

CITY OF WHITEHORSE

BYLAW 95-56

A bylaw to regulate the provision of personal services within the City of Whitehorse.

WHEREAS section 256(a)* of the *Municipal Act* provides that, subject to the Public Health Act and the provisions made thereunder, Council may adopt bylaws in the interest of the public health of the municipality and the prevention of contagious and infectious diseases; and

WHEREAS it is deemed necessary and expedient to regulate the provision of personal services within the City of Whitehorse;

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

SHORT TITLE

1. This bylaw may be cited as the "Personal Services Bylaw".

DEFINITIONS

2. In this bylaw,
 - (1) "Attendant" means a person who works in or for a personal service facility, and whose functions require or permit them to be in direct contact with any person, personal service equipment or utensil;
 - (2) "Chief Administrative Officer" means the Chief Administrative Officer of the City of Whitehorse or his designate;
 - (3) "City" means the City of Whitehorse;
 - (4) "Customer" means any person being provided a personal service;
 - (5) "Council" means the Council of the City of Whitehorse;
 - (6) "Personal Services" includes, without limiting the generality: acupuncture, electrolysis, ear and body piercing, face painting, hair services, manicure/pedicure services, massage and therapeutic touch techniques, mud baths, saunas, shaving, skin care (aesthetics), spas, health clubs, steam baths, tanning, tattooing, and waxing;
 - (7) "Personal Service Facility" means any premise, stationary or mobile, in which a person provides a personal service to, on or for the body of another person;
 - (8) "Officer" means a Health Officer as defined in the Yukon Public Health Act or any person appointed by Council to carry out the duties of a Health Officer under this bylaw;
 - (9) "Operator" means the owner or person providing any personal service;

**Municipal Act reference amended by Bylaw 2021-18 passed March 22, 2021*

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- (10) "Utensil" means any comb, mug, shaving brush, razor, needle, clipper, shears, scissors, tweezers, brushes, eye wear or other instrument or utensil used by an attendant or customer in a personal service facility;
- (11) "Sanitize" means the reduction of the total number of micro-organisms on a surface to acceptable public health standards.
- (12) "Sterilization" means the process of killing all micro-organisms including spores.

GENERAL PROVISIONS

- 3. Portions of this bylaw may not apply to specific services and generally do not apply to services that fall within the scope of medical services or procedures.
- 4. (1) An Officer may at any reasonable time:
 - (a) enter any personal services facility and examine the premise and anything therein contained that is used in connection with the operation thereof, and
 - (b) issue general recommendations for the guidance of operators, attendants and customers.
- (2) In any personal service facility an officer may, for laboratory examination, as often as he deems necessary,
 - (a) Take samples of any supply of water and/or waste water; and/or
 - (b) Swab any utensil used in the operation of the personal services facility.
- (3) Where in the opinion of an Officer, any provision of this bylaw is not being observed, he may make such recommendations or issue such directions as are necessary to the owner or operator in writing.
- 5. (1) Notwithstanding section 3, where an Officer finds that any condition exists in any personal services facility that is or may become injurious to health or may hinder in any manner the prevention, mitigation or suppression of disease, the Officer may order the facility to be closed from the date of such order until the condition has been rectified, and the facility shall be closed forthwith until such time as the condition has been rectified to the satisfaction of the Officer.
- (2) As soon as practicable after issuing an order under section 5(1), the Officer shall give written notice thereof to the operator, together with the reasons for the closing.
- (3) Where the operator of the facility considers the order of closure to be unjustified he may, within 7 days of receipt of notice of the order, appeal in writing to Council, who shall hear the appeal within 5 days of receipt of the appeal and may make such inspections and hear such representation as it deems advisable.
- (4) Council may, in their discretion, affirm, amend or rescind the order of closure. The decision(s) of Council are final.

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6. The operator shall post a legible copy of this bylaw in every personal services facility in such a place that it can be read by all operators, attendants and customers therein.

