

CITY OF WHITEHORSE
REGULAR Council Meeting #2022-17

DATE: Monday July 25, 2022

TIME: 5:30 p.m.

Mayor Laura Cabott
Deputy Mayor Michelle Friesen
Reserve Deputy Mayor Kirk Cameron

AGENDA

CALL TO ORDER 5:30 p.m.

AGENDA Adoption

PROCLAMATIONS

MINUTES Regular Council meeting dated July 11, 2022

DELEGATIONS

PUBLIC HEARING Zoning Amendment – KDFN C-112B

STANDING COMMITTEE REPORTS

Public Health and Safety Committee – *Councillors Cameron and Curteanu*

Skookum Drive Traffic Calming – For Information Only

Corporate Services Committee – *Councillors Friesen and Cameron*

Budget Amendment – Crosstown Water Main

Budget Amendment – Takhini Sanitary Trunk Replacement

Budget Amendment – Emergency Escarpment Repairs

Budget Amendment – Heavy Equipment Fleet

City Manager Bylaw

City Planning Committee – *Councillors Boyd and Laking*

Zoning Amendment – 2220 2nd Avenue

Subdivision Approval – Whistle Bend Phase 9

Whistle Bend Community Garden Lease Agreement

Development Services Committee – *Councillors Curteanu and Murray*

City Operations Committee – *Councillors Laking and Boyd*

Snow and Ice Program Review – For Information Only

McLean Lake Road Conditions – For Information Only

Community Services Committee – *Councillors Murray and Friesen*

NEW AND UNFINISHED BUSINESS

BYLAWS

| | | |
|---------|---|---|
| 2022-16 | Land and Housing Development Committee | 3 rd Reading |
| 2022-27 | Zoning Amendment 2220 2 nd Avenue | 1 st Reading |
| 2022-28 | Whistle Bend Community Garden Lease Agreement | 1 st & 2 nd Reading |
| 2022-29 | City Manager Bylaw | 1 st & 2 nd Reading |

ADJOURNMENT

MINUTES of **REGULAR** Meeting #2022-16 of the Council of the City of Whitehorse called for 5:30 p.m. on July 11, 2022, in Council Chambers, City Hall.

PRESENT: Mayor Laura Cabott
Deputy Mayor Michelle Friesen**
Councillors Dan Boyd
Kirk Cameron
Jocelyn Curteanu
Mellisa Murray

ABSENT: Councillor Ted Laking

ALSO PRESENT: Acting City Manager Valerie Braga
Acting Director of Community Services Krista Mroz
Director of Operations Tracy Allen
Acting Director of Development Services Mélodie Simard
Manager of Legislative Services Wendy Donnithorne

**Indicates electronic participation

Mayor Cabott called the meeting to order at 5:30 p.m.

CALL TO ORDER

2022-16-01

It was duly moved and seconded
THAT the agenda be adopted as presented.

ADOPT AGENDA

Carried Unanimously

2022-16-02

It was duly moved and seconded
THAT the minutes of the Regular Council meeting dated June 27, 2022
be adopted as presented.

MINUTES

June 27, 2022

Carried Unanimously

2022-16-03

It was duly moved and seconded
THAT the minutes of the Special Council meeting dated June 28, 2022
be adopted as presented.

MINUTES

June 28, 2022

Carried Unanimously

PUBLIC HEARING

Mayor Cabott advised that there is one public hearing scheduled for this evening.

PUBLIC HEARINGS
SCHEDULED

Mayor Cabott called for submissions with respect to the zoning amendment at the Interim Mount Sima Quarry.

ZONING AMENDMENT
Interim Mount Sima Quarry

There were no submissions received with respect to the zoning amendment.

Submissions Received

Mayor Cabott declared the public hearing for the zoning amendment at the Interim Mount Sima Quarry closed.

Public Hearing Closed

STANDING COMMITTEE REPORTS

Public Health and Safety Committee

The Committee was updated on the mosquito control program in the City of Whitehorse. The spray used targets mosquitos and avoids harm to other species. However, it does require reapplication after heavy rain. The first round of spraying has been completed in the urban areas, and it will be reapplied as necessary.

MOSQUITO CONTROL
PROGRAM – For
Information Only

Corporate Services Committee

2022-16-04

It was duly moved and seconded
THAT Council direct the 2022 to 2025 Capital Expenditure program be amended by increasing the budget for project #320c00322 in the amount of \$120,000, funded from the Capital Reserve until an amended Canada Community Building Fund Transfer Payment Agreement has been approved.

BUDGET AMENDMENT
Loader for Water and
Waste Services

Carried Unanimously

The Committee asked for clarification about the date of delivery for the loader. It was confirmed that the delivery would be within the program year although exact dates could only be confirmed once the order for the loader was placed.

DISCUSSION

2022-16-05

It was duly moved and seconded
THAT Council direct Bylaw 2022-16, a Bylaw to Amend the Advisory Committee Bylaw, be brought forward for consideration under the bylaw process to establish the Housing and Land Development Advisory Committee; and

HOUSING AND LAND
DEVELOPMENT ADVISORY
COMMITTEE
Commencement

.../Continued

2022-16-05 (Continued)

THAT upon approval of Bylaw 2022-16, Council, by Resolution, appoint Greg Thompson, Dave Irvine, Bryony McIntyre, John Vogt, Suzanne Greening, Joel Gaetz and Simon Lapointe to the Housing and Land Development Advisory Committee.

HOUSING AND LAND
DEVELOPMENT
COMMITTEE
Continued

Carried Unanimously

2022-16-06

It was duly moved and seconded

THAT Council approve the Inclusivity Advisory Committee draft Terms of Reference and framework and instruct Administration to begin the application process for membership on the Committee and further development of the committee framework.

INCLUSIVITY ADVISORY
COMMITTEE
Establishment

Carried Unanimously

A Committee member noted that there has been some struggle in the past to recruit members for this type of Advisory Committee. It was confirmed that Administration is working on a broad public advertising campaign.

DISCUSSION

City Planning Committee

2022-16-07

It was duly moved and seconded

THAT Council direct that Bylaw 2022-17, a bylaw to amend the zoning of 151 Black Street, from CMW – Mixed Use Waterfront to CMWx – Mixed Use Waterfront (modified) to allow for an office use to fully occupy the ground floor of a building, be amended to require a park as a second use, a minimum of 250 square metres in size, at the corner of Second Avenue and Black Street, be brought forward at second and third reading under the bylaw process.

PUBLIC HEARING
REPORT – 151 Black
Street

Carried Unanimously

The Committee was provided with information regarding the Parking Master Plan created in 2019. Implementation has begun of both the short and long term recommendations from the Master Plan including a review of fees, implementing a kiosk system, and development of a parking app. The Master Plan focuses more on managing existing parking rather than adding more parking.

PARKING IN THE
DOWNTOWN CORE – For
Information Only

The Committee was presented with an update regarding the traffic planning for Range Road.

TRAFFIC PLANNING ON
RANGE ROAD – For
Information Only

.../Continued

(Continued)

They were informed that work is currently underway with the Yukon Government on the Alaska Highway upgrades. They were also informed that there were still plans to proceed with the upgrade to the crosswalk at Takhini Elementary School, given the value of those improvements to the area at this time.

TRAFFIC PLANNING ON
RANGE ROAD
Continued

The Committee was provided with an update on bringing industrial and commercial lands to market. They were informed that there is an ongoing feasibility study being led by Yukon Government, with the result expected around the end of July. The City will likely lead the feasibility work, including environmental, engineering design and geotechnical work. In addition, there are two land parcels owned by the City which are advancing, one is expected to go to market this year, and the other potentially next year after it goes through the rezoning process.

COMMERCIAL AND
INDUSTRIAL LAND
PARCELS – For
Information Only

Development Services Committee

There was no report from the Development Services Committee.

No Report

City Operations Committee

There was no report from the City Operations Committee.

No Report

Community Services Committee

The Committee was informed about the Adäka Cultural Festival which ran from June 29 to July 5, 2022. This was the festival's 10th year running. The festival showcased over 200 performance and visual artists. The event was sponsored by the City of Whitehorse, and three members of Council volunteered their time to help support the festival.

ADÄKA CULTURAL
FESTIVAL – For
Information Only

The Committee was presented with a short report of the post-COVID reconnection between the City of Whitehorse and the City of Skagway, Alaska. This year was the first in several years where shared “National Day” celebrations have been possible. The opportunity to reconnect in Whitehorse and Skagway was also a chance for leadership from both cities to discuss matters of shared interest and mutual support between themselves, including with respect to tourism and economic development.

CANADA DAY AND
FOURTH OF JULY
CELEBRATIONS – For
Information Only

NEW AND UNFINISHED BUSINESS

BYLAWS

2022-16-08

It was duly moved and seconded
THAT Bylaw 2022-16, a bylaw to amend Advisory Committee Bylaw 2017-28 and to establish a Housing and Land Development Advisory Committee be given first reading.

Carried Unanimously

BYLAW 2022-16

AMEND ADVISORY
COMMITTEE BYLAW
FIRST READING

2022-16-09

It was duly moved and seconded
THAT Bylaw 2022-16, a bylaw to amend Advisory Committee Bylaw 2017-28 and to establish a Housing and Land Development Advisory Committee, be given second reading.

Carried Unanimously

BYLAW 2022-16

SECOND READING

2022-16-10

It was duly moved and seconded
THAT Bylaw 2022-17, a bylaw to amend the zoning at 151 Black Street, be given second reading.

Carried Unanimously

BYLAW 2022-17

AMEND ZONING AT 151
BLACK STREET
SECOND READING

2022-16-11

It was duly moved and seconded
THAT Bylaw 2022-17, a bylaw to amend the zoning at 151 Black Street, having been read a first and second time, be given third reading.

Carried Unanimously

BYLAW 2022-17

THIRD READING

2022-16-12

It was duly moved and seconded
THAT Bylaw 2022-19, a bylaw to amend Fees and Charges Bylaw 2014-36, be given second reading.

Carried Unanimously

BYLAW 2022-19

AMEND FEES AND
CHARGES BYLAW
SECOND READING

2022-16-13

It was duly moved and seconded
THAT Bylaw 2022-19, a bylaw to amend Fees and Charges Bylaw 2014-36, having been read a first and second time, be given third reading.

Carried Unanimously

BYLAW 2022-19

THIRD READING

2022-16-14

It was duly moved and seconded
THAT Bylaw 2022-24, a bylaw to amend Cemeteries Bylaw 2003-06,
having been read a first and second time, be given third reading.
Carried Unanimously

BYLAW 2022-24

AMEND CEMETERIES
BYLAW
THIRD READING

There being no further business, the meeting adjourned at 6:16 p.m.

ADJOURNMENT

Laura Cabott, Mayor

Wendy Donnithorne, City Clerk

ADOPTED by Resolution at the Regular Council Meeting #2022- dated



Minutes of the meeting of the Public Health and Safety Committee

| | | |
|---------------------------|--|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall | |
| | Councillor Kirk Cameron – Chair | |
| | Mayor Laura Cabott | |
| Committee Members Present | Councillor Dan Boyd | |
| | Councillor Jocelyn Curteanu | |
| | Deputy Mayor Michelle Friesen** | |
| | Councillor Ted Laking | |
| | Councillor Mellisa Murray** | |
| Staff Present | Jeff O'Farrell, Interim City Manager | |
| | Landon Kulych, Acting Director of Community Services | |
| | Valerie Braga, Director of Corporate Services | |
| | Mike Gau, Director of Development Services | |
| | Tracy Allen, Director of Operations | |
| | Wendy Donnithorne, Manager of Legislative Services | |

** Indicates electronic participation

Your Worship, the Public Health and Safety Committee respectfully submits the following report:

1. New Business – Downtown Community Safety – For Information Only

David Jennings presented his suggestions to improve public safety in the Downtown area, citing concerns about public drug and alcohol use, fighting and littering in the area. He suggested more foot patrols be done by RCMP and foot patrols could also be conducted by City Bylaw Officers and Kwanlin Dün community safety officers. The City could also consider providing passes to the Canada Games Centre as a way to provide support for healthier activities.

