CITY OF WHITEHORSE

BYLAW 99-04

A bylaw to provide for the licensing and regulating of businesses in the City of Whitehorse

WHEREAS section 247 of the *Municipal Act* (1998) provides that Council may by bylaw impose and collect business licenses and fees, inspection fees, parking fees, recreation fees and other fees, utility charges, fines and penalties as considered necessary; and

WHEREAS section 247 of the *Municipal Act* provides that Council may by bylaw take into revenue fines, interest on deposits and investments, any charges for the operation of any services or utilities under the control of Council, and such other funds as the municipality may acquire; and

WHEREAS it is deemed desirable to license and regulate businesses carried on or operated within the City:

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 "**Business License Bylaw**".

INTERPRETATION

2. In this bylaw, unless the context otherwise requires,

   (1) “ACCOMMODATION” means a bed and breakfast, boarding or rooming house, hotel or motel in which temporary overnight accommodation is provided.

   (2) “ADULT” means a person who is over 18 years of age.

   (3) "ADULT BOOK, ADULT MAGAZINE or ADULT VIDEO TAPE" means any book, magazine or video tape primarily appealing to or designed to primarily appeal to erotic or sexual appetites, or which depicts violence or cruelty.

   (4) “AGENT” means a person vested with authority to represent or act for others.

   (5) "ARCADE" means a commercial entertainment service where the principal business function is providing video, pinball or computer games for use by the general public.

(6) "BUSINESS" means the carrying on of a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal, or other services for the purpose of gain or profit.

(7) "CHILD" means a person who is, or without evidence to the contrary, appears to be, under the age of twelve years.

(8) "CITY" means the City of Whitehorse.

(9) “CITY MANAGER” means the City Manager of the City of Whitehorse.

(10) "COUNCIL" means the council of the City of Whitehorse.

(11) “DESIGNATED OFFICER” means an employee of the City of Whitehorse, or an authorised representative as designated by the City Manager.

(12) “DIRECT SALES”: see Hawker or peddler.

(13) "HAWKER or PEDDLER" means any person who, whether as principal or agent,

(a) Goes from place to place and offers goods, wares or merchandise for sale; or

(b) Sets up tables, carts, mobile displays or any other temporary structure to offer or expose for sale to any person goods, wares, or merchandise; or

(c) Offers or exposes for sale to any person by means of samples or merchandise to be afterwards delivered or shipped into the City, other than as a mail order business or a wholesale or retail dealer in such merchandise having a permanent place of business in the City.

(14) “INTER-MUNICIPAL LICENSE” is an Inter-Municipal Business License issued by any municipality signatory to the Inter-Municipal Business License Agreement negotiated between the City and other Yukon municipalities.

(15) “LICENSED PREMISES” means an establishment holding a Government of Yukon Liquor Board license to sell or distribute liquor.

(16) "MOBILE REFRESHMENT STAND " means a booth, stand or vehicle that is designed to be portable, and includes a tray or container of snacks or refreshments carried by a street vendor.

(17) “NON-PROFIT SOCIETY” means a group registered with the Government of Yukon as a non-profit society (in good standing) under the *Societies Act*.

(18) “NON-RESIDENT BUSINESS” means any business other than a Resident Business.

(19) "OPERATOR" means a person who owns or operates a business, whether or not the business is licensed pursuant to this bylaw.

(20) "PERSON" means an individual, a corporation or a partnership.

(21) "PREMISES" means the store, office, warehouse, factory, building, enclosure, yard or other place occupied or capable of being occupied, by any person for the purpose of any business.

(22) “RESIDENT BUSINESS” means any business which operates from a fixed location within the Yukon or any Hawker, Peddler or Mobile Refreshment Stand which is operated by a person residing within the Yukon for six (6) consecutive months immediately prior to the date of application for a Business License.

(23) "RETAIL SALES/WHOLESALE OUTLETS" means all businesses offering goods, wares and merchandise for sale.

(24) “TEMPORARY” means a fixed period established by the Designated Officer, not to exceed seven (7) days.

(25) “YOUNG PERSON” means a person who is, or without evidence to the contrary, appears to be, twelve years of age or more, but under eighteen years of age.

ADMINISTRATION

3. The City shall,

(1) Ascertain as far as reasonably practicable that all information furnished by an applicant in connection with an application for a license or transfer of license is true in substance and fact;

(2) Prepare and issue all licenses pursuant to the terms of this bylaw;

(3) Inspect as often as necessary all premises licensed or required to be licensed pursuant to the provisions of this bylaw in order to ascertain that such premises comply with the said provisions; and

(4) Prosecute any person who fails to comply with the provisions of this bylaw.

NECESSITY FOR LICENSE AND PAYMENT OF FEES

4. No person shall operate any business within or partly within the City without first having obtained a City of Whitehorse Business License and paid the fee prescribed or without first having obtained an Inter-Municipal Business License and paid the fee prescribed.

5. Every license issued pursuant to this bylaw shall be valid only with respect to the address of the business stipulated thereon; and a separate license is required for each location where a business operates within the City.