FACILITY REQUIREMENTS

7. All premises offering personal services shall be:
- (1) separate from any areas used for the purpose of living, dining, sleeping or other incompatible business,
 - (2) maintained in a clean, sanitary, pest-free condition and in good repair, and
 - (3) designed specifically for the particular service(s) provided.
8. Every facility shall be so constructed that:
- (1) it is free from every condition that is or may become injurious to health or may hinder in any manner the prevention, mitigation or suppression of disease;
 - (2) walls, ceilings, floor coverings, work station counters and chairs are easily cleanable. These are to be maintained in a clean, sanitary condition and in good repair. Work station counters, chairs, and floors are to be constructed so that the surfaces are tight-fitting, smooth and non-absorbent. [Preference is given to light-coloured surfaces, as a build-up of dust and filth is more visible to the eye];
 - (3) adequate lighting systems are provided and maintained in proper operating condition. The lighting level at any work station shall be a minimum of 50 foot candles, measured one metre from the floor;
 - (4) adequate ventilation systems (natural and/or mechanical) are provided and maintained in proper operating condition and must meet the most recent edition of the American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Standards: Ventilation for Acceptable Indoor Air Quality;
 - (5) all sewage, including liquid waste, shall be disposed of by a municipal sewer system or by a private sewage disposal system constructed, maintained and operated according to applicable regulations and bylaws.
9. Every facility shall be provided with:
- (1) basin(s) located near the work stations for washing attendants' hands. These shall be maintained in a clean, sanitary condition and shall consist of a basin with an adequate system of waste water drainage, and adequate supply of hot and cold water, a constant supply of soap in a suitable container or dispenser, an adequate supply of clean towels for the use of each person using the hand washing facility and a suitable receptacle for used towels and waste material;
 - (2) an adequate supply of hot and cold water, of a bacteriological and chemical quality satisfactory to the Officer. Plumbing and drainage systems, including drains, fixtures, traps (including hair traps), vents and stacks are to be

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maintained in proper operating condition and free from defects. Back flow preventers are to be installed on fixtures which have a nozzle or hose that lies below the rim of the basin (ie sinks used for hair washing);

- (3) toilet facilities for customer usage. As a minimum requirement, these must be treated/sanitized daily with a suitable disinfectant/sanitizer once every 24 hours (more often if necessary). Each facility is to have an adequate supply of liquid soap, single service (paper) towels or hot air dryers and toilet paper, each in a suitable dispenser. A receptacle for used towels and waste material is to be provided. No person shall provide a single or roller towel for common use. Each washroom facility shall be mechanically ventilated;
 - (4) suitable containers to receive waste.
10. When shower facilities and change rooms are provided, they are to be treated/sanitized daily (more often if necessary) with a suitable disinfectant/sanitizer. All surfaces in these areas are to be tight-fitting, smooth and non-absorbent.
 11. If a non-slip mat is used outside shower/bath stalls, these are to be sanitized between each customer use, or the customer may be provided with a clean towel which is placed between his bare feet and the floor covering. This towel is then to be laundered prior to reuse.
 12. In steam baths and saunas, where surfaces cannot be adequately disinfected between uses, customers must sit on their own towel.

EQUIPMENT REQUIREMENTS

13. Equipment in the facility shall be:
 - (1) maintained in a clean, sanitary condition and in good repair;
 - (2) removed from the facility if it is not regularly used, is damaged and/or is constructed in such a way so as to render it difficult to clean; and
 - (3) stored in/on adequate racks, cabinets, shelves, or drawers in such a way as provide safe storage, protect against contamination and facilitate cleaning/sanitizing.
14. All equipment, utensils and surfaces used on more than one customer and which comes in direct contact with the person of the customer must be thoroughly cleaned and sanitized by the operator or the attendant after each use, and shall be maintained in a sanitary condition until reuse.
15. Sanitizing solutions are to be prepared and used according to manufacturers instructions. These solutions are to be changed frequently to ensure their effectiveness at reducing or eliminating harmful microorganisms. The method of sanitizing equipment and the sanitizer used is to be approved by the Officer. Manufacturer's specifications and instructions on the sanitizers being used must be available for the Officer to review at the time of inspection.
16. All equipment, instruments and materials intended for single service use upon customers, and those that cannot be disinfected or sterilized adequately shall be

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disposable. These items must not be used on another customer and must be disposed of after being used.

17. (1) All waste matter must be collected in appropriate containers and disposed of in a sanitary and approved manner.
- (2) A disposable, rigid, puncture-resistant "sharps" container must be used to dispose of all needles/blades and sharp equipment. These containers are to be disposed in accordance with applicable regulations and bylaws.
18. Where applicable, a separate and clean towel, pillow covering and other launderable items shall be used for each customer. After use, these items must be placed in a suitable container (entirely separate from the clean items) and then properly laundered/sanitized, and allowed to dry before reuse. Clean items are to be stored in a manner that protects them from contamination.
19. The owner must ensure that Material Safety Data Sheets (MSDS) are available for all hazardous products. These materials are to be handled and disposed of in accordance with applicable regulations and bylaws.

ATTENDANT HYGIENE

20. An attendant must:
 - (1) practise acceptable personal hygiene;
 - (2) wear clean, washable, outer garments;
 - (3) thoroughly wash their hands with liquid soap and warm water immediately before and after conducting a personal service on a customer; and
 - (4) refrain from smoking while providing service;

ATTENDANT TRAINING

21. (1) Attendants must demonstrate competency in the use of equipment and procedures in their field of practice.
- (2) Attendants shall have successfully completed the appropriate training courses for their particular personal service, and be members of an association or society that sets professional standards and provides a code of ethics.