The Committee inquired why he believed that foot patrols would help and what his opinion was for the reasons the issues have gotten worse since the operation of the Salvation Army, as there are regularly RCMP officers in the area. He responded that there didn't appear to be enough enforcement of the rules on public drinking, and that additional foot patrols could help to decrease RCMP response time and save money compared to driving.

2. New Business – Skookum Drive Crosswalk – For Information Only

Roxanne Stasyszn presented her concerns about traffic safety and the need for traffic calming measures on a specific area of Skookum Drive. Ms. Stasyszn has spoken to all responsible agencies including Yukon government, RCMP and the City about the safety issues and presented signatures from over 70 residents of the area in support of installing traffic calming measures. Her presentation included a request that Council consider this issue and the installation of traffic calming measures at this crosswalk as a priority and ahead of the next budget process, and proposed that something temporary be re-installed this season, given the continued and significant safety risks.

3. New Business – Skookum Drive Traffic Calming – For Information Only

A Committee member brought forward concerns about traffic and safety on Skookum Drive, related to the specific area and proposal brought forward by the delegate. The Committee was informed that this has been a longstanding issue, with concerns first coming forward in 2016. Traffic calming “speed bumps” had previously been installed recognizing the safety concerns in this spot. The number of close calls has since increased due to the narrow streets, the need for more street parking which limits visibility for drivers, along with speeding traffic in this dense and increasingly busy area.

The Committee asked if this could be something the City could address as part of a capital budget request and it was confirmed that the item would be reviewed and ranked in the capital planning process and Council advised of the ranking. In addition, the Transportation Master Plan is examining this issue across the city given the number of requests and concerns being raised. Administration also confirmed it would look at options at an operational level in the shorter term this season for this specific area on Skookum Drive, such as options for reinstalling traffic calming measures.



Minutes of the meeting of the Corporate Services Committee

| | | |
|-----------|--|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall | |
| | Councillor Kirk Cameron – Chair | |
| | Mayor Laura Cabott | |
| Committee | Councillor Dan Boyd | |
| Members | Councillor Jocelyn Curteanu | |
| Present | Deputy Mayor Michelle Friesen** | |
| | Councillor Ted Laking | |
| | Councillor Mellisa Murray** | |
| | Jeff O'Farrell, Interim City Manager | |
| | Landon Kulych, Acting Director of Community Services | |
| Staff | Valerie Braga, Director of Corporate Services | |
| Present | Mike Gau, Director of Development Services | |
| | Tracy Allen, Director of Operations | |
| | Wendy Donnithorne, Manager of Legislative Services | |
| | Taylor Eshpeter, Manager of Engineering | |

** Indicates electronic participation

Your Worship, the Corporate Services Committee respectfully submits the following report:

1. Budget Amendment – Crosstown Water Main

The Cross Town Water Main runs from the Selkirk Aquifer to the Two Mile Hill Booster Station. It is a key supply line that provides drinking water from the Selkirk Aquifer to every serviced neighborhood other than Downtown and Riverdale, and is a critical part of the City's infrastructure for distribution of drinking water.

In early May, two significant leaks were discovered in the line at the base of Two Mile Hill. The leaks were a result of corrosion of the pipe wall, which was then repaired. During the repair, other exposed sections of the line showed additional areas of substantial corrosion. Based on the severity of corrosion, there is a high risk of additional pipe failures until the pipe can be replaced in this section.

Administration has retained a consultant to complete a preliminary analysis of the information known to date as well as possible repair and replacement options and estimated costs. This initial evaluation is being completed within existing budgets and

will be used to support preliminary and detailed engineering design. Completion of the detailed design will include a life cycle assessment of the entire line and the optimal repair or replacement strategy for the areas of concern.

A capital budget request for the construction portion of the project will be considered as part of the 2023-2026 capital budget process and Administration will continue to work with external funding agencies for possible sources of alternate funding to support this project, and other water infrastructure repairs.

The Committee asked whether this request was for additional work on top of the existing budget. Administration confirmed that this would be additional budget for detailed design in addition to the preliminary work being completed through the existing operating budget.

The Committee also asked whether the corrosion could contaminate the water in the lines. Administration clarified that as long as the line remains pressurized, contaminants would not enter the system.

The recommendation of the Corporate Services Committee is

THAT Council direct that the 2022 to 2025 Capital Expenditure Plan be amended by adding a new capital project titled "2022 Cross Town Water Main" for \$500,000, funded from the General Reserve until external funding can be secured.

2. Budget Amendment – Takhini Sanitary Trunk Replacement

The City of Whitehorse owns and operates approximately 140 km of sewer lines that transport effluent throughout the City. Of the 140 kilometres of the sewer lines that exist, a portion of those are considered "sanitary trunk" lines that collect effluent from several different neighborhoods into one larger pipe before carrying it to the Marwell Lift Station and then the Livingstone Lagoon for final treatment.

On June 1, 2022 a large tension crack was observed at Manhole #35 located along the Takhini Sanitary Trunk main east of the Pepsi Softball Center. This portion of the line was installed in 1975 and is located on the face of the escarpment in a relatively steep section. This line transports approximately 40% of the effluent that goes to the Marwell Lift Station.

Based on the hazard and risk assessment completed by the geotechnical engineers, there is a high probability of imminent slope failure that could damage or destroy this portion of the line within the next year. Given the magnitude of the risk of slope failure and corresponding failure of this portion of the sanitary trunk, the City has constructed a temporary bypass solution to maintain levels of service and mitigate any environmental impacts until a final solution can be implemented.

It was noted that given the age of the existing line and planned future development in this area, a capital project to provide additional capacity and redundancy would likely have been required in the next 7-12 years, regardless.

A Committee member inquired if other funding opportunities for this project were explored. Administration noted that there is a plan to explore other funding opportunities

for this in the future. However, with the highly emergent nature of this project, and associated risk, Administration recommends beginning the work now.

The recommendation of the Corporate Services Committee is

THAT Council direct that the 2022 to 2025 Capital Expenditure Plan be amended by adding a new capital project titled “Takhini Sanitary Trunk Replacement” limited to engineering design in 2022 for \$350,000, funded from the General Reserve.

3. Budget Amendment – Emergency Escarpment Repairs

Since the initial landslide on April 30, 2022 the Whitehorse escarpment has exhibited numerous instabilities and an unprecedented number of events in a single year. The City’s Emergency Operations Center was enacted in response to the landslides and actions were taken to mitigate the immediate risks and clean-up the landslide debris as soon as possible.

Incurred costs to date are over \$1,600,000 with a number of invoices still outstanding. The majority of the remaining work is related to debris cleanup of landslides, and completion of the containment berm on Robert Service Way. The expenditures have previously been reported to Council and now need budgetary authority.

A Committee member inquired if the \$750,000 difference between the incurred cost to date, and the recommended amount was based on outstanding invoices alone. Administration confirmed that the amount of \$2,300,000 was the best estimate of total costs based on the information available. These total costs include both paid and outstanding invoices and additional work that is required.

Administration also noted there would be a project brought forward later this year to update the overall escarpment geo-hazard study, and that while at this time there is no indication of what percentage of the costs associated with the escarpment slides could be recovered, early intergovernmental discussions around the issue are underway.

The recommendation of the Corporate Services Committee is

THAT Council direct that the 2022 to 2025 Capital Expenditure Plan be amended by adding a new capital project titled “2022 Escarpment Slide Response” in the amount of \$2,300,000, funded from the General Reserve.

4. Budget Amendment – Heavy Equipment Fleet

Under the Capital Expenditure Program for 2022-2025, there were funds allocated in 2023 for the replacement of a loader and skid steer and the purchase of an additional grader. These pieces of equipment are integral to the operation of the City’s snow and ice control and road maintenance programs. Replacement of aged equipment and timely addition of new equipment allows maintained, and in some cases, enhanced levels of service to the citizens of Whitehorse.

The procurement of the skid steer, loader, and grader was originally planned for the 2023 budget cycle. However, due to current long lead times for equipment, industry supply issues, and volatility in equipment prices, Administration recommended

advancing procurement to the 2022 budget year so the equipment will be available in 2023.

The budget requires an additional \$307,500 for the three projects, based on recent tenders and current budget pricing. Any amount that is not needed, will be returned to reserves. Administration also confirmed that the procurements, which were subject to external funding for 2023, would remain eligible for external funding if advanced to 2022.

The recommendation of the Corporate Services Committee is

THAT Council direct the 2022 to 2025 Capital Expenditure Program be amended by modifying the 2022 and 2023 budgets to advance projects 320c02410 – Skid Steer, 320c03110 – Loader, and 320c01022 – Grader, from 2023 to 2022; and

THAT Council direct the 2022 to 2025 Capital Expenditure Program be amended by increasing the budget for those projects as follows:

- 320c02410 Skid Steer by an additional \$17,500
- 320c03110 Loader by an additional \$120,000
- 320c01022 Grader by an additional \$170,000

5. City Manager Bylaw

The City of Whitehorse is required under the [Municipal Act](#) to enact a bylaw when a new City Manager is appointed. A new City Manager was recruited pursuant to the terms of the proposed bylaw. The terms of the proposed bylaw were discussed and approved in principle by Council prior to a Letter of Offer being issued to the successful candidate, Jeff O'Farrell.

The recommendation of the Corporate Services Committee is

THAT Council direct that Bylaw 2022-29, a bylaw to appoint a City Manager and delegate certain administrative powers to the position, be brought forward for consideration under the bylaw process.



Minutes of the meeting of the City Planning Committee

| | | |
|---------------------------|---|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall Councillor Dan Boyd – Chair Mayor Laura Cabott | |
| Committee Members Present | Councillor Kirk Cameron Councillor Jocelyn Curteanu Deputy Mayor Michelle Friesen** Councillor Ted Laking Councillor Mellisa Murray** | |
| Staff Present | Jeff O'Farrell, Interim City Manager Landon Kulych, Acting Director of Community Services Valerie Braga, Director of Corporate Services Mike Gau, Director of Development Services Tracy Allen, Director of Operations Wendy Donnithorne, Manager of Legislative Services Patrick Ross, Manager of Land and Building Services Mélodie Simard, Manager of Planning and Sustainability | |

** Indicates electronic participation

Your Worship, the City Planning Committee respectfully submits the following report:

1. Zoning Amendment – 2220 2nd Avenue

An application was received to rezone 2220 2nd Avenue to allow for a cannabis retail store on a site located 100 metres from a school.

Under the *Cannabis Control and Regulation Act* a cannabis store must be located more than 150 metres from a building that is, or is part of, a secondary school. The proposed store would not meet this requirement as it would be within 150 metres of a downtown learning center. However, municipal Zoning Bylaw prevails over this requirement. The proponent is therefore seeking to amend the City's Zoning Bylaw to allow a cannabis retail store located more than 100 metres from a school.

The proposal was reviewed by the Development Review Committee with no significant concerns raised. The proposal was also reviewed by the Yukon Liquor Corporation who had no strong objections with the location as it relates to youth, given that requirements such as identification checks and visual and noise screening would remain.

The Yukon Department of Education also indicated no strong objection with buffer changes in general, but indicated any proposed change should continue to be monitored on a case by case basis for potential impact to the local school community.

The current zoning of the subject site is “Service Commercial”, which is intended to provide for a mix of commercial uses, including those that are vehicle oriented. Retail Services, Restricted is a permitted use in the Service Commercial zone, subject to specific requirements (approved “modifications”) under the Zoning Bylaw.

This site is located more than 100 metres from any known temporary shelters, substance abuse treatment centres, youth at risk facilities, neighbourhood parks with play structures and other cannabis retail stores, as required by the Zoning Bylaw provisions, and therefore a special modification to the zone would seek to align the school separation requirement with other special separation requirements under the bylaw.

The Committee asked why the City and the Yukon Government have different buffer zones. Administration confirmed that the City measures the distance from the lot line, and therefore typically needs a smaller distance to have a similar buffer radius.

The recommendation of the City Planning Committee is

THAT Council direct that Bylaw 2022-27, a bylaw to amend the zoning of 2220 2nd Avenue to allow for a cannabis retail operation located 100 metres of a school, be brought forward for consideration under the bylaw process.

