

**CITY OF WHITEHORSE**  
**BYLAW 2015-31**

A bylaw to provide for the enforcement of the bylaws of the City of Whitehorse

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WHEREAS section 263 of the *Municipal Act*, RSY 2002, c.154, provides broad authority to a council to govern a municipality as council considers appropriate within the jurisdiction given to it under this and other Acts; and enables council to respond to present and future issues in the municipality; and

WHEREAS section 265 provides that council may pass bylaws for municipal purposes respecting the enforcement of bylaws; and

WHEREAS the *Summary Convictions Act*, RSY 2002, c. 210 governs the process of enforcement of municipal offences; and

WHEREAS section 248 of the *Motor Vehicles Act*, RSY 2002, c. 153 provides that an owner of a vehicle is liable for that vehicle;

NOW THEREFORE the council of the municipality of the City of Whitehorse hereby ENACTS AS FOLLOWS:

1. This bylaw may be cited as the "**Municipal Offences Bylaw**".
2. Any person who contravenes, causes, or permits a contravention of a bylaw commits an offence.
3. In this bylaw,

“Appearance date” means the date and time specified in a ticket when a named person may appear in court to plead not guilty to an offence.

“Enforcement Officer” includes a Peace Officer and means an employee of the City of Whitehorse who has been granted authority to enforce municipal bylaws.

“Named person” means the person named in a ticket for a bylaw offence, or the registered owners of a vehicle that is involved in a bylaw offence, which may include a corporation.

“Notice of trial” means written notice to a named person of the date and time scheduled for trial of a specified offence in Territorial Court.

“Notice to appear” means a statement on a ticket that commands the named person to appear in court on the specified date and time.

“Offence date” means the date that a bylaw offence is alleged to have been committed.

“Voluntary fine” means the dollar amount specified in a bylaw and on a ticket for a specified offence, payment of which may be made in lieu of a court appearance, and which admits guilt and registers a conviction for the charge.

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## **TICKETS**

4. For the purposes of subsection 2.04(1) of the *Summary Convictions Act*, proceedings in respect of a municipal bylaw offence may be commenced by means of a ticket in accordance with section 10 of the *Summary Convictions Act*.
5. A ticket referred to in section 4 of this bylaw shall be in the form prescribed by the City of Whitehorse, in accordance with the *Summary Convictions Act*.
6. Pursuant to section 10(8) of the *Summary Convictions Act*, a ticket may be issued and signed by electronic means.
7. Pursuant to section 34(d) of the *Summary Convictions Act*, an expression appearing under the heading "Description of Offence" in a bylaw or an expression of similar import is authorized for use on a ticket for the description of an offence under the provision of the bylaw.
8. Pursuant to section 34(b) of the *Summary Convictions Act*, each bylaw shall list the offences and related fine amounts for offences for which a ticket may contain the endorsement referred to in section 9(d) of the *Summary Convictions Act*, whereby a voluntary fine may be paid in lieu of a court appearance.
9. On payment of the voluntary fine, the named person is deemed to be convicted, and no further proceedings shall be taken in respect of the offence alleged in the ticket.
10. Where a ticket contains an endorsement as referred to in section 8 of this bylaw, the amount of the voluntary fine shall be as stated in the applicable bylaw, and set out on the Notice to appear part of the ticket.
  - (1) A fine in respect of an offence committed under a bylaw may be paid before the complaint is registered as a conviction.
  - (2) Payment of fines shall be by cash, money order, certified cheque, debit, or credit card, and shall not be by personal cheque.
11. The Notice to appear part of the ticket shall specify the appearance date that a named person may appear in court to plead not guilty to an offence.
12. Pursuant to section 25 of the *Summary Convictions Act*, an Enforcement Officer may compel a named person to appear in court without the option to pay a voluntary fine by striking out in its entirety, and initialling, the section of the ticket containing the endorsement referred to in section 9(d) of the *Summary Convictions Act*, and serving the ticket on the named person.
13. A named person may plead not guilty to an offence by:
  - (1) Signing the not guilty plea part of the ticket and returning it by mail or in person to the City of Whitehorse before the appearance date specified in the ticket;
  - (2) Attending at the City of Whitehorse to fill in the prescribed form required for a not guilty plea before the appearance date specified in the ticket; or