6. Any person who operates more than one business in or from any one premises shall obtain a separate license for each business.

7. The holder of a valid City of Whitehorse business license shall not be entitled to a refund once the license has been issued.

8. A business license required by this bylaw is issued for a twelve month (12) period and shall expire twelve (12) months from the date of issue.

9. The Designated Officer may issue a license for part of a license year and the fee to be charged therefore shall be prorated but shall not be less than 50% of the annual license fee.

10. No person shall interfere with or obstruct the Designated Officer in the performance of any duties.

CONDITIONAL LICENSES

11. Where the Designated Officer issues a license subject to certain conditions, the license shall be endorsed with the particulars of such conditions.

LICENSES SUBJECT TO OTHER BYLAWS AND REGULATIONS

12. A license issued under this bylaw is not to be deemed to be a representation by the City to the licensee that the business or proposed business complies with any or all applicable bylaws or other enactments, and the licensee shall ensure compliance with bylaws and other enactments. Where the licensee is found to be in violation of any other bylaw or enactment, the Designated Officer shall forthwith cancel the license and not refund the license fees.

13. When requested by the Designated Officer, an applicant shall provide a written approval for the existing or proposed business, signed by the Environmental Health Officer, prior to the issuance or renewal of any license.

14. All applications for a Non-Resident Hawker or Peddler business license where the operator visits private residential dwellings door to door must be accompanied by a standard Royal Canadian Mounted Police “Consent to Release of Information” form for the purpose of performing a criminal record check.

15. No Hawker or Peddler business license where the operator visits private residential dwellings door to door shall be issued to any person who has been convicted under the *Criminal Code of Canada* within the five (5) year period immediately preceding the date of application of:

    (1) a sexual offence or an offence tending to corrupt public morals; or

    (2) an offence relating to robbery or extortion.

LIABILITY INSURANCE

16. All applications for a Hawker or Peddler or Mobile Refreshment Stand business license or a renewal thereof shall be made to the Bylaw Services Department. The applicant shall supply proof of valid public liability insurance in an amount of at least two million dollars ($2,000,000.00). The licensee is required to maintain such insurance in force throughout the period that the business license is in effect and, in the event of such insurance being cancelled for any reason, to notify the City forthwith.

POSTING OF LICENSE IN PREMISES

17. Every licensee shall post the business license in a conspicuous place in the business premises. Where a licensee has no premises within which to post the license, the licensee shall produce the license when required to do so during business hours by a Designated Officer or any Peace Officer.

18. Upon request from the general public, every licensee shall produce a copy of his/her current business license.

TRANSFER OF LICENSE

19. Where a licensee makes application to change the place of business, the Designated Officer may, upon the payment of the prescribed transfer fee and the surrender of the original license, issue a replacement license reflecting the address of the new place of business.

20. A licensee must notify the Designated Officer in writing of any change in the type or nature of the business, and any change in the location or ownership of the business.

21. No replacement license shall be issued in accordance with this bylaw where the premises to which the applicant wishes to transfer the license do not comply with the requirements of all applicable bylaws, or the proposed use of those premises would not comply with the requirements of the said bylaws.

22. Where a licensee makes application to transfer the license to another person or to change the name of the business, the Designated Officer shall, upon payment of the prescribed transfer fee and the surrender of the original license, issue a replacement license in the name of the transferee.

SUSPENSION OF LICENSE

23. A business license may be suspended if the licensee:

    (1) Is convicted of an offence under any municipal bylaw or statute of the Territory with respect to the business for which the business is licensed, or with respect to the premises named in the business;

(2) Has been guilty of such gross misconduct in respect of the business or with respect to the premises named in the business license that it warrants the suspension of the business license;

(3) Has ceased to meet the lawful requirements to carry on the business for which he/she is licensed, or with respect to the premises named in the business license; or

(4) Has, in the opinion of the Designated Officer, conducted the business in a manner, performed a service in a manner, or sold, offered for sale, displayed for sale or distributed to a child or young person, anything that may be harmful or dangerous to the health or safety of the child or young person.

24. In the event of suspension of the business license by the Designated Officer, the suspension shall be made in writing, signed by the Designated Officer, and served on the licensee at the address given by the licensee on the application form for the business license, or his/her last known address, or delivered to the licensee by registered mail. The Designated Officer shall post such notice of suspension in the premises for which the license was issued. The notice of suspension shall not be removed until the license is reinstated, the suspended licensee ceases to occupy the premises, or a new license is issued for the premises. No person shall operate a business for which a license required by this bylaw is under suspension.

REVOKING OF LICENSE

25. The Designated Officer may revoke a license for reasonable cause after giving notice in writing to the licensee and after giving the licensee an opportunity to be heard.

26. The notice and opportunity to be heard in section 25 is not required where a licensee by reasonable effort cannot be found.

APPEAL

27. Any person or business who has applied for but failed to be granted a license or who has had their business license suspended under stipulations of this bylaw or who has had their license revoked may appeal the suspension in writing to Council within thirty (30) days after the license has been suspended, and Council may grant the request for reinstatement of the business license.