2. Subdivision Approval – Whistle Bend Phase 9

As part of planning and development process for Whistle Bend, the City has issued a number of subdivision approvals between 2009 and 2018. The most recent Whistle Bend subdivision approval was issued December 2021 for Phases 7 and 8.

Following approval of the required zoning amendment, Administration is now bringing forward a Phase 9 subdivision plan for Council approval to ensure the continued development of the Whistle Bend Subdivision. The area consists of approximately 8.3 ha of vacant Yukon Land, and would contain 99 lots resulting in an estimated 130-170 residences.

A Committee member raised continued concerns over the limited “traffic structure” or road capacity from downtown to the Whistle Bend and Porker Creek areas, and noted additional other concerns about parking and snow removal being already difficult to manage in the Whistle Bend area. Administration clarified that the new modernized transit route schedule has considered the increasing population in the area. Administration also confirmed that the Engineering department has been discussing the traffic structure for Whistle Bend and Porter Creek for the Transit Master Plan project.

The recommendation of the City Planning Committee is

THAT Council approve the subdivision of approximately 8.3 ha of land for the creation of new residential lots, lanes, and roads for the areas known as Whistle Bend Phase 9,

as shown on the proposed subdivision sketches, subject to the condition that the Government of Yukon enter into a Development Agreement with the City of Whitehorse.

3. Lease Agreement – Whistle Bend Community Garden

In 2018, a community garden and cooperate gardening operation was developed at 10 Eldorado Drive. The garden functioned briefly under that vision until the start COVID-19 pandemic. However, the lot is now designated for residential development, which requires the relocation of the garden.

Working with the Whistle Bend Garden Society (WBGS), the City has identified an approximately 1000 square metre parcel of city-owned property that would be suitable for a community garden. The proposed garden site would be accessed from a laneway connecting from Keno Way and is expected to consist of a fenced site with garden boxes, a water tank, and soil and tool storage. It is expected to function similar to the Downtown Urban Garden located on 7th Avenue.

The proposed lease term is for three years beginning on September 1, 2022 and ending on August 31, 2025 with an option to renew for an additional 3 years. The lease has been drafted for a \$10 annual rental amount for the term of the lease, which is the current standard rate being applied to non-profit societies entering into these kinds of leases with the City. As such, the Society will be expected to bear all other costs associated with the operation and maintenance of the leased area.

The Committee inquired into what the costs would be for the Society, as the lease agreement notes that the Society would be responsible for paying the property taxes. Administration estimated that the property tax costs would be comparable to that of the community garden in Valleyview, however they would need time to confirm this amount.

The recommendation of the City Planning Committee is

THAT Council direct that Bylaw 2022-28, a bylaw to enter into a lease agreement with Whistle Bend Garden Society for a lease area comprised of a 1000 m² portion of Lot 415, Plan 2016-0047 LTO, Whistle Bend Subdivision, Whitehorse, Yukon, be brought forward for due consideration under the bylaw process.

4. New Business – Restricted Retail Zoning – For Information Only

Jordan Stackhouse and Daniel Schneider presented to the Committee about their application to rezone 2220 2nd Avenue for a cannabis store, which is required due to the location's proximity to a downtown learning centre and general requirements under the Yukon's *Cannabis Control and Regulation Act*. They are applying to rezone the lot which is located more than 100 metres and less than the required 150 m from the school.

The Committee raised a number of questions to clarify timelines for the zoning amendment process and summer schedule, and why this business was facing special approval requirements, given the other restricted retail business in the area such as alcohol. Administration confirmed that alcohol is not considered restricted under the

Zoning Bylaw in the same way that cannabis is, and therefore there are additional required approvals. The required timeline for the approval process was also clarified, including public hearing requirements and the August Council break, which require the bylaw process to be scheduled into early October.



Minutes of the meeting of the Development Services Committee

| | | |
|-----------|--|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall | |
| | Councillor Jocelyn Curteanu – Chair | |
| | Mayor Laura Cabott | |
| Committee | Councillor Dan Boyd | |
| Members | Councillor Kirk Cameron | |
| Present | Deputy Mayor Michelle Friesen** | |
| | Councillor Ted Laking | |
| | Councillor Mellisa Murray** | |
| | Jeff O’Farrell, Interim City Manager | |
| | Landon Kulych, Acting Director of Community Services | |
| Staff | Valerie Braga, Director of Corporate Services | |
| Present | Mike Gau, Director of Development Services | |
| | Tracy Allen, Director of Operations | |
| | Wendy Donnithorne, Manager of Legislative Services | |

** Indicates electronic participation

Your Worship, there is no report from the Development Services Committee.



Minutes of the meeting of the City Operations Committee

| | | |
|-----------|--|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall | |
| | Councillor Ted Laking – Chair | |
| | Mayor Laura Cabott | |
| Committee | Councillor Dan Boyd | |
| Members | Councillor Kirk Cameron | |
| Present | Councillor Jocelyn Curteanu | |
| | Deputy Mayor Michelle Friesen** | |
| | Councillor Mellisa Murray** | |
| | Jeff O'Farrell, Interim City Manager | |
| | Landon Kulych, Acting Director of Community Services | |
| Staff | Valerie Braga, Director of Corporate Services | |
| Present | Mike Gau, Director of Development Services | |
| | Tracy Allen, Director of Operations | |
| | Wendy Donnithorne, Manager of Legislative Services | |

** Indicates electronic participation

Your Worship, the City Operations Committee respectfully submits the following report:

1. Snow and Ice Program Review – For Information Only

The Committee was presented with an update on Administration's comprehensive review of the Snow and Ice Control Program which includes the City's winter maintenance operations and establishes priorities and service levels for snow and ice control activities.

The priority being given to this program review recognizes that population growth, demographic change, and climate change have affected the City's snow and ice control operations. In addition, there has been an increased demand for providing consistently maintained winter active transportation routes within the city, significantly more active transportation routes, and the program has not yet been reviewed from an active transportation perspective.

Key issues and challenges with the current program were identified based on a review of historical public complaints, preliminary stakeholder engagement and environmental scans of other municipalities.

The review conducted to date has identified the following key themes for potential improvement of the snow and ice control program:

1. Modernizing operations through a combination of means including increasing the size of the fleet, utilizing contracted services in extreme weather events and utilizing innovative methods for snow removal;
2. Improving public communication including increased public education, enforced parking bans, increased fines and charging for snow clearing costs;
3. Increasing snow site permit fees to better offset the costs of maintaining the site;
4. Prioritizing active transportation and increase equitable access to transportation networks); and
5. Updating planning and design requirements for new and infill developments to consider heavy snowfall events.

It is anticipated that updating the City's program to meet current environmental conditions and public expectations will be a multi-year approach that will require refinement as more information is collected. Improvements will be achieved through a variety of changes as resources permit. While some adjustments will be made in time for the 2022-2023 season, the full impact of all the changes will be implemented over the next few years.

The next steps include stakeholder engagement in July with an online public survey from over July and August, continued work on possible actions, and returning to Council with a report on options and costs in September with any required updates to bylaws or policies and for budget to follow.

Committee members noted their appreciation and support for both the comprehensive program review and the innovative approaches and potential actions, especially the focus on active transportation networks in the city.

Members asked how the City's current snow dumping fee compares to other jurisdictions. Administration clarified that the City is somewhat unique as very few jurisdictions offer a site for private contractors to dump snow. Other jurisdictions that do offer a site normally charge per load, or by volume of snow, while the City charges only \$100 per season for unlimited access.

2. New Business - McLean Lake Road Conditions – For Information Only

A Committee member indicated the poor condition of the McLean Lake Road stating that sections of the road may be currently impassable, and requested Administration do a site visit to determine potential maintenance requirements.



Minutes of the meeting of the Community Services Committee

| | | |
|-----------|--|---------|
| Date | July 18, 2022 | 2022-17 |
| Location | Council Chambers, City Hall | |
| | Councillor Jocelyn Curteanu – Chair | |
| | Mayor Laura Cabott | |
| Committee | Councillor Dan Boyd | |
| Members | Councillor Kirk Cameron | |
| Present | Deputy Mayor Michelle Friesen** | |
| | Councillor Ted Laking | |
| | Councillor Mellisa Murray** | |
| | Jeff O'Farrell, Interim City Manager | |
| | Landon Kulych, Acting Director of Community Services | |
| Staff | Valerie Braga, Director of Corporate Services | |
| Present | Mike Gau, Director of Development Services | |
| | Tracy Allen, Director of Operations | |
| | Wendy Donnithorne, Manager of Legislative Services | |

** Indicates electronic participation

Your Worship, there is no report from the Community Services Committee.

Bylaw 2022-16
Schedule “A”
Housing and Land Development Advisory Committee

CITY OF WHITEHORSE

BYLAW 2022-16

A bylaw to amend the Advisory Committee Bylaw.

WHEREAS section 191(1) of the *Municipal Act* provides that Council may by bylaw establish committees to consider matters referred to them by Council; and

WHEREAS in 2017 Council adopted an umbrella bylaw to prescribe the terms of reference and rules of procedure for any committee established by Council; and

WHEREAS the Advisory Committee Bylaw provides for the establishment of advisory committees by adopting a schedule to the bylaw that clearly outlines the mandate, membership criteria, and any designated administrative support for the committee; and

WHEREAS it is deemed appropriate to establish a special committee to advise Council and Administration on the development of housing within the City of Whitehorse;

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

1. Advisory Committee Bylaw 2017-28 section 44 is hereby amended to read “All Committee meetings shall be attended by Committee members, administrative staff and invited guests. The Committee may choose to hold public information sessions for the purpose of obtaining information from the public.”
2. Advisory Committee Bylaw 2017-28 is hereby amended by removing section 49.
3. Advisory Committee Bylaw 2017-28 is hereby amended by adding Schedule “A” attached hereto and forming part of this bylaw, to establish a Housing and Land Development Advisory Committee.
4. This bylaw shall come into force and effect upon final passage thereof.

FIRST and SECOND READING:

THIRD READING and ADOPTION:

Laura Cabott, Mayor

Wendy Donnithorne, City Clerk

Bylaw 2022-16
Schedule “A”
Housing and Land Development Advisory Committee

Terms of Reference

Council hereby establishes the terms of reference to prescribe the powers, duties, functions, structure, membership and procedures of the Housing and Land Development Advisory Committee.

Mandate

Taking direction from and reporting to Council, it is the responsibility of the Advisory Committee to identify and make recommendations on the following:

- Identify housing and land development impediments and opportunities for the city;
- Report to Council on strategic policy issues for achieving progress on housing and land development;
- Advising on ways to provide additional information regarding housing development to the general public;
- Specific policies, procedures, and bylaws as they affect land development planning, applications and process;
- On select topics, hear and respond to delegations of representatives of the development sector, community organizations and provide for a communications channel to engage with industry and land development associations for feedback on specific initiatives and proposals;
- Provide additional perspectives on promoting development policies linking land use, transportation, and sustainability; and
- Offer advice on housing and land development issues that Council refers to the Committee for consideration.

Scope

In meeting its purpose, the Committee shall meet to discuss issues related to the development of housing within the City of Whitehorse. The scope of work and mandate of the Committee will be defined by Council, and the Committee will limit its consideration to items falling within that mandate. Administration will work with the Committee to develop an agenda, work plan and budget for the first year.

Within the first year of its mandate, Council will expect the Committee to identify impediments and opportunities in housing development, identify market and non-market rental housing gaps, review select policies, bylaws, and proposed initiatives, and provide initial recommendations for action items.

Bylaw 2022-16
Schedule “A”
Housing and Land Development Advisory Committee

Timeline

Council has determined that the Committee will be established for an initial two-year period. At or near the conclusion of this timeframe Council shall determine whether it is necessary or advisable to extend the Committee's timeline.

Membership

The Committee will be comprised of up to 8 voting members along with designated staff from Administration for advisory and secretariat support. A Chair will be chosen from among the members of the Committee.

Of the potential 8 voting members:

- 4 or more should be selected to bring a housing and land development and/or construction business perspective and expertise to the Committee;
- 2 or more should bring a First Nations government perspective; and
- 2 should bring a broader community perspective related to housing and land development.