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- (3) Attending court to enter a not guilty plea on the appearance date specified in the ticket.
14. If a named person does not enter a plea of not guilty to an offence, and does not pay the voluntary fine, that person may be convicted of the offence on the appearance date or any date thereafter, in his or her absence, and may have imposed upon that person a fine that is double the voluntary fine.
15. Pursuant to section 248 of the *Motor Vehicles Act*, the registered owner(s) of a motor vehicle involved in a bylaw offence are guilty of the offence, notwithstanding that no names appear on a parking ticket left on a vehicle, unless they can prove to the satisfaction of a justice that at the time of the offence the vehicle was not being driven or was not parked or left by them or any other person with their consent, express or implied.
16. A corporation that is the registered owner of a vehicle may be named in a proceeding by naming the owner/operator of the corporation doing business as the corporation.

## **SERVICE AND DELIVERY**

17. An Enforcement Officer may serve a ticket for a bylaw offence:
  - (1) By delivering it to the defendant personally within 30 days after the day on which the offence described is alleged to have been committed; or
  - (2) If the offence alleged relates to the parking of a vehicle or leaving a vehicle unattended, by attaching the ticket to the vehicle.
18. If a named person pleads not guilty to an offence, a notice of trial indicating the time set for the trial shall be served on the named person by:
  - (1) Delivering it to the person personally; or
  - (2) Delivering it by registered mail to the last known address of the named person.
19. If a conviction for an offence is entered in the absence of the named person, a written notice of the conviction shall be delivered by regular mail to the last known address of the named person.
20. The last known address of a named person shall be deemed to be the most recent address that appears in any record maintained by the Government of Yukon or the City of Whitehorse, or any address that the Enforcement Officer who issued the ticket believes on reasonable grounds to be the address of the named person.

## **PENALTIES**

21. A person who commits an offence under a bylaw is, in addition to any other punishment, liable upon summary conviction to:
  - (1) a voluntary fine, issued in respect of an offence which may be increased for second and subsequent offences; or

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- (2) a fine not exceeding ten thousand dollars (\$10,000.00) plus a fine of up to \$2,500 for each day that the offence continues, pursuant to section 343 of the *Municipal Act*.
22. In any case where a named person is convicted in his or her absence for an offence for which the voluntary fine is \$150 or more, the City of Whitehorse shall request the court to impose an additional \$100 penalty for the offence.
23. Pursuant to section 340 of the *Municipal Act*, where an offence is committed or continues on more than one day, it may be deemed to be a separate offence for each day on which the offence is committed or continued.
24. Pursuant to section 344(2) of the *Municipal Act*, each bylaw may specify that should any person owning or occupying real property within the City refuse or neglect to pay any penalties that have been levied pursuant to that bylaw by the thirty-first day of December on the same year, the penalties shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears.
25. Fines which have not been paid by the owner or occupier of property within the City, as required by a court, shall attach to and may be recovered through the property tax account of such owner or occupant, and may be recovered in the same manner as a tax may be collected or enforced under the *Municipal Act* or the *Assessment and Taxation Act*.

## **BYLAW REPEAL**

26. Bylaw 892, including all amendments thereto, is hereby repealed.

## **COMING INTO FORCE**

27. This bylaw shall come into full force and effect upon final passage thereof.

**FIRST and SECOND READING:** November 23, 2015

**THIRD READING and ADOPTION:** December 14, 2015

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"Dan Curtis"

Dan Curtis, Mayor

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"N. L. Felker"

Norma L. Felker, Assistant City Clerk