28. The right of appeal under section 27 shall be barred and extinguished if not received in writing by Council within the thirty (30) day period set out in this bylaw.

GENERAL

Vending Machines

29. Any person operating more than three (3) vending machines within the City shall be required to purchase a business license.

30. No business license shall be required with respect to:

    (1) Vending machines which serve or vend only products produced by the owner of the vending machine or his employees; or

    (2) Coin operated washers, dryers, or other laundry equipment provided by the owner of any apartment, boarding house, or rooming house or tourist facility for the exclusive use of the residents thereof; or

    (3) Coin operated vehicle-washing equipment provided for the exclusive use of residents at a tourist facility.

Goods Offered for Sale on Streets or Public Property

31. No person shall display, store, or accumulate goods or merchandise which are offered for sale or intended to be offered for sale on any street, sidewalk, boulevard, or other public property, unless authorised in advance by the Designated Officer.

32. Where goods or merchandise are found stored on a street, sidewalk, boulevard or public property, a Designated Officer may take said goods or merchandise into custody and cause them to be taken to a safe and suitable place, and the said goods or merchandise shall not be released to the owner thereof until the said owner or his agent has paid all costs and charges incurred in the removal and storage of the goods.

33. Goods or merchandise taken into custody that is not reclaimed within three months may be offered for sale by public auction.

34. At the discretion of the Designated Officer the temporary display and sale of merchandise or goods by licensed businesses on sidewalks directly adjacent to their place of business may be allowed.

35. Hawkers and Peddlers and Mobile Refreshment Stands are not permitted to display goods or merchandise which are offered for sale or intended to be offered for sale on street, sidewalk or boulevard, or other public property other than at pre-determined locations authorised in advance by the Designated Officer.

Adult Book, Adult Magazine or Adult Video Tape

36. Persons who offers adult books, adult magazines, or adult videotapes for sale, rent, or lease in any premises where such items are on display to the public shall place such items:

    (1) At a distance not less than 1.5 metres above the floor; and

(2) In display cases in such manner that only the title is displayed; and

(3) In display cases that are within clear view of the area where payment is made for purchased items.

37. No person shall provide any adult books, adult magazines, or adult videotapes to any child or young person.

PENALTY

38. Any person who fails to comply with the requirements of this bylaw commits an offence and is liable, upon summary conviction, to:

(1) a voluntary fine under section 20 of the *Summary Convictions Act*, issued in respect of an offence specified in Schedule "A" attached hereto and forming part of this bylaw;

(2) a fine not exceeding ten thousand dollars ($10,000.00) where proceedings are commenced pursuant to the summary conviction provisions of the *Criminal Code of Canada*; or (***Bylaw 2006-17 passed May 8, 2006***)

(3) a fine not exceeding five hundred dollars ($500.00) where proceedings are commenced pursuant to the *Summary Convictions Act* of the Yukon. (***Bylaw 2006-17 passed May 8, 2006***)

REPEAL

39. Bylaw 87-50, including all amendments thereto, is hereby repealed.

COMING INTO FORCE

40. This bylaw shall come into full force and effect on the final passing thereof.

FIRST READING: November 8, 1999
AMENDMENT: December 13, 1999
SECOND READING: December 13, 1999
THIRD READING and **ADOPTION**: December 13, 1999

ORIGINAL BYLAW SIGNED BY:

"Kathy Watson"

Kathy Watson, Mayor

"P. Burke"

Patricia Burke, City Clerk

Office Consolidation of
Business License Bylaw 99-04

SCHEDULE "A"

VOLUNTARY FINES

Authority	Ticket Description	Penalty
Section 4, 5, 6	Unlicensed business	$200.00
Section 17, 18	Fail to post or produce license	$100.00
Section 20	Failure to notify	$100.00
Section 31	Offer goods for sale on public property	$200.00
Section 35	Hawking or peddling or Mobile Refreshment Stand, unauthorised locations	$200.00
Section 36	Adult material improperly displayed	$200.00
Section 37	Adult material provided to child or young person	$200.00

Office Consolidation of
Business License Bylaw 99-04

CONSENT
RELEASE OF INFORMATION

I, _____

Surname *First Name* *Middle Name(s)*

any other names used (if any) _____

Maiden name, alias, etc.

Current Address: _____

Date of Birth: *(Year)* *(Month)* *(Day)*

Place of Birth: _____

Phone Number(s): _____ Sex: M F

do hereby authorise the Royal Canadian Mounted Police to provide information to:

Bylaw Services, City of Whitehorse
2121 Second Avenue, Whitehorse, Yukon Y1A 1C2

about me regarding any past known charges or offences, and the results of police investigations regardless of whether any charges were laid. I understand that such a screening for past offences or investigations is a routine practice of the Bylaw Services Department in assessing the suitability of applicants.

Signature ***Witness*** ***Date***

Please list residences for the past five (5) years **if other than Whitehorse, Yukon**:

			POS	NEG
1.		29 / CNI		
2.		PIRS Local		
3.		Other Area		
4.		Other Area		
5.		Other Area		
6.		FPS Number		