Yukon Government will be allocated one seat in an ex-officio, non-voting role.

From time to time, the Committee may invite subject matter experts to provide information and advice on select topics and to ensure a balance of views.

Voting Members

General membership criteria for Council Advisory committees is set out in the Bylaw. Applicants for Committee membership will be assessed on their demonstrated experience in and understanding of the housing and land development sector as the focus of the mandate of this Committee. Committee applicants will be required to identify how their experience will add perspective and be consistent with the mandate, purpose and scope of the Committee.

Appointment of Committee Members

Committee members will be appointed by Council Resolution at the conclusion of the selection process. Members will be expected to serve a term of two years and may be reappointed if the term of the Committee is extended by Council.

Public advertising will be conducted by the City, asking for expressions of interest from land and housing development industry groups, community organizations and interested individuals from the broader community. Targeted invitations will be forwarded to key organizations in the land and housing development industry.

As required under the Bylaw, the selection process should have the goals of achieving a balance of perspectives, within the context of the mandate focus of the Committee, including gender, culture and language and representation from youth and older adults.

Bylaw 2022-16
Schedule “A”
Housing and Land Development Advisory Committee

Roles and Responsibilities

Chairperson

The Chairperson of the Committee will be selected from the voting members of the Committee, and will retain voting privileges upon assuming the role of Chair. The role and responsibilities of the Chairperson will be to:

- Conduct and moderate Committee meetings and facilitate discussion;
- Set an agenda for each meeting; and
- Communicate and report to Council on behalf of the Committee.

When the Chairperson is unable to attend a Committee meeting, they will designate an Acting Chairperson from the voting members of the Committee.

Voting Members

Committee members' responsibilities will be as follows:

- To attend all of the regular meetings of the Committee;
- To present any concerns or issues to the Committee for discussion purposes, and to contribute to and make recommendations to Council and/or Administration; and
- To gather public input on concerns and issues related to the issues they are considering on housing and land development, and report on these findings to Council.

Meetings

Regular meetings of the Committee shall be determined by the Chairperson in consultation with the Committee, with a minimum of six meetings per year. The Chairperson may call special meetings of the Committee as necessary.

Attendance at Committee meetings will include members of the Committee, administrative staff and invited guests. The Committee may choose to hold public input sessions at select meetings to obtain feedback from Whitehorse residents.

Budget

The Committee, in collaboration with Administration, will be tasked with developing a budget for expenses for each year of its activities. The budget will be presented to Council for approval as required through the City's regular budgeting processes. The City will provide the Committee with support and secretariat services for all aspects of Committee work. The Committee has no authority to expend or commit the financial resources of the City of Whitehorse.

Committee Procedures

Once the Committee has been appointed by Council they will be expected to follow the policies, procedures and rules for administering the operation of the Committee as set

Bylaw 2022-16
Schedule “A”
Housing and Land Development Advisory Committee

out in the Advisory Committee Bylaw and the Council Procedures Bylaw (including meeting procedures, code of conduct, and public information requirements).

Administration and Technical Support

A staff member from the City of Whitehorse (Director of Development Services or designate) shall serve as the “Administrative Representative” for the Committee, appointed to act as a liaison between the Committee and Council and as a non-voting member, as an advisor and support, including the preparation of reports and recommendations to be presented to Council. An additional “Designated Officer” will provide for all secretariat and administrative support for meeting arrangements and materials.

Conflict of Interest

Any member of the board who believes that they may have a conflict of interest must disclose it during the appointment process or address it with the Committee Chair at the first available opportunity. Applicants will not be considered to be in a conflict of interest solely by virtue of being a land or housing development business owner.

CITY OF WHITEHORSE
BYLAW 2022-27

A bylaw to amend Zoning Bylaw 2012-20

WHEREAS section 289 of the *Municipal Act* provides that a zoning bylaw may prohibit, regulate and control the use and development of land and buildings in a municipality; and

WHEREAS section 294 of the *Municipal Act* provides for amendment of the Zoning Bylaw; and

WHEREAS it is deemed desirable that the Whitehorse Zoning Bylaw be amended to allow for a Retail Service, Restricted premise, located more than 100 metres from a school, on the site; and

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

1. The zoning map attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 2A Block 335 Whitehorse from CS – Service Commercial to CSx – Commercial Service (modified), as indicated on Attachment 1 and forming part of this bylaw.
2. Section 10.13 of Zoning Bylaw 2010-20 is hereby amended by adding a new subsection 11.3.7 as follows:

“11.3.7 Special Modifications

- (a) Lot 2A Block 335 Whitehorse is hereby designated CSx, with the special modification being that the lot line of a Retail Services Restricted operation may not be within 100 metres of a lot used for a school.”

FIRST READING:

July 25, 2022

PUBLIC NOTICE:

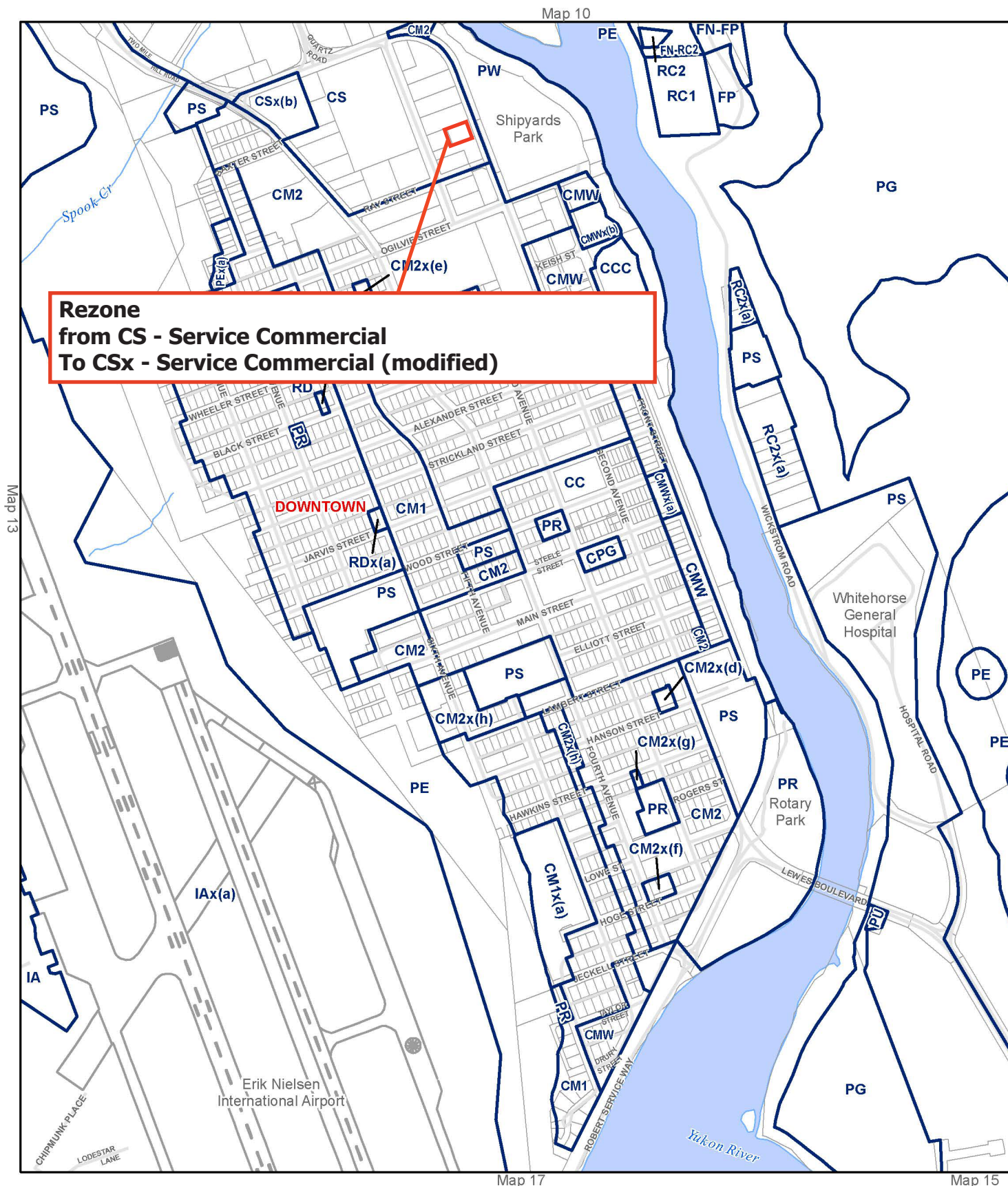
PUBLIC HEARING:

SECOND READING:

THIRD READING and ADOPTION:

Laura Cabott, Mayor

Wendy Donnithorne, City Clerk



Where a letter appears in brackets following a zoning designation, e.g. RSx(a), the letter corresponds to the 'special restrictions' subsection for that zone.



0 430
 Meters

Projection: NAD 1983 UTM Zone 8

Consolidation date:
 December 17, 2021

CITY OF WHITEHORSE

BYLAW 2022-28

A bylaw to authorize a lease agreement.

WHEREAS Section 265 of the *Municipal Act* (2002) provides that Council may pass bylaws for municipal purposes respecting the municipality's leasing of any real or personal property; and

WHEREAS Council deems it desirable to enter into an agreement with the **Whistle Bend Garden Society** for the lease of a parcel of land for a three-year period from September 1, 2022 to and including August 31, 2025;

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

1. The City of Whitehorse is hereby authorized to enter into a three (3) year lease agreement with the Whistle Bend Garden Society with a three (3) year renewal option with respect to Lot 415, Plan 2016-0047 LTO, Whistle Bend Subdivision, City of Whitehorse, Yukon Territory, comprising approximately 1000 square metres in area, as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
2. The Mayor and Clerk are hereby authorized to execute on behalf of the City of Whitehorse the Lease Agreement attached hereto as Appendix "B" and forming part of this bylaw.
3. This bylaw shall come into full force and effect upon the final passing thereof.

FIRST and SECOND READING:
THIRD READING and ADOPTION:

Laura Cabott, Mayor

Wendy Donnithorne, City Clerk



CITY OF WHITEHORSE
BYLAW 2022-28
APPENDIX 'A'



Bylaw 2022-28

A bylaw to approve a lease with the Whistle Bend Garden Society for a 875 m2 parcel of City owned land.

LEGEND



SUBJECT AREA

THIS LEASE AGREEMENT, made the _____ day of _____, 2022 in triplicate, to be effective as of and from the 1st day of September, 2022.

BETWEEN:

The City of Whitehorse, a municipality duly incorporated pursuant to the provisions of the *Municipal Act* (the "Landlord").

AND:

Whistle Bend Garden Society, a society duly incorporated pursuant to the provisions of the *Societies Act* (the "Tenant").

W H E R E A S:

- A. The Landlord is the owner of Lot 415, Plan 2016-0047 LTO, Whistle Bend Subdivision, City of Whitehorse, Yukon Territory ("Lot 415"); and
- B. The Tenant desires to lease a portion of Lot 415 for the purpose of operating a Community Garden, in accordance with the terms and conditions contained in this Lease.

1. Demise

1.1 Lease

Witness that in consideration of the rents, covenants, conditions and agreements herein reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord, being registered or entitled to be registered as owner in fee simple, subject however to such mortgages and encumbrances as are indicated herein, does hereby demise and lease unto the Tenant that portion of Lot 415 more particularly described as follows:

That portion of Lot 415, Plan 2016-0047 LTO, Whistle Bend Subdivision, City of Whitehorse, Yukon Territory, comprising approximately 1000 square metres and shown outlined in bold red line on the sketch attached hereto as Schedule "A".

(hereinafter referred to as the "Lands")

1.2 Term

To have and to hold the Lands and all improvements located thereon, including but not limited to fencing, temporary sheds/buildings, planter boxes, water tank, and other gardening related items (the "Premises") for and during the term of this Lease for a period of three (3) years, commencing on the 1st day of September, 2022 to and including the 31st day of August, 2025.

