

CITY OF WHITEHORSE

BYLAW 2013-35

A bylaw to regulate the control, use and operation of bicycles in the City of Whitehorse

WHEREAS section 265(a) of the *Municipal Act* (R.S.Y. 2002) provides that council may pass bylaws for the safety, health, and welfare of people and the protection of persons and property; and

WHEREAS section 265(i) of the *Municipal Act* provides that council may, subject to the *Motor Vehicles Act*, pass bylaws for the use of motor vehicles or other vehicles, on or off highways, and the regulation of traffic; and

WHEREAS section 266(a) of the *Municipal Act* provides that, without restricting section 265, a council may in a bylaw passed under this division regulate, control, or prohibit; and

WHEREAS section 126(1) of the *Motor Vehicles Act* provides that a municipality may, with respect to highways under its direction, control and management, make bylaws controlling and regulating the use of all highways, sidewalks, and other public places and delegating to the chief constable or municipal manager any powers in connection therewith including delegating to the municipal manager the power to prescribe where traffic control devices are to be located, which shall be deemed to be made by bylaw of the municipality, and that records of all such locations shall be kept and be open to public inspection during normal business hours; and

WHEREAS section 126(2) of the *Motor Vehicles Act* provides that a municipality may make bylaws for the purposes of controlling or preventing the riding of bicycles on any sidewalk, controlling and regulating the operating of bicycles on highways and other public places, and providing for the seizure or impounding for a period not exceeding 60 days of any bicycle used or operated in contravention of any bylaw; and

WHEREAS section 126(4) of the *Motor Vehicles Act* provides that a municipality may make bylaws prohibiting, controlling and regulating the use of vehicles, including vehicles operated exclusively off-highway, on land that is not a highway; and

WHEREAS section 249(2) of the *Motor Vehicles Act* provides that a municipality may by bylaw confer on an officer or employee of the municipality the powers of a peace officer under any of sections 36, 50, 86, 106, 114, 130, 133-136, 181, 203, 217, 230, and 232 of the *Motor Vehicles Act*; and

WHEREAS more people are using bicycles as a means of transportation, and the City of Whitehorse promotes this healthy and sustainable form of transportation and strives to be a cycling friendly community;

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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 "**Bicycle Bylaw**".

DEFINITIONS

2. For the purposes of this bylaw:

"bicycle" means any cycle, excluding a mobility device, propelled solely by human power, upon which a person may ride, regardless of the number of wheels it may have;

"bicycle helmet" means a form of CSA approved or equivalent protective head gear specifically designed for bicycle operators to be worn on the head, fastened by manufacturer's straps and fasteners;

"bicycle lane" means a lane on a highway or portion of highway that has been designated by authorized signs or painted markings and is primarily used by bicycles, but which motor vehicles may temporarily use by crossing, when at an intersection or accessing a driveway or Parking area and does not include a turning lane where there are dashed lines painted on the roadway or signage indicating the lane is a turning lane.

"bicycle trailer" means any single or two wheeled device which has been specifically designed and manufactured to tow behind a bicycle and is attached to a bicycle by means of a rigid tow bar;

"central business district" means the area bounded on the north by the northern street line of Wood Street, on the east by the eastern street line of Front Street, on the south by the southern street line of Elliott Street, and on the west by the western street line of Fifth Avenue;

"City" means the City of Whitehorse;

"council" means the duly elected council of the City of Whitehorse;

"developed trail" means a paved trail, excluding a bicycle lane on a roadway;

"downtown area" means that area of the City the boundaries of which are shown on the map attached hereto as Appendix "A";

"head light" means a light mounted on the front of the bicycle that emits a white light in front of the bicycle that is visible to persons and/or vehicles at a distance of no less than 200 metres;

"impassable" means impracticable or unsafe to cross or travel along;

"mobility device" means any device designed to assist the mobility of a person with a physical disability;

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“*Motor Vehicles Act* or *MVA*” means the Yukon *Motor Vehicles Act* and Regulations as may be amended from time to time;