COMMUNICABLE DISEASES/INFESTATIONS/INFECTIONS

22. An attendant shall not perform any personal service if it is believed that he is infected with a communicable disease which is likely to be transmitted through the personal service procedure.
23. (1) A personal service is not to be performed or provided if the customer:
 - (a) has skin which is inflamed, infected or broken; or
 - (b) is affected or suspected to have an infestation (eg. lice); or

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- (c) has or may have a communicable disease, which is likely to be transmitted through the personal service procedure.
- (2) If a personal service has already commenced prior to the discovery of a skin infection or infestation, the attendant is to immediately after serving this customer, thoroughly wash his hands and instruments with liquid soap and hot water, then rinse with a 70%-80% alcohol solution. Alternate solutions used in rinsing are to be approved by the Health Officer.

FOOD SERVICE

- 24. (1) Service of coffee, tea and other non-hazardous beverages is permitted provided that:
 - (a) it is located so as to be protected from contamination;
 - (b) single service cups and utensils are used or customers use and take home to wash their own cups;
 - (c) condiments are protected from contamination; and
 - (d) perishable dairy products are refrigerated.
- (2) Service of food is strictly prohibited, unless it is located in an entirely separate area, and complies with the regulations and bylaws regarding food premises.

SPECIFIC REQUIREMENTS

AGE RESTRICTIONS

- 25. Attendants shall not provide the following personal services on a person under the age of 16 unless written consent is given by the parent/guardian; acupuncture, electrolysis, body piercing and tattooing.
- 26. Children under the age of 12 are not be permitted to use a tanning facility without the consent of their parent/guardian. [The parent/guardian is to be given information on the health effects of ultraviolet radiation, noting that the lenses of children under 8 years of age transmit 2 to 4 times as much UV-A to the retina as those of older persons. A physician should be consulted by the parent/guardian prior to giving their consent.]

ACUPUNCTURE & ELECTROLYSIS

- 27. Acupuncture carried out by a medical doctor is not covered by this bylaw.
- 28. Needles shall be:
 - (1) disposable, or
 - (2) reusable only if re-used on the same customer provided they are cleaned of visible debris, sterilized and handled in a manner that prevents them from becoming contaminated prior to use.
- 29. Instruments are to be sterilized and handled in a manner that prevents them from becoming contaminated prior to use.

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BODY PIERCING

30. Body piercing implements are to be used as directed by the manufacturer. Specialized ear piercing implements are not to be used to pierce the nose, nipple or other body parts.
31. Implements are to be sterilized and handled in a manner that prevents them from becoming contaminated prior to use.

FACE PAINTING

32. Paints and supplies must be non-toxic, cosmetic grade and suitable for applying to skin.
33. The face painting artist shall:
 - (1) have clean hands which are free from sores;
 - (2) provide disposable towelettes for hand cleaning and wiping tips of pencils between use;
 - (3) dispense cold cream hygienically (eg. dispense with a disposable tongue depressor onto the hands of the person being painted);
 - (4) provide cotton-tipped applicator or disposable brushes if these are to be used. Common use brushes are not to be used;
 - (5) dispense paints from tubes onto disposable paper, which is to be disposed of after each customer;
 - (6) avoid application of paints too close to the eyes or lips; and
 - (7) be responsible for the clean-up of the immediate area.

HAIR STYLING & BARBER SHOP SERVICES

34. Equipment shall include:
 - (1) disposable blades on straight razors;
 - (2) disposable applicators for the application of powder and/or liquid products to the face, including alum and other materials for the purpose of stopping the flow of blood;
 - (3) a separate and clean neck guard for each customer to be used under the neckline of the wrapper or cover which is placed over the customer's clothing; and
 - (4) a separate and clean towel or paper head rest cover for each customer.
35. Combs shall be stored in a quaternary ammonium germicide (e.g. Barbicide) between customers.

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SKIN CARE (AESTHETICS)

36. All creams, lotions, powders and other cosmetics shall be kept in clean, closed containers. They shall be dispensed by one of the following methods:
- (1) a clean service spatula to remove a portion of the substance from its container;
 - (2) a metal or plastic collapsible tube; or
 - (3) individualized single service portions to prevent contamination of bulk materials.