1.3 Rent

Yielding and paying therefore during the term hereof unto the Landlord the sum of Ten dollars (\$10.00) per year, plus Goods and Services Tax, of lawful money of Canada to be paid in advance on or before September 1st of each year during the term hereof.

1.4 Property Taxes

The Tenant shall be responsible for all real property taxes including local improvements rates levied or assessed by any competent authority upon or in respect of the Land.

1.5 Carefree Lease

The Tenant acknowledges that it is intended that this Lease be a net-net lease for the Landlord and that all and every cost, expense, charge or out lay of any nature whatsoever in any way related to the Lands or their occupancy by the Tenant shall be borne by the Tenant excepting as otherwise expressly provided herein.

1.6 Parking

The Tenant, their volunteers, and any other individuals associated with the programs and activities associated with Land use designated public parking areas and on-street or adjacent laneway parking in Whistle Bend for vehicle parking. The parking spaces are on a first-come, first-serve basis, with no reserved spaces. Vehicles are prohibited from driving and parking on any other portion of Lot 415, unless there are exceptional circumstances and the Tenant has received written permission from the Landlord.

1.7 Access

The Tenant agrees that vehicles shall not drive or park on, or block any portion of the paved pathway located on Lot 415, Plan 2016-0047 LTO, Whistle Bend Subdivision, City of Whitehorse, Yukon Territory without prior written permission from the Landlord.

1.8 Renewal of Lease

The Landlord may, in its sole and unfettered discretion, which may be unreasonably withheld, grant to the Tenant a renewal of the Lease for a further three (3) year term.

2. Covenants of Tenant

2.1 Promises of Tenant

The Tenant covenants and agrees with the Landlord as follows:

- (a) *Rent* - The Tenant shall during the term of this lease or any renewal thereof pay to the Landlord the rent hereby reserved, and all other sums to be paid by the Tenant hereunder in the manner herein provided without any deduction whatsoever. The Tenant shall produce to the Landlord from time to time, at the request of the Landlord, satisfactory evidence of the due payment by the Tenant of all other payments required to be made by the Tenant under this lease;
- (b) *Repair* - The Tenant shall well and sufficiently repair, maintain, amend and keep the Lands in good and substantial repair when, where and so often as need shall be, damage by fire and other risks against which the Landlord is insured (the "Tenant Repair Exceptions") only excepted unless such damage is caused by the negligence or wilful act of the Landlord, its employees, agents or invitees;
- (c) *Notice to Repair* - The Landlord and its agents may at all reasonable times enter the Lands to examine the condition thereof, and all want of repair that upon such examination may be found and for the amendment of which notice in writing is delivered to the Tenant address in Section 9.5 hereof, the Tenant shall well and sufficiently repair and make good according to such notice within 30 days from the date on which such notice delivered to the Tenant, subject to the Tenant Repair Exceptions;
- (d) *Care of Lands* - The Tenant shall take good care of the Lands and keep the same in a safe, tidy and healthy condition and shall, at its own expense, bear such costs as are reasonably necessary during the term of this lease to keep the Lands in such condition;
- (e) *Waste diversion* - The Tenant understands that it is required to comply with the Waste Management Bylaw at all times. This includes provision of sufficient recycling and compost bins, waste collection services on the Lands. These provisions ensure that recyclable and organic waste are separated and diverted from the landfill as required by the Waste Management Bylaw. All costs associated with waste diversion shall be the responsibility of the Tenant.
- (f) *Business Taxes* - The Tenant shall pay when due all business taxes payable by the Tenant in respect of the Tenant's occupancy of the Lands;

- (g) *Assignment and Subleasing* - The Tenant shall not assign, mortgage or encumber this Lease, or sublet, or suffer or permit the Lands or any part thereof to be used by others by license or otherwise, except as contemplated by Paragraph 2.1(h), without the prior written consent of the Landlord, which consent may be arbitrarily and unreasonably withheld. Notwithstanding the foregoing, the Landlord shall not unreasonably withhold its consent in the event that the Tenant proposes to assign or sublet this lease to another society or organization or in the event that a sublease or licence for a portion of the Lands to any person is required to further the development of the Lands in accordance with the terms of this Lease. In the event that consent to the assignment or subleasing to another society or organization or the subleasing or licensing of a portion of the Lands to any person is withheld by the Landlord, the matter shall, at the option of the Tenant, and subject to the provisions of the *Arbitration Act*, be referred to a single arbitrator (if the parties can agree on one) otherwise to a board of three arbitrators, the first to be appointed by one party or side to such disagreement or dispute, the second to be appointed by the other party or side and the third to be appointed by the first two arbitrators so appointed, and the determination of such arbitrator or arbitrators shall be final and binding upon the parties hereto. If the Tenant assigns or sublets the Lands with the prior written consent of the Landlord, the Tenant shall not be relieved from any liability under this Lease and shall remain bound and responsible to fulfil the covenants and agreements herein contained, notwithstanding such assignment or consent to assignment by the Landlord;
- (h) *Use of Lands and Premises* - The Tenant shall not use the Lands nor allow the Lands to be used for any purpose other than as a "Community Garden" and associated secondary uses as provided for by the current zoning of the Lands being "PG - Greenbelt", or such other uses as may be approved in writing by the Landlord, which approval may be arbitrarily and unreasonably withheld. The Lands shall not be used to provide or supply programs or services on or off of the Lands, in other locations, in competition with privately owned and operated business;
- (i) *Nuisance* - The Tenant shall not at any time use, exercise, or carry on or permit to be used, exercised or carried on, in or upon the Lands or any part thereof any noxious, noisome, or offensive act, trade, business, occupation or calling and no act, matter or thing whatsoever shall at any time be done in or upon the Lands or any part thereof which is an unreasonable annoyance, nuisance or disturbance to the occupiers or owners of the adjoining lands and properties;
- (j) *Insurance Risk* - The Tenant shall not do or permit to be done any act or thing which may render void or voidable or conflict with the requirements of any policy of insurance, on the Lands, including any regulations of fire insurance underwriters applicable to such policy. The Tenant shall ensure that all activities carried out or conducted on the Lands are done in accordance with the provisions of any policy of insurance that is in force, so that the Tenant and the Landlord have the benefit of such insurance. Any activity which cannot be insured for or which is specifically exempted from coverage under any policy of insurance that is in force shall not be permitted by the Tenant;
- (k) *By-Laws* - The Tenant shall comply with all statutes, regulations, and by-laws of any governmental authority relating in any way to the use or occupation of the Lands, including, without limiting the generality of the foregoing, all laws, regulations and bylaws affecting or relating to the sale or consumption of alcoholic beverages on the

Lands;

- (l) *Alterations* - The Tenant shall not make any alterations, installations, improvements, including fencing, or changes of any kind to the Lands without the prior written consent of the Landlord, and the Landlord may require that any or all work to be done or materials to be supplied hereunder, be done or supplied by contractors or workers approved by the Landlord;
- (m) *Removal of Goods, Chattels, or Fixtures* - The Tenant shall not remove from the Lands any goods, chattels or fixtures moved into the Lands, except in the normal course of business, ("business" when used in this Lease meaning the carrying out of the society's objects), until all rent and other payments due or to become due during the term of this Lease are fully paid;
- (n) *No Permanent Structures* - The Tenant shall not construct, install or erect any permanent structures or buildings on the Lands without the express written consent of the Landlord, which consent may not be arbitrarily and unreasonably withheld;
- (o) *Ownership of Existing or Future Structures* - Any installations and improvements made by the Tenant within the Lands are the property of the Tenant. The Tenant shall, at the expiry of the Lease and at its own expense, remove all such installations and improvements from the Lands and the Tenant shall be responsible for returning the Lands to a condition satisfactory to the Landlord;
- (p) *Builders Liens* - The Tenant shall promptly pay all charges incurred by the Tenant for any work, materials or services that may be done, supplied or performed in respect of the Lands and shall not cause or permit any mechanic's lien to be registered against the Lands and if any such lien should be so registered the Tenant shall pay off and discharge the same forthwith and, if he shall fail or neglect to do so within 10 days after written notice thereof from the Landlord, the Landlord may but shall not be obliged to, pay and discharge such lien and may add to the next ensuing instalment of rent the amount so paid including all costs to the Landlord together with interest thereon from the date of payment. Provided that in the event of a bona fide dispute by the Tenant of the validity or correctness of any such claim of lien, the Tenant shall be entitled to defend against the same and any proceedings brought in respect thereof after having first paid into Court the amount claimed and such costs as the Court may direct or having provided such other security as the Landlord may in writing approve to ensure payment thereof. Provided further that upon determination of the validity of any such lien, the Tenant shall immediately pay any judgment in respect thereof against the Landlord, including all proper costs and charges incurred by the Landlord and the Tenant in connection with any such lien and shall cause a discharge thereof to be registered without cost or expense to the Landlord;
- (q) *Operation of the Premises* - The Tenant acknowledges that the development and operation of the community garden within the Lands is of the utmost importance to the Landlord and the citizens of the City of Whitehorse. The Tenant acknowledges that in the event the community garden within the Lands is not operational in any twelve-month period, the Tenant shall be in default of this Lease, notwithstanding that rent is paid, and the City shall have the option to immediately terminate the Lease;
- (r) *Inspection* - The Tenant shall permit the Landlord or any other person authorized by the Landlord to inspect the Lands at all reasonable times;

- (s) *Maintenance* - The Tenant shall permit the Landlord to install, maintain, replace, repair and service or cause to be installed, maintained, replaced, repaired, and serviced, wires, ducts or other installations in, under or through the Lands for or in connection with the supply of any service or utility to any part of the Lands;
- (t) *Vacant Possession* - The Tenant shall at the expiration or earlier termination of this Lease, peaceably surrender and deliver up vacant possession of the Lands;
- (u) *Financial Information* - The Tenant shall provide to the Landlord reasonable access to all of its books and records;
- (v) *Use of Facility* - The Tenant shall provide access to the Lands and membership in the Whistle Bend Garden Society shall be available to all persons wishing to join, provided that such persons agree to comply and continue to comply with the rules, regulations and by-laws of the Society and pay the appropriate fees and levies of the Society;
- (w) *Public Accessibility* - The Tenant shall ensure that programs and activities offered on the Lands and Premises are open to the general public and that the Tenant shall work with the Landlord to prepare a weekly schedule to provide access;
- (x) *Conduct of Operations* - The Tenant shall conduct its operations on the Lands to the standard of a reasonably prudent operator and in conjunction with industry best practices and standards associated with a community garden development, maintenance and management. Without limiting the generality of the foregoing, the Tenant shall maintain a regular schedule of inspection and maintenance of the Lands as may be deemed necessary by the Tenant to ensure a safe operating environment and any alterations, installations and improvements made by the Tenant within the Lands shall be made in accordance with industry best practices and standards;
- (y) *Utilities* - The Tenant shall pay when due all rates and charges for telephone and other utilities supplied to or used in the Lands as separately metered or separately invoiced by the supplier, including those utilities as supplied by the Landlord;
- (z) *Utility Services* - The Tenant shall pay all costs associated with the installation of any utility services to the Lands; and
- (aa) *Setbacks* - The Tenant shall not block access to, nor place any fencing, structures, equipment, or any other gardening related items within x metres of, any electrical equipment located on Lot 415.

3. Covenants of Landlord

3.1 Promises of Landlord

The Landlord covenants with the Tenant as follows:

- (a) *Quiet Enjoyment* - The Tenant, paying the rent hereby reserved and performing the covenants herein on its part contained, shall and may peaceably possess and enjoy the Lands for the term of this Lease or any renewal thereof without interruption or disturbance from the Landlord or any other person lawfully claiming by, from or under the Landlord; and
- (b) *Off-site erosion and drainage issues* – The Landlord accepts responsibility for all off-site erosion and drainage impacts to the Lands and Premises and shall sufficiently maintain and repair the adjacent slope so as not to negatively impact the Tenant's use of the Lands and Premises;

4. Rights and Remedies of the Landlord

4.1 Re-entry

If default or breach or non-performance of any of the covenants or agreements in this Lease contained on the part of the Tenant continues for 30 days after written notice thereof has been given by the Landlord to the Tenant, then it shall be lawful for the Landlord at any time thereafter without notice to re-enter the Lands and the same to have again, repossess and enjoy as of its former estate, anything herein contained to the contrary notwithstanding. If the Landlord re-enters the Lands by reason of the default of the Tenant prior to the expiry of the term of this lease, the Tenant will be liable to the Landlord for the amount of rent for the remainder of the term as if such re-entry had not been made, less the actual amount received by the Landlord after such re-entry from any subsequent leasing of the Lands during the remainder of the term after deducting the Landlord's costs of re-letting the Lands.