“night time” means the period commencing at sunset and ending at the following sunrise and includes daylight hours where atmospheric conditions reduce visibility to less than 200 metres;

"officer" means a City Bylaw Services Constable or any Peace Officer;

“operate” means to ride a bicycle;

“ordinary walking speed” means the speed at which a person would ordinarily walk, and includes a fast-paced walk but excludes running or jogging;

"park or parking" includes the standing of a motor vehicle, whether attended or unattended, except where the motor vehicle is stopped in the ordinary course of being driven on the roadway, or stopped for safety, emergency purposes or is unable to move under its own power due to mechanical failure;

“prepared crossing” means that portion of a sidewalk that intersects or crosses a bike path, or a cross-walk that adjoins a bike path.

“roadway” means that portion of a street improved, designed or intended for use by vehicles or motor vehicles, such as bicycles, cars, trucks and vans;

“sidewalk” means that part of a roadway designed or intended for use by pedestrians;

“tail light” means a light mounted on the rear of the bicycle that emits a red light or red flashing light to the rear of the bicycle that is visible to persons and/or vehicles at a distance of no less than 200 metres;

“trail” means a developed or undeveloped trail;

“Whitehorse Transit” means a motor vehicle operated by or for the City of Whitehorse Transit System;

“motor vehicle” means a motor vehicle as defined in the *MVA*.

OPERATION

3. This bylaw shall not apply to an officer, an enforcement officer appointed by the Federal Government of Canada, or an enforcement officer appointed by the Government of Yukon, who is acting in the course of lawful duties.
4. Notwithstanding any other provision of this bylaw, the provisions respecting bicycle lanes shall not apply to a motor vehicle actively engaged in parallel parking in a parking space next to a bicycle lane, Whitehorse Transit, or a motor vehicle involved in road maintenance or maintenance directly adjacent to a bicycle lane.

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5. A person operating a bicycle upon a highway shall have the same rights and duties as a driver of a vehicle as prescribed in the *Motor Vehicles Act* of the Yukon Territory and the *City Traffic Bylaw*.
6. A person shall not operate a bicycle, ride as a passenger on a bicycle, or ride as a passenger in a bicycle trailer without wearing a bicycle helmet.
7. A parent or guardian of a person under the age of 16 years shall not authorize or knowingly permit that person to operate or ride as a passenger on a bicycle unless the person is wearing a bicycle helmet.
8. A person shall not operate a bicycle on a sidewalk or marked crosswalk except:
 - (1) at a lane crossing;
 - (2) at a prepared crossing;
 - (3) in an unmarked crosswalk;
 - (4) to cross over a crosswalk while traveling in a bike lane or traffic lane;
 - (5) where a bicycle lane on the roadway adjacent to the sidewalk is impassable; or
 - (6) where a cyclist would be forced to travel in a lane of traffic on the roadway adjacent to the sidewalk due to the edge or shoulder of the roadway being impassable.
9. When permitted to operate a bicycle on a sidewalk pursuant to section 8 of this bylaw, a person commits an offense of unsafe operation of a bicycle on a sidewalk if the person:
 - (1) operates the bicycle so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard; or
 - (2) operates the bicycle at a speed greater than ordinary walking speed when approaching or entering a crosswalk, approaching or crossing a driveway, or crossing a curb cut or pedestrian ramp when a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.
10. A person operating a bicycle in a prepared crossing or on a sidewalk as permitted by section 8 of this bylaw shall:
 - (1) yield the right of way to pedestrians;
 - (2) give an audible signal by voice, bell or other signalling device before overtaking another crossing or sidewalk user; and
 - (3) pass pedestrians at a speed no greater than ordinary walking speed.
11. Notwithstanding any other provision in this bylaw, a person shall not operate a bicycle on a sidewalk in the central business district.