TANNING SALONS

37. Customers using the tanning facility are to be informed regarding the factors which may affect their individual sensitivity of ultraviolet radiation exposure and screened accordingly, using the following criteria:
- (1) the length of time since the last exposure session;
 - (2) previous exposure incidents;
 - (3) customer's normal reaction to UV exposure; and
 - (4) medications (both oral and topical) and products that will increase photosensitivity (list available from Officer).
38. Instructions are to be given to each customer regarding the use of the tanning facility equipment and protective eye wear. An attendant knowledgeable in the use of the tanning equipment and its health effects is to be available at all times to assist the customer. The attendant must inform the customer as to the maximum exposure time (in minutes) and the minimum time interval between consecutive exposures.
39. The attendant must not extend maximum exposure time to address the decreasing UV intensity as bulbs age and must be aware that different tanning beds have different maximum exposure times. A customer accustomed to tanning on a bed with a high proportion of UVA radiation should not assume that they can have a similar exposure time on a UVA tanning bed with a higher proportion of UVB radiation.
40. All operators must post an ultra violet radiation warning placard, approved by the Officer, in plain view and easily readable at all tanning locations and at the customer reception area, and must bear the following words:

WARNING – ULTRAVIOLET RADIATION

Follow instructions – failure to use protective eye wear may result in severe burns or other eye injury. If discomfort develops, discontinue use and consult a physician.

In addition, the notice must convey the following:

- Overexposure can cause eye injury and sunburn similar to natural sunlight;
- repeated exposure may cause premature aging of the skin and skin cancer;

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- medications or cosmetics applied to the skin may increase sensitivity to ultraviolet light (list available from Officer for list of possible photosensitising agents);
 - a person who does not tan in the sun most likely will not tan from the use of this device;
 - a person having a history of skin problems or high sensitivity to sunlight should consult a physician before use; and
 - overexposure should be avoided.
41. Equipment in tanning salons shall:
- (1) comply with the Radiation Emitting Devices Act and its regulations. This federal legislation governs the construction and standard functioning of the tanning unit. The Act also addresses the required labelling, hazard warning, instructions provided to the user, timer controls and a standard for protective eye wear;
 - (2) be enclosed, so that no one other than the individual actually using the equipment is exposed to stray ultraviolet radiation;
 - (3) be CSA (Canadian Standard Association) approved and maintained in proper operating condition;
 - (4) have a physical barrier between the lamps and the user (i.e. clear plastic cover) to prevent injury in case of accidental lamp breakage;
 - (5) have bulbs which do not emit UV-C/gamma wavelengths;
 - (6) have a timer which:
 - (a) is to be accurate within ten percent (10%) of the maximum timer setting, and the expiry of the timer must terminate generation of UV radiation; and
 - (b) can terminate the UV radiation exposure at any time without unplugging the unit or removing the bulbs; and
 - (7) have manufacturer's specifications and instructions clearly displayed for the Officer's review at the time of inspection.
42. Provision shall be made to ensure that the tanning booth/room does not exceed 38°C (100°F).
43. Protective eye wear is to be provided:
- (1) that can attenuate the shortwave ultraviolet radiation (200-320 nm) by a factor of at least 1,000 and attenuate the long wave ultraviolet radiation (320-400 nm) by a factor of at least 100; and
 - (2) and is sanitized between customer use.

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TATTOOING

44. Needles are to be disposable and handled in a manner that prevents them from becoming contaminated prior to use.
45. Instruments are to be sterilized and handled in a manner that prevents them from becoming contaminated prior to use.
46. Skin preparation shall be done with disposable razors, one for each customer. If metal safety razors with disposable blades are used, the blade shall be discarded after use on each customer and the razor sterilized before use on another customer. Before tattooing, the skin should be swabbed with a disinfectant (eg. germiphene, 70% alcohol, hibitane 2% solution, or providone iodine 10% solution). After tattooing, the affected skin shall be wiped clean with a disinfectant and covered with a sterile swab which is taped to the skin. Antiseptic dressings are not required unless there is infection of the tattooed area.
47. Lubricating gel for each customer shall be squeezed from a tube or obtained with a clean wooden spatula from a bulk supply. A fresh amount shall be used for each customer and any left over shall be discarded.
48. Pigments shall be:
 - (1) chemically pure, non-toxic and non-sensitising;
 - (2) stored and handled in a sanitary manner to avoid contamination;
 - (3) placed in a clean, disposable container for each customer, and discarded after use, along with any un-used pigment.

PENALTIES

49. Any person who violates the provisions of this bylaw shall be liable upon summary conviction to a fine not exceeding Five Hundred (\$500.00) dollars or to imprisonment for one month or to both.

BYLAW REPEAL

50. Bylaw 173 and all amendments thereto are hereby repealed.

COMING INTO FORCE

51. This bylaw shall come into full force and effect upon the final passing thereof.

READ a first and second time this 23rd day of October, 1995.

READ a third time and finally **PASSED** this 14th day of November, 1995.

ORIGINAL BYLAW SIGNED BY:

Mayor: *Kathy Watson*

Acting City Clerk: *Christine O'Connor*