4.2 Right of Termination

Upon the Landlord becoming entitled to re-enter upon the Lands, the Landlord shall have the right in addition to all other rights, to determine forthwith this lease by giving notice in writing to the Tenant and thereupon rent shall be apportioned and paid to the date of such determination and the Tenant shall forthwith deliver up possession of the Lands and the Landlord may re-enter and take possession of the same.

4.3 Bankruptcy

If the term hereof or any renewal thereof shall at any time be seized or taken in execution or attachment by any creditor of the Tenant or if the Tenant makes any assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any bankruptcy or insolvency legislation or in case the Lands become vacant or unoccupied for a period of 10 days, the then current month's rent together with the rent accruing for the balance of the term or the next three months, whichever is less, shall immediately become due and payable and the term hereof or any renewal thereof shall at the option of the Landlord become forfeited and void. Neither this Lease nor any interest therein nor any estate hereby created shall pass to or enure to the benefit of any trustee in bankruptcy or any receiver of any assignee for the benefit of creditors or otherwise by operation of law.

4.4 Status as a Society

In the event the Tenant is dissolved, wound up or struck from the Corporate Registry, fails to maintain its status as a registered Society, or is in default of filing returns or notices, including its annual return and financial statements for a period in excess of one (1) year, or is otherwise no longer a not-for-profit society or organization, the Landlord shall have the absolute right to terminate this Lease upon giving the Tenant written notice to that effect.

4.5 Dissolution of Society

Where all of the Tenant's fixed assets are affixed solely to the Lands, the Tenant's Constitution and/or Bylaws must include an unalterable dissolution clause which provides that upon dissolution of the society, its assets must firstly be distributed to another non-profit society operating within the City of Whitehorse, in good standing with the Registrar of Societies, with similar objectives, and only failing to transfer its assets to another non-profit society with similar objectives, would the Tenant's fixed assets be distributed to the City.

4.6 Distress

Whensoever the Landlord shall be entitled to levy distress against the goods and chattels of the Tenant, the Landlord may use such force as it may deem necessary for that purpose and for gaining admittance to the Lands without being liable in any action in respect thereof, or for any loss or damage occasioned thereby and the Tenant hereby expressly releases the Landlord from all actions, proceedings, claims or demands whatsoever for or on account of or in respect of any such forcible entry or any loss or damage sustained by the Tenant in connection therewith.

4.7 Non-waiver

The waiver by the Landlord of any breach by the Tenant of any covenant or condition contained in this Lease shall not be construed as or constitute a waiver of any further or other breach of the same or any other covenant or condition, and the consent or approval of the Landlord to or of any act by the Tenant requiring the Landlord's consent or approval shall not be deemed to waive or render unnecessary the Landlord's consent or approval to any subsequent act, similar or otherwise, by the Tenant.

4.8 Landlord's Right to Perform

If the Tenant fails to perform any of the covenants or obligations of the Tenant under or in respect of this Lease, the Landlord may from time to time, at its discretion, perform or cause to be performed any such covenants or obligations or any part thereof and for such purpose may do such things as may be required and may enter upon the Lands to do such things and all expenses incurred and expenditures made by or on behalf of the Landlord shall be paid forthwith by the Tenant to the Landlord and if the Tenant fails to pay the same the Landlord may add the same to the rent and recover the same by all remedies available to the Landlord for the recovery of rent in arrears; provided that if the Landlord commences or completes either the performance or causing to be performed of any of such covenants or obligations or any part thereof, the Landlord shall not be obliged to complete such performance or causing to be performed or be later obliged to act in a like fashion.

4.9 Interest

The Tenant shall pay to the Landlord interest at the prime commercial lending rate of The Royal Bank of Canada plus 3% per annum on all payments of rent and other sums required to be paid under this Lease from the date upon which the same were due until actual payment thereof.

5. Indemnification

5.1 Indemnity by Tenant

Except for or in respect of events caused by the Landlord's actions, or those for who it is at law responsible, arising out of the use and occupation of the Lands, including wilful misconduct or negligence during the Term, the Tenant shall indemnify the Landlord and all of its servants, agents, employees, contractors, invitees and persons for whom the Landlord is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Tenant of any of the provisions of this Lease;
- (b) any act or omission of the Tenant of any of its members, servants, agents, employees, invitees, licensees, sub-tenants, concessionaires, contractors or persons for whom the

Tenant is in law responsible on the Lands;

- (c) any injury, death or damage to persons or property of the Tenant or its members, servants, agents, employees, customers, invitees, contractors or any other persons on the Lands by or with the invitation, license or consent of the Tenant;
- (d) any damage, destruction or need of repair to any part of the Lands caused by any act or omission of the Tenant or its members, servants, agents, employees, customers, invitees, contractors, or persons for whom the Tenant is in law responsible, notwithstanding any other provisions of this Lease; and
- (e) any latent or patent defect in the Lands;

and this Indemnity shall survive the expiration or earlier termination of this Lease. In the event that the Landlord incurs liabilities, claims, damages, losses and expenses which are not paid by the Tenant or acknowledged by the insurer of the Tenant, within one year of written demand being made by the Landlord for indemnity pursuant to the provisions herein, this Lease shall terminate.

5.2 Indemnity by Landlord

Except for or in respect of events caused by the Tenant's actions, or those for whom it is at law responsible, arising out of the use and occupation of the Lands, including wilful misconduct or negligence during the term of this Lease, the Landlord shall indemnify the Tenant and all of its servants, agents, employees, contractors, customers, invitees and persons for whom the Tenant is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Landlord of any of the provisions of this Lease;
- (b) any act or omission of the Landlord or any of its servants, agents, employees, contractors or persons for whom the Landlord is in law responsible on the Lands; and
- (c) any injury, death or damage to persons or property of the Landlord or its servants, agents, employees, contractors or any other persons on the Lands by or with the invitation or consent of the Landlord;

except for any latent or patent defect in the Lands, and this Indemnity shall survive the expiration or earlier termination of this Lease.

5.3 Landlord Unable to Perform

Whenever and to the extent that the Landlord shall be unable to fulfil or shall be delayed or restricted in the fulfilment of any obligation hereunder in respect of the supply or provision of any service or utility or the doing of any work by reason of being unable to obtain the material goods, equipment, service, utility or labour required to enable it to fulfil such obligation or by reason of any strike or lock-out or any statute, law, or order-in-council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administration, controller or board or any governmental department or officer or other authority or by reason of any cause beyond its control either of the foregoing character or not, the Landlord shall be relieved from the fulfilment of such obligation and the Tenant shall not be entitled to compensation for any loss, inconvenience, nuisance or discomfort thereby occasioned.

5.4 Relief of Landlord on Sale

If the Landlord sells or otherwise conveys its interest in the Lands and the subsequent owner of such

interest assumes the covenants and obligations of the Landlord hereunder, the Landlord shall, without further written agreement, be freed and relieved of all liability for such covenants and obligations. The Tenant shall from time to time at the request of the Landlord promptly execute and return to the Landlord such certificates confirming the current status of this Lease in such detail as the Landlord may require.

6. Insurance

6.1 Liability Insurance.

The Tenant shall provide and maintain in such form and to such extent and with such companies, as required by the Landlord, public liability insurance in the minimum amount of FIVE MILLION (\$5,000,000) DOLLARS for the protection against any claims in any way relating to the Lands. This public liability insurance, in which both the Landlord and the Tenant shall be designated as the insured, which policy shall provide that the same cannot be cancelled without at least 15 days prior written notice to the Landlord and the Tenant shall deposit with the Landlord a certificate of such insurance at or prior to the commencement of the term and thereafter within 10 days prior to the expiration of any such policy.

7. Hazardous Substances

7.1 Definitions

"Hazardous Substance" means any substance which is hazardous to persons or property and includes, without limiting the generality of the foregoing:

- (a) radioactive materials;
- (b) explosives, excluding lawfully possessed fireworks and lawfully conducted exploding novelty acts;
- (c) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent that it is detrimental to its use by man or by any animal, fish or plant;
- (d) any solid, liquid, gas or odour or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that:
 - (i) endangers the health, safety or welfare of persons or the health of animal life;
 - (ii) interferes with normal enjoyment of life or property;
 - (iii) causes damage to plant life or to property;
- (e) toxic substances; or
- (f) substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction over the Landlord, the Tenant, or the Lands.

7.2 Compliance with Laws

The Tenant shall not bring upon the Lands or any part thereof any Hazardous Substance. Without limiting the generality of the foregoing, the Tenant shall, at the Tenant's own cost and expense, comply with all laws and regulations from time to time in force relating to a Hazardous Substance and protection of the environment and shall immediately give written notice to the Landlord of the occurrence of any event on the Lands constituting an offence thereunder or being in breach thereof and, if the Tenant, either alone or with others, causes the happening of such event, the Tenant shall, at its own expense,

immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with this Paragraph 7; promptly remove the Hazardous Substance from the Lands, as the case may be, in a manner which conforms with all laws and regulations governing the movement of the same; and if requested by the Landlord, obtain from an independent consultant designated or approved by the Landlord a report verifying the complete and proper removal thereof from the Lands or, if such is not the case, reporting as to the extent and nature of any failure to comply with this Paragraph. The Tenant shall, at its own expense, remedy any damage to the Lands caused by such event or by the performance of the Tenant's obligations under this Paragraph 7 as a result of such occurrence. If any governmental authority having jurisdiction requires the clean-up of any Hazardous Substance held, released, spilled, abandoned, or placed upon the Lands or released into the environment by the Tenant in the course of the Tenant's business or as a result of the Tenant's use or occupancy of the Lands, then the Tenant shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work required and shall keep the Landlord fully informed and provide to the Landlord full information with respect to proposed plans and comply with the Landlord's reasonable requirements with respect to such plans.

7.3 Discharge

The Tenant shall not discharge or permit the discharge of any oil or grease or any deleterious, objectionable, dangerous materials or Hazardous Substance into any water course, culvert, drain or sewers in, under or near the Lands. The Tenant shall take as reasonable measures for ensuring that any discharge effluent shall not be corrosive, poisonous or otherwise harmful or to cause obstruction, deposit or pollution to any waters, ditches, water course, culverts, drains or sewers, nor to or within any sewage disposal works nor to the bacteriological process of sewage purification. The Tenant shall forthwith, at the Landlord's request, provide facilities for testing and monitoring the effluent from the Tenant's operations and shall permit the Landlord and its agents reasonable access to the lands for the purposes of carrying out such testing and monitoring from time to time at the Tenant's expense. The Tenant shall construct, maintain and operate every furnace and burner used on the Lands so as to substantially consume or burn the smoke arising there from and shall not use or suffer any furnace or burner to be used negligently. The Tenant shall not cause or permit any grit, dust, noxious or offensive effluvia or Hazardous Substance to be emitted from any engine, furnace, burner or apparatus on the Lands without using the best practicable means reasonably available for preventing or counteracting such emissions.

7.4 Ownership of Hazardous Substances

If the Tenant brings onto or creates upon the Lands any Hazardous Substance or if the conduct of the Tenant's business causes there to be any Hazardous Substance upon the Lands, then, notwithstanding any rule of law to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord, notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Lands and notwithstanding the expiry or earlier termination of this Lease.

7.5 Access to Information

The Tenant hereby authorizes the Landlord to make enquiries from time to time of any government or governmental agency with respect to the Tenant's compliance with any and all laws and regulations pertaining to any Hazardous Substance and the protection of the environment and the Tenant covenants and agrees that the Tenant shall from time to time provide to the Landlord such written authorization as the Landlord may reasonably require in order to facilitate the obtaining of such information. The Tenant shall, at its own expense, comply with all the laws and regulations from time to time in force regulating

the manufacture, use, storage, transportation or disposal of Hazardous Substance and shall make, obtain and deliver all reports and studies required by governmental authorities having jurisdiction.