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12. Notwithstanding any other provision in this bylaw, a child under the age of 12 years may operate a bicycle on a sidewalk, except in the central business district.
 - (1) A parent or guardian of a person under the age of 12 years shall not authorize or knowingly permit that person to operate or ride a bicycle in the central business district.
13. A person operating a bicycle on a trail or on a sidewalk as permitted in section 8 of this bylaw shall:
 - (1) yield the right of way to pedestrians;
 - (2) exercise due care and attention to avoid colliding with any other trail or sidewalk user;
 - (3) exercise reasonable consideration for any other trail or sidewalk user;
 - (4) slow down and pass other trail and sidewalk users in a safe manner,
14. Notwithstanding any other provisions of this bylaw, unless a person operating a bicycle can provide more than one metre of separation when overtaking another developed trail user, the person operating a bicycle shall give an audible signal by voice, bell or other signalling device before overtaking another developed trail user.
15. A person shall not operate a bicycle upon a roadway while wearing headphones or any other manufactured device capable of transmitting sound, over or in close proximity to both ears, unless the device is designed and worn for the purpose of improving the wearer's ability to hear.
16. A person shall not operate a bicycle upon a roadway when there is signage indicating such use is prohibited.
17. A bicycle shall yield the right of way to a motor vehicle when entering any roadway from a trail unless indicated otherwise by a traffic control device.
18. Every bicycle operated on a roadway at any time during the night time hours shall be equipped with:
 - (1) At least one head light; and
 - (2) At least one red tail light.
19. A person shall not tow anything behind a bicycle other than a bicycle trailer, and such bicycle trailer shall:
 - (1) be equipped with a red reflector, tail light, or orange flag at the rear;
 - (2) be equipped with a tail light when operated on a roadway at night time; and
 - (3) not exceed the manufacturer's occupancy limit.

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MOTOR VEHICLES SHARING THE ROADWAY

20. A person operating and making a turn with a motor vehicle on a roadway shall yield to a bicycle being operated on the roadway.
21. A person shall not drive a motor vehicle in a bicycle lane in the downtown area.
22. A person shall not park a motor vehicle in a bicycle lane in the downtown area.
23. A driver of a motor vehicle shall not pass a bicyclist that is travelling in the same direction as the motor vehicle on the roadway, on the shoulder, or in an adjacent bicycle lane unless the driver leaves at least one meter of open space between the motor vehicle and the bicyclist.

ENFORCEMENT

24. An officer may stop any person operating a bicycle if that officer has reasonable and probable grounds to believe that the person is acting in contravention of this bylaw.
25. Every person operating a bicycle shall, immediately when signalled or requested by an officer,
 - (1) bring the bicycle to a stop;
 - (2) furnish any information respecting his or her identity, to the satisfaction of the officer;
 - (3) remain stopped until such time as the officer permits him or her to leave; and
 - (4) comply with any request or direction of the officer.

POWERS OF A PEACE OFFICER

26. Every officer has the powers of a peace officer under any of sections 36, 50, 86, 106, 114, 130, 133-136, 181, 203, 217, 230, and 232 of the MVA while engaged in the lawful execution of his duties under this bylaw.
27. An officer may, with a reasonable and probable purpose, enter upon any land in any area of the City, to prevent the continuation of an offence under this bylaw which shall include, but not be limited to, obtaining particulars of ownership and determining the identity of the operator of a bicycle.
28. An officer may seize and impound any bicycle being operated in contravention of this bylaw for a maximum of ten days or until determination of the charges respecting such violation:
 - (1) if the operator of the bicycle fails or refuses to produce identification to the satisfaction of the officer; or

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- (2) after a charge has been laid for a breach of this bylaw and the officer has reasonable and probable grounds to believe that there are safety concerns associated with the continuation of such breach.
29. A bicycle that has been impounded under this bylaw shall not be released until the person claiming the bicycle provides photo identification and pays all costs associated with the impoundment including:
 - (1) all fines; and
 - (2) all impoundment fees as prescribed in the Fees and Charges Bylaw;
30. Where a bicycle has been impounded and is not claimed within six months from the date of seizure, the Manager of Bylaw Services may direct its disposal by public auction, and where an officer has determined the value of such bicycle to be less than \$100.00, the Manager of Bylaw Services may direct that it be disposed of at the City of Whitehorse Waste Management Facility or scrap yard.

