this by-law to:
- a) Stop the activity constituting or contributing to the contravention;
 - b) Remove from a park any animal or thing owned by or control of the person which the officer or employee believes is or was involved in the contravention;
 - c) Leave the park.
- 8.5.3 Any provincial offences officer may enforce the provisions of this by-law.
- 8.5.4 Where a person contravenes any of the provisions of this by-law, or fails to comply with any order referred to in subsection 8.5.2, the permission and licence of the person to remain in the park is revoked.
- 8.5.5 If a person encroaches upon a park and fails to comply with the notice given under subsection 8.5.6, the Town, or its authorized agents, may remove the encroachment, install appropriate fencing and recover all expenses associated with the removal, including, but not limited to, soil testing, disposal fees, park restoration and fence installation.
- 8.5.6 Notice to comply
- a) The notice to comply shall require compliance with this by-law within a specific time period but no sooner than 72 hours after the notice is given.
 - b) Notice to remove the encroachment may be served personally on the person to whom it is directed or sent by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
 - c) If there is evidence that a person in possession of the land is not the registered property owner, the notice shall be served on both the registered owner and the person in possession of the land.
 - d) If the address of the owner or occupant is unknown or the Town is unable to effect service on the owner or occupant under subsection 8.5.6 (ii), a placard stating the terms of the notice and placed in a conspicuous place upon the property shall be deemed to be sufficient notice.
- 8.5.7 Costs incurred by the Town in doing the work required to be done may be collected by action or the costs may be added to the tax roll and collected in the same matter as taxes.

8.6 PENALTIES

- 8.6.1 Every person who contravenes a provision of this by-law, including an Order issued under this by-law, is guilty of an offence.
- 8.6.2 If a person is in contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 8.6.3 If an Order has been issued under this by-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.

8.6.4 Every person who is guilty of an offence under this by-law shall be subject to the following penalties:

- a) Upon a first conviction, to a fine not less than \$350.00 and not more than \$100,000.00;
- b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$1,000.00 and not more than \$100,000.00;
- c) Upon conviction for a continuing offence, to a fine of not less than \$1,000.00 and not more than \$10,000.00 for each day or part of a day that the offence continues;
- d) Upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$1,000.00 and not more than \$10,000.00.

8.6.5 For the purpose of this by-law, "multiple offences" means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.

8.6.6 For the purpose of this by-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

8.7 SEVERABILITY

If any provision of this by-law, or the application thereof to any person or circumstances, is invalid, the invalidity shall not affect other provisions or application of this by-law which can be given effect without the invalid provision or application, and to this end the provisions of this by-law are severable.

8.7.1 Where a Court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the Court makes an order to the contrary.

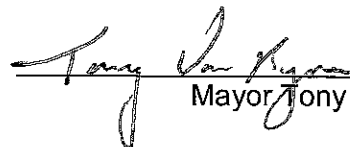
8.7.2 Where the provisions of this by-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

8.8 REPEAL

8.8.1 By-laws 1994-41 and 2012-27 are hereby repealed.

THIS by-law shall come into full force and effect on June 1, 2013.

ENACTED THIS 15TH DAY OF APRIL, 2013



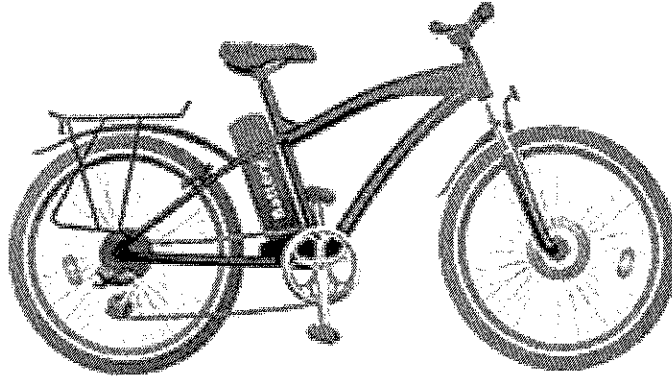
Mayor Tony Van Bynen



Andrew Brouwer, Town Clerk

Permissible Power Assisted (“e-bike”) Design

Traditional Style Power Assisted (“e-bike”)



Example Power Assisted “e-bike rendering; appearance of actual e-bike may vary”.

In the Province of Ontario, a power-assisted bicycle, or e-bike, is a bicycle that:

- Has a maximum weight of 120 kg (includes the weight of bike and battery);
- Has wheels with a diameter of at least 350 mm and width of at least 35 mm; and
- Meets the federal definition of a power-assisted bicycle:
 - has steering handlebars and is equipped with pedals,
 - is designed to travel on not more than three wheels in contact with the ground,
 - is capable of being propelled by muscular power,
 - has one or more electric motors that have, singly or in combination, the following characteristics:
 - it has a total continuous power output rating, measured at the shaft of each motor, of 500 W or less,
 - if it is engaged by the use of muscular power, power assistance immediately ceases when the muscular power ceases,
 - if it is engaged by the use of an accelerator controller, power assistance immediately ceases when the brakes are applied, and
 - it is incapable of providing further assistance when the bicycle attains a speed of 32 km/h on level ground,
 - bears a label that is permanently affixed by the manufacturer and appears in a conspicuous location stating, in both official languages, that the vehicle is a power-assisted bicycle as defined federally, and
 - has one of the following safety features,
 - an enabling mechanism to turn the electric motor on and off that is separate from the accelerator controller and fitted in such a manner that it is operable by the driver, or
 - a mechanism that prevents the motor from being engaged before the bicycle attains 3 km/hr.

Source: www.mto.gov.on.ca