8. Termination

8.1 Termination

It is hereby agreed that during the term hereof, the Landlord or the Tenant may terminate this Lease by giving notice in writing at least three (3) months before such determination; and on the day following the date specified in the notice, this Lease is terminated.

9. General Provisions

9.1 Subordination

This Lease is subject and subordinate to all mortgages, easements, or rights of way which now or hereafter during the term of this Lease or any renewal thereof shall be recorded in the Land Titles Office as a mortgage, easement, or right of way given by the Landlord against the Lands. The Tenant shall execute promptly from time to time any assurances that the Landlord may request to confirm this subordination.

9.2 No Agency or Partnership

Nothing herein contained shall be construed as creating the relationship of principal and agent or of partners or of joint ventures between the parties hereto, their only relationship being that of landlord and tenant.

9.3 Overholding

If the Tenant continues to occupy the Lands with the consent of the Landlord after the expiration of this Lease or any renewal thereof without any further written agreement, the Tenant shall be a monthly Tenant at a monthly rental equivalent to 1/12 of the annual rental and all other sums payable hereunder pro-rated for one month.

9.4 Effect of Headings

The headings or subheadings to the clauses in this Lease form no part thereof, and are inserted for convenience and internal reference only and are not to be relied upon or considered by any person in the interpretation hereof.

9.5 Notices

Any notice required to be given hereunder by any party shall be deemed to have been well and sufficiently given if mailed by prepaid, registered mail, emailed, faxed to or delivered at the address of the other party hereinafter set forth:

If to the Landlord:

The City of Whitehorse
2121 Second Avenue
Whitehorse, Yukon Territory, Y1A 1C2
Attention: Manager, Land & Building Services
Fax No. (867) 668-8395
Email Address: land@whitehorse.ca

If to the Tenant:

Whistle Bend Garden Society

Attention: President

Unit 2 - 97 Olive May Way, Whitehorse, YT Y1A 0R4

Phone No. (867) 668-2814

Email Address: whistlebendgarden@gmail.com

A notice shall be deemed to have been received, if emailed, faxed or delivered, on the date of delivery and if mailed as aforesaid then on the fifth business day following the posting thereof, provided that in the event of disruption of internet connection, postal services a notice shall be given by one of the other methods of communication.

9.6 Solicitor and Client Costs

If the Tenant defaults in paying the rent hereunder or in performing any of the covenants and agreements herein contained on the part of the Tenant to be observed and performed, the Landlord may recover from the Tenant all of the Landlord's reasonable costs in enforcing compliance with this Lease and without limitation, costs as between solicitor-and-own-client or in the alternative, costs at the highest tariff allowed under the *Rules of Court*.

9.7 Joint and Several Covenants

In the event that this Lease is executed by two or more persons as Tenant, the covenants and agreements on the part of the Tenant herein contained will be and will be deemed to be joint and several covenants.

9.8 Binding Agreement

This Lease shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns as the case may be. This Lease is not assignable by the Tenant without the express written consent of the Landlord, which may be arbitrarily and unreasonably withheld.

9.9 Interpretation of Words

Wherever the singular or the masculine is used in this Lease, the same shall be deemed to include the plural or the feminine or the body politic or corporate where the context or the parties so require.

9.10 Time of Essence

Time shall in all respects be of the essence hereof.

9.11 Changes to Agreement

No provision of this Lease shall be deemed to have been changed unless made in writing signed by the Landlord and Tenant, and if any provision is unenforceable or invalid for any reason whatever, such unenforceability or invalidity shall not affect the remaining provisions of this Lease and such provisions shall be severable from the remainder of this Lease.

9.12 Acceptance by Tenant

The Tenant does hereby accept this Lease of the Lands, to be held by it as tenant, and subject to the conditions, restrictions and covenants above set forth.

13

IN WITNESS WHEREOF the parties hereto have hereunto executed this Lease as of the day and year first above written in the City of Whitehorse, in the Yukon Territory.

| | | |
|-------------------------------|---|--|
| |) | THE CORPORATE SEAL OF |
| |) | The City of Whitehorse |
| |) | was hereunto affixed in the presence of: |
| c/s |) | |
| |) | _____ |
| |) | Laura Cabott, Mayor |
| |) | |
| |) | _____ |
| |) | Wendy Donnithorne, City Clerk |
| |) | |
| |) | Whistle Bend Garden Society |
| |) | By its authorized signatories: |
| |) | |
| _____ |) | _____ |
| Witness as to both signatures |) | Deborah Turner-Davis, Co-Chair |
| |) | |
| _____ |) | |
| (Print Name of Witness) |) | _____ |
| |) | Lindsay Knezevich, Co-Chair |

Affidavit of Witness

| | | |
|-----------------|---|--------------------------------|
| CANADA |) | I, _____, |
| |) | (print name of witness) |
| |) | of the City of Whitehorse, |
| YUKON TERRITORY |) | in the Yukon Territory, |
| |) | |
| TO WIT: |) | MAKE OATH AND SAY AS FOLLOWS: |

- 1) I was personally present and did see **Deborah Turner-Davis** and **Lindsay Knezevich**, named in the within instrument, who identified themselves to me to be the persons named therein, duly sign and execute the same as the authorized signatories for **Whistle Bend Garden Society** for the purpose therein named;
- 2) The said instrument was executed at the City of Whitehorse, in the Yukon Territory, and that I am the subscribing witness thereto;
- 3) The said parties are in my belief of the full age of nineteen years.

SWORN BEFORE ME
 at the City of Whitehorse,
 in the Yukon Territory,
 this ____ day of _____, 2022.

 A Notary Public in and for
 the Yukon Territory

Cathy Dyson
 Print Name of Notary Public

Commission expires on:
Oct 31, 2023

 Witness Signature

 (Print Name of Witness)

**CORPORATE SIGNING AUTHORITY
AFFIDAVIT**

CANADA) I, **Deborah Turner-Davis and Lindsay Knezevich**,
) of the City of Whitehorse,
 YUKON TERRITORY) in the Yukon Territory,
)
 TO WIT:) SEVERALLY MAKE OATH AND SAY AS FOLLOWS:

- 1) We are the **Co-Chairs** of **Whistle Bend Garden Society** (the "Society").
- 2) We subscribed our names on behalf of the Society to the attached instrument.
- 3) We are authorized by the Society to subscribe our names to the attached instrument.
- 4) The Society exists as of the date hereof.

Severally Sworn before me at the)
 City of Whitehorse, in the)
 Yukon Territory, this _____ day)
 this ____ day of _____, 2022.)

 A Notary Public in and for
 the Yukon Territory

Cathy Dyson
 Print Name of Notary Public

Commission expires on:
October 31, 2023

 Deborah Turner-Davis, Co-Chair

 Lindsay Knezevich, Co-Chair

CITY OF WHITEHORSE

BYLAW 2022-29

A bylaw to establish the position of Chief Administrative Officer

WHEREAS section 183 of the *Municipal Act* (R.S.Y. 2002) provides that the council of a municipality must establish by bylaw the position of Chief Administrative Officer and appoint a person or persons to the position; and

WHEREAS section 188 of the *Municipal Act* provides that the council of a municipality shall by bylaw establish the terms and conditions of employment of the Chief Administrative Officer, including remuneration, benefits, expenses, hours of work, and manner of appointment, promotion, discipline, dismissal, and rules of conflict of interest; and,

WHEREAS the Council of the City of Whitehorse deems it proper and expedient to appoint a Chief Administrative Officer and to enter into a contract of employment with the person appointed;

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

1. This bylaw may be cited as the "**City Manager Bylaw**".

Definitions

2. In this bylaw,

"City" means the City of Whitehorse.

"City Manager" means the Chief Administrative Officer of the City.

"Council" means the duly elected council of the City.

"Designated Municipal Officer" means a person appointed by Council as a municipal officer under the provisions of the *Municipal Act*.

"Mayor" means the duly elected mayor of the City, or in the Mayor's absence, the Deputy Mayor appointed pursuant to s. 182 of the *Municipal Act*.

3. Where the term "Chief Administrative Officer", "City Manager", "City Manager" or "Municipal Manager" is used in any other bylaw of the City, that term shall be deemed to refer to the position of City Manager or the person appointed to that position pursuant to this bylaw, as the context requires.

Creation of Office

4. The position of Chief Administrative Officer is hereby established and shall be referred to as the City Manager.

Appointment of City Manager

5. The City Manager is appointed pursuant to this bylaw and shall hold office at the pleasure of Council and in accordance with the terms and conditions of employment

City Manager Bylaw 2022-29

stated in this bylaw, including a three month probationary period, and as contractually agreed to by the City Manager pursuant to a letter dated June 16, 2022.

6. The City Manager was selected by Council solely on the basis of executive and administrative qualifications with special reference to experience in or knowledge of accepted practice in respect to the duties of the office hereinafter set forth.
7. Jeff O'Farrell is hereby appointed City Manager for the City of Whitehorse commencing upon the date of adoption of this bylaw.

Powers and Duties

8. The City Manager is the administrative head of the City. The City Manager shall report to Council and shall be responsible for the proper administration of all affairs of the City. To that end, the City Manager shall:
 - (1) inform themselves of City bylaws, resolutions, policies, procedures, administrative directives, practices and programs that apply to issues they must address in their role;
 - (2) comply with all applicable City bylaws, resolutions, policies, procedures, administrative directives, practices and programs;
 - (3) at all times act in the best interests of the City and comply with the *Employee Code of Conduct Policy* adopted by Resolution of Council and amended from time to time;
 - (4) ensure that the bylaws, resolutions, policies, procedures, administrative directives, practices and programs of the City are implemented and enforced;
 - (5) advise and inform Council on City operations and affairs;
 - (6) carry out the powers, duties, and functions assigned to the Chief Administrative Officer by Council, or by the *Municipal Act*, or by any other applicable legislation;
 - (7) notify Council if any action or inaction by Council or the City administration is contrary to a bylaw or resolution of Council or a provision of the *Municipal Act*, or any other applicable legislation;
 - (8) exercise the powers, duties and functions of any designated municipal officer when necessary;
 - (9) be responsible for policy research and development on matters referred by Council, and on matters arising from the administration of the affairs of the City;

City Manager Bylaw 2022-29

- (10) submit to Council the City's annual estimates of revenue and expenditure (the budget), ensure the estimates reflect priorities defined by Council policies and City administrative directives, and be responsible for the administration of the budget after adoption;
 - (11) ensure the preparation and awarding of contracts are in compliance with Council policies and City administrative directives;
 - (12) monitor the internal and external affairs of the City for the purpose of informing Council of anticipated policy requirements;
 - (13) work with the Mayor and Council in developing proposals for Council's review; and
 - (14) carry out any other duties as may be assigned by Council from time to time, or as are assigned by the *Municipal Act* or by any other applicable legislation.
9. Subject to section 10 of this bylaw, the City Manager may delegate any of their duties, powers and functions to an officer or employee of the City in a manner consistent with the best interests of the administration of the City, but they may not delegate or relinquish overall responsibility for results, or their accountability to Council.
10. Except as is specifically required by any applicable legislation, bylaw, policy, or administrative directive, the City Manager shall not delegate their performance of the following duties:
 - (1) personally attending all meetings of Council unless absent with leave of the Mayor, in which case the City Manager shall appoint a delegate to attend in their stead;
 - (2) when requested by Council, attending and participating in discussions at all meetings of committees and boards appointed by Council unless absent with leave of the Mayor;
 - (3) when requested by Council, taking part in the discussion of any matter coming before any meeting of Council; and
 - (4) receiving notice of all regular and special meetings of Council and all meetings of boards and committees appointed by Council.
11. The City Manager is hereby empowered to authorize the expenditure of funds up to the maximum authorized by bylaw in the annual operating and maintenance budgets and in accordance with the thresholds, limits and principles contained within City bylaws and Council policies.
12. Council may, by resolution, delegate to the City Manager the power to authorize the expenditure of funds for budgeted items in excess of those limits prescribed pursuant to section 11 of this bylaw and for specified approved projects, subject to the terms of the bylaw adopting the annual operating and maintenance budget.