COMMITTING AN OFFENCE

31. A person who offends any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do, or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act or thing which violates any of the provisions of this bylaw, shall be deemed to be guilty of an infraction of this bylaw, and shall be liable to the penalties hereby imposed.
32. A person who commits an offence under this bylaw is, in addition to any other punishment, liable upon summary conviction to:
 - (1) a voluntary fine, under section 20 of the *Summary Convictions Act*, issued in respect of an offence which shall be increased for second and subsequent offences as specified in Schedule "A" attached hereto and forming part of this bylaw; or
 - (2) a fine not exceeding ten thousand dollars where proceedings are commenced pursuant to the summary convictions provisions of the *Criminal Code of Canada*; or
 - (3) a fine not exceeding five hundred dollars where proceedings are commenced pursuant of the *Summary Convictions Act* of the Yukon.
33. The fine imposed against a person who commits an offence under this bylaw shall increase for second and subsequent offences.

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34. Where a person is convicted of an offence under this bylaw the Judge may, in addition to any other measure imposed on the person, order that the person pay restitution pursuant to section 738 of the *Criminal Code of Canada*, as amended.
35. Where an offence is committed or continues on more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.
36. Should a person owning or occupying real property within the City refuse or neglect to pay any penalties that have been levied pursuant to this bylaw, the officer may inform such person in default that, if these charges are unpaid on the thirty-first day of December on the same year, they shall be added to, and form part of, the taxes payable in respect of that real property as taxes in arrears.

REPEAL OF PREVIOUS LEGISLATION

37. Bylaw 508, including all amendments thereto, is hereby repealed.

COMING INTO FORCE

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

FIRST and SECOND READING:	September 23, 2013
AMENDMENTS:	October 28, 2013
THIRD READING and ADOPTION:	October 28, 2013

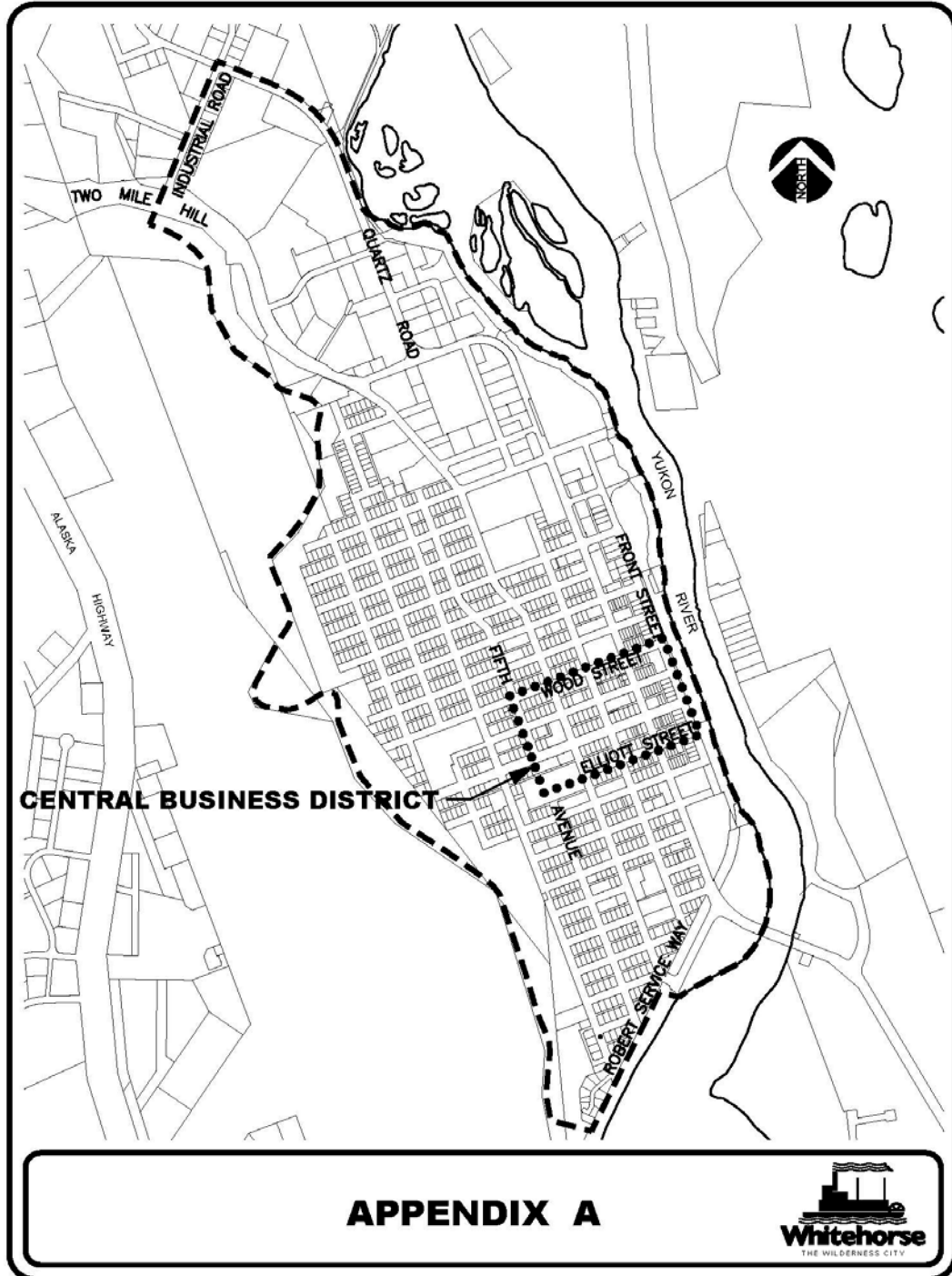
ORIGINAL DOCUMENT SIGNED BY:

"Dan Curtis"
Dan Curtis, Mayor

"R. I. Fendrick"
Robert I. Fendrick, FCGA, City Clerk

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APPENDIX "A" MAP OF THE DOWNTOWN AREA



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SCHEDULE "A" VOLUNTARY FINES

<u>Authority</u>	<u>Description of Offence</u>	<u>Penalty</u>
Section 6	Operate bicycle without wearing bicycle helmet	\$50.00
Section 7	Allow bicycle operation without helmet	\$50.00
Section 8	Operate bicycle on sidewalk or marked crossing	\$50.00
Section 9	Operate bicycle on sidewalk in unsafe manner	\$50.00
Section 10(1)	Fail to yield to pedestrian	\$50.00
Section 10(2)	Fail to give an audible signal	\$50.00
Section 10(3)	Pass pedestrian at unsafe speed	\$50.00
Section 11	Operate bicycle on sidewalk in central business district	\$50.00
Section 12(1)	Allow child to operate bicycle on sidewalk in central business district	\$50.00
Section 13(1)	Fail to yield right of way to pedestrian	\$50.00
Section 13(2)	Fail to exercise due care and attention	\$50.00
Section 13(3)	Fail to exercise reasonable consideration for other user	\$50.00
Section 13(4)	Fail to slow and pass in safe manner	\$50.00
Section 14	Fail to give audible signal when overtaking another trail user	\$50.00
Section 15	Operate bicycle while wearing headphones	\$50.00
Section 16	Operate bicycle contrary to signage	\$50.00
Section 17	Fail to yield to motor vehicle when entering roadway from trail	\$50.00
Section 18(1)	Operate bicycle without head light	\$50.00
Section 18(2)	Operate bicycle without tail light	\$50.00
Section 19(1)(2)(3)	Improper towing behind bicycle	\$50.00
Section 20	Fail to yield to bicyclist when turning right	\$100.00
Section 21	Drive motor vehicle in bicycle lane	\$100.00
Section 22	Park motor vehicle in bicycle lane	\$100.00
Section 23	Pass bicyclist in unsafe manner	\$100.00
Section 25(1)	Fail to bring bicycle to stop for officer	\$300.00
Section 25(2)	Fail to furnish information to officer	\$300.00
Section 25(3)	Fail to remain stopped	\$300.00
Section 25(4)	Fail to comply with request or direction of officer	\$300.00