City Manager Bylaw 2022-29

13. In the case of an accident, disaster or other circumstance creating a public emergency, the City Manager, in consultation with the Mayor, may make such purchases, award such contracts, or make such other arrangements as are necessary to meet the emergency, but the City Manager shall report on her actions, with an itemized statement of all expenditures, to the next meeting of Council.
14. The City Manager shall be responsible for directing, managing, and supervising the officers and employees of the City. Subject to any bylaw or contract of employment or collective agreement, the City Manager has the authority to appoint, discipline, suspend, or dismiss any employee and, where authorized by Council, may appoint, suspend, discipline or dismiss any designated municipal officer. In the case where a designated municipal officer of the City is suspended for more than five working days, or where any employee or designated municipal officer is dismissed, the City Manager shall report the suspension or dismissal and the reasons for it to Council.

Oath of Office and Secrecy

15. The City Manager shall sign and provide to the City the *Oath of Office and Secrecy*, attached hereto as Schedule "A" and forming part of this bylaw, before commencing employment.

Compensation

16. The base salary for the City Manager shall be prorated and calculated at an acting rate plus five percent (+5%).
 - (1) Subject to the terms stated in the Management and Confidential Exclusion Bylaw and all governing policies and plans as amended from time to time by the City, the following sections of the Management and Confidential Exclusion Bylaw shall apply to the City Manager:
 - (a) Illness;
 - (b) Medical and Group Insurance;
 - (c) Registered Retirement Savings Plan;
 - (d) Leaves;
 - (e) Allowances; and
 - (f) General Provisions, excepting section 119.
 - (2) The City Manager is eligible to earn an annual performance bonus in accordance with Administrative Directive 2006-05 *Directives for the Performance Management Program for the Management Group* based on achieving the target performance determined by the Mayor and Council. A performance bonus shall be payable at the sole discretion of Council at fiscal year end.

City Manager Bylaw 2022-29

Performance Evaluation and Review and Base Salary Increases

17. Performance evaluations will be conducted by Mayor and Council on an annual basis as per standard City practices, based on the detailed review process and schedule set out in Schedule "B" attached hereto.
18. The annual performance evaluation will include a review of the City Manager's base salary. Any proposed base salary increase arising from the City Manager's performance evaluation and review (a performance increase) will be at the sole discretion of Council and must be approved by resolution of Council.
19. In addition to any performance increase, the City Manager's base salary shall increase on January 1 of each year following the City Manager's effective date of commencement of employment by an amount equal to the percentage increase given to management employees pursuant to Schedule "A" of the Management and Confidential Exclusion Bylaw, as amended from time to time, or any bylaw replacing such bylaw.

Expenses

20. The City Manager shall be reimbursed for reasonable expenses incurred on behalf of the City, subject to section 11 of this bylaw and appropriate verification.
21. The City believes in professional development and will support the City Manager in attending conferences and forums that are relevant to the City as per established City policies. All requests to attend professional development seminars or forums shall be approved by the Mayor, and the City Manager shall be reimbursed for expenses incurred in accordance with funds approved during the normal budget process.
22. The City shall pay the costs of reasonable annual membership dues for the City Manager where, in the opinion of Council, such memberships relate to the City Manager's position with the City.

Hours of Work

23. The operation of the City occurs twenty-four hours per day and seven days per week. The City Manager shall ensure that either they or a delegate approved by the Mayor is available to work as necessary at any time on an on-call basis.
24. The regular office hours of the City Manager shall be 8:30 a.m. to 4:30 p.m., consistent with the operating hours of City Hall, or as Council may from time to time determine in accordance with the operating and administrative requirements of the City. The City Manager is expected to work additional hours as necessary to fulfil the duties and responsibilities of the position, including attending meeting and events.
25. The City Manager shall be paid on the same basis as the hours outlined in the Management and Confidential Exclusion Bylaw for management employees. The City manager is not entitled to overtime pay and their salary and benefits fully compensate them for all hours worked.
26. If the City Manager is absent from duty without prior authorization from the Mayor or Council or pursuant to the policies and procedures applicable to leave entitlements contained in the Management and Confidential Exclusion Bylaw, then the City

City Manager Bylaw 2022-29

Manager shall communicate the reason for their absence to the Mayor as soon as reasonably possible.

27. If the City Manager is absent from duty without authorization, they shall forfeit pay for the period of absence in question unless leave with pay in respect of such absence is agreed to by the Mayor or Council.

Termination

28. Termination provisions are as contractually agreed to by the City Manager pursuant to a letter dated June 16, 2022. Any notice, pay in lieu of notice, or combination thereof constitutes full and final settlement of any and all claim or entitlements arising in relation to the termination.

Bylaw Repeal

29. Bylaw 2018-17 including any amendments thereto, is hereby repealed.

Coming Into Force

30. This bylaw shall come into full force and effect on and from final passage thereof.

FIRST and SECOND READING:
THIRD READING and ADOPTION:

Laura Cabott, Mayor

Wendy Donnithorne, City Clerk

City Manager Bylaw 2022-29

SCHEDULE "A"

OATH OF OFFICE AND SECRECY

I, Jeff O'Farrell, of Whitehorse, solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the public service of the City of Whitehorse and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment.

SO HELP ME GOD.

Sworn before me at the City of Whitehorse,
in the Yukon Territory, this _____ day
of ____, 2022.

A Notary Public or Commissioner for Oaths
in and for the Yukon Territory

City Manager Bylaw 2022-29

SCHEDULE “B”

CITY MANAGER PERFORMANCE REVIEW PROCESS AND SCHEDULE

Performance Review Timelines

The City Manager Performance Review is scheduled in September of each year. All components of the review, including any salary adjustment will be completed by September 30.

This means that:

- In an election year, the outgoing Mayor and Council evaluates the City Manager's performance over the prior year before the new Council is elected.
- In an election year, the City Manager will already have performance goals/key objectives in place to share with a newly elected Mayor and Council in the first year of their term.
- The newly elected Mayor and Council may use the mid-point evaluation as a way to fine-tune the performance goals/key objectives of the City Manager. Alternately, Council's quarterly strategic priorities review discussion could be used for this purpose.
- The first time the new Mayor and Council evaluates the City Manager is one year after they were elected.

City Manager Review Process

Step 1: Objectives and Goal Setting

The purpose of this step is for the City Manager and Mayor and Council to jointly establish key performance objectives and decide on any personal development goals that are tied to the annual performance review feedback. These objectives should be established within the overall context of the Strategic Priorities for the City.

Goals are established based on annual performance review feedback, City priorities, initiatives and direction for the coming year.

Step 2: Mid-Year Check In

Mayor and Council and the City Manager meet to discuss progress on the achievement of key objectives and determine if there are any impediments to success or if objectives need to change as a result of a shift in strategic direction or priority. Mayor and Council could also complete a periodic review of the City Manager's progress on key objectives through the quarterly strategic priorities discussions.

City Manager Bylaw 2022-29

Step 3: Annual Performance Review (see detailed schedule)

City Manager

City Manager prepares a self-assessment of goals, key performance objectives and accomplishments for the year as well as gathers data from community surveys/feedback and employee surveys/feedback that reflect the satisfaction and well-being of the community and the workforce and provides it to the Mayor.

Mayor/Council

Each Council member completes the City Manager Performance Review form individually and forwards it to the Mayor. The Mayor then collates all feedback into a summary document.

Director Responsible for Human Resources

The Director responsible for Human Resources (HR director) coordinates preparation and administration of any confidential surveys of the Total Management Group and any other members of the City's workforce identified for each annual performance review. If a 360-degree tool is to be used in the Performance Review, the HR director sources and organizes it. Results of these surveys and the 360-degree (if used) are provided to the Mayor.

Pre-Performance Review Meeting

The Mayor collates all information gathered from the City Manager, Council and the HR director and holds a formal meeting with Council to discuss the results of the review and the level of success in achieving the key objectives. Council feedback is documented for provision to the City Manager. Council also determines any salary adjustment (merit increase) based on overall performance.

Performance Review Meeting

The Mayor and a selected Councillor meet with the City Manager to provide formal, documented feedback gathered as outlined above, and to communicate Council's compensation adjustment decision.

The cycle repeats annually beginning with Step 1.

Supporting Documents

- Annual Goal Setting
- Mid-Year Check-In
- City Manager Self-Assessment Tool
- Annual Performance Review

Procedures

- 1 Council may use a facilitator to assist with the City Manager's performance evaluation process. A majority of Council may decide to engage a process facilitator or to conduct the process without a facilitator, using the HR director as the process support resource.
- 2 The process shall commence at a time of the choosing of Council but generally annually beginning in June and triggered by the HR director. The process should be completed by September 30 annually.
- 3 In June the HR director shall consult with Council with respect to the preferred process. Engagement of an external facilitator, if requested, will be completed by the end of July.
- 4 Council shall review the previous year's assessment criteria, process and instrument for the current year. The instrument may be adjusted to include assessment of special projects or assigned issues that may arise from time to time.
- 5 Council shall determine whether and how to include the use of 360-degree input or other tool into the process. Council shall determine the sources of input into the chosen instrument. All of the input shall be kept completely confidential. The facilitator may prepare a 360-degree assessment instrument to complement the main assessment instrument. Council will determine to what degree any feedback is used.
- 6 The information shall be consolidated and composite results shall be shared with Council in September. At this point the City Manager shall not receive any of the input.
- 7 An in-camera meeting shall be scheduled with Council to arrive at a consensus that will become the official evaluation.
- 8 The document shall be signed by all members of Council and presented to the City Manager by the middle of September.
- 9 Mayor and one Councillor will meet with the City Manager to discuss the feedback at an in-camera meeting to enable complete feedback.
- 10 To complete the process:
 - (1) The City Manager shall respond in writing to Council with respect to the feedback.
 - (2) The City Manager shall be requested to sign the evaluation and the original shall be kept on file by the HR director with copies to Council and the City Manager.
 - (3) Council shall subsequently determine any salary adjustments and performance bonus based on economic conditions, benchmark data, performance and any other factors.

City Manager Bylaw 2022-29

Detailed Annual Performance Review Schedule

| DELIVERABLE | WHO | DUE DATE |
|--|---------------------------------|--------------|
| Send reminder of City Manager review timelines to Mayor | HR director | June 1 |
| Meet with Mayor & Council to discuss components of evaluation, i.e., 360-degree feedback, survey of direct reports, etc. | HR director | June 15 |
| Source external facilitator if requested | HR director | End of July |
| Develop and send out surveys for direct reports and/or others (if being used) | HR director | Mid-July |
| Source and implement a 360-degree process/tool for City Manager (if being used) | HR director | Mid-July |
| Advise City Manager to complete self-assessment | Mayor | August 1 |
| Advise Council members to complete performance review document for City manager | Mayor | August 1 |
| Complete performance review document for the City Manager, each Council member individually and submit to Mayor | Council Members | August 15 |
| Complete self-assessment of goals, key performance objectives and accomplishments, plus gather data from employee or community surveys or feedback | City Manager | August 15 |
| Collate and summarize Council feedback; collate all other information gathered and send to Council for review | Mayor | August 25 |
| Meet to discuss City Manager review and provide overall feedback; decide on salary adjustment | Mayor and Council | September 1 |
| Summarize all feedback from Council into City Manager performance review document | Mayor | September 10 |
| Meet with City Manager to deliver feedback and advise of salary adjustment | Mayor + Member of Council | September 15 |
| Advise HR director to process salary adjustment for the City Manager. | Mayor | September 15 |
| Process salary adjustment and performance bonus for City Manager, retroactive to January 1 of the current year | HR director | September 20 |
| Develop key performance objectives for coming year | City Manager | September 20 |
| Share and discuss key performance objectives for coming year with Council; finalize | City Manager, Mayor and Council | September 30 |
| Mid-year check in on progress of key initiatives and determination of adjustments required due to emerging issues | City Manager, Mayor and Council | March 30 |