

CITY OF WHITEHORSE

BYLAW 2004-20

A bylaw to regulate the use of petitions, plebiscites, and referendums on municipal matters

WHEREAS section 154 of the *Municipal Act* (R.S.Y. 2002) provides that Council may by bylaw adopt rules concerning the format of petitions, determining the sufficiency of petitions, counting petitions and any other matter necessary for a petition or referendum; and

WHEREAS section 158 of the *Municipal Act* provides that Council may by bylaw establish rules of procedure for the conduct of plebiscites and referendums;

WHEREAS it is desirable to provide rules for obtaining the opinion of electors on questions that affect the municipality and are within the jurisdiction of Council;

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 “**Petition, Plebiscite, and Referendum Bylaw.**”

Definitions

2. In this bylaw,

“CITY” means the City of Whitehorse.

“CORPORATION” includes a sole proprietorship and a partnership licensed to carry on a business or profession in the City.

“COUNCIL” means the duly elected Council of the City of Whitehorse.

“DAYS” includes all statutory holidays, weekends and regular workdays.

“DESIGNATED MUNICIPAL OFFICER” means the Director of Administrative Services.

“ELECTOR” means a person who is eligible to vote in a municipal election.

“ELIGIBLE PETITIONER” means an elector.

“PETITION” means a written request for a referendum from eligible electors, submitted in an approved format and received within a required period of time.

“PLEBISCITE” is advisory and non-binding in nature and is a means to secure an expression of the public’s view on a particular issue.

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“REFERENDUM” is definitive and binding in nature and is a means to secure an expression of the public’s approval or rejection of a specific issue.

“TAXPAYER” means a person who is the owner of taxable property in the City within the meaning of the *Assessment and Taxation Act*.

Petition for a Referendum

3. Subject to the procedures established in this bylaw, electors shall have the right to petition Council for a referendum:
 - (1) To initiate a new bylaw or resolution; or
 - (2) On a new bylaw or resolution or the amending or repealing of an existing bylaw or resolution; or
 - (3) On any matter within the jurisdiction of Council, including capital projects.
4. Notwithstanding section 3 of this bylaw, the question in a referendum may not be on the operating budget bylaw, the capital budget bylaw or the general property taxation bylaw.
5. The proponent of a petition for a referendum shall file a Notice of Petition with the designated municipal officer. An example of the Notice of Petition is attached hereto as Exhibit “A”.
6. A petition question should not be illegal or discriminatory in nature, should be specific in nature, should be clear in its intent, and should be answerable by a “yes” or “no” response.
7. If the petition question is for a bylaw outside of Council’s jurisdiction or for a bylaw that may be invalid on other grounds such as being discriminatory, the reason shall be provided to the petition proponent in writing. Should the proponent still wish to proceed, the City may apply to the Court for a declaration that the petition is invalid on the grounds that the bylaw it seeks would be invalid
8. Every petition for a referendum shall prominently display a statement that the result of the referendum vote will be binding on Council.
9. A petition for a referendum must be initiated, completed and submitted to Council within a period of ninety days from the date the Notice of Petition is submitted to the designated municipal officer.
10. The designated municipal officer shall at the next regular Council meeting advise Council of any Notice of Petition that has been filed with the City.
11. Every person signing a petition for a referendum must be qualified to vote in a municipal election, and shall provide the following information as indicated on Exhibit “B”:
 - (1) The elector’s surname and given name;

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- (2) The elector's street address;
 - (3) The elector's signature; and
 - (4) The date on which the elector signed the petition.
12. If a petition for a referendum is received from a number of eligible petitioners equivalent to at least twenty-five percent (25%) of the total number of electors of the municipality as identified by the most current list of electors, or 2,000 eligible electors, whichever is less, Council shall introduce a bylaw in accordance with the request of the petitioners. Such bylaw shall be introduced within eight weeks after the presentation of the petition, and then submitted to a referendum within ninety days. In the event no list of electors has been prepared in the last three years, the number of eligible petitioners must equal fifteen percent (15%) of the population of the municipality as shown on the most recent census approved by the Minister.
 13. The decision of the designated municipal officer on a question of the sufficiency of a petition or any part thereof shall be final, subject to the proponent applying to the Courts.
 14. Where a Notice of Petition has been filed and the designated municipal officer has not received a valid petition for a referendum within the prescribed ninety-day period, Council may proceed with an issue without regard to the Notice of Petition.

Referendum

15. If a valid petition for a referendum is received as outlined in section 12 of this bylaw, Council shall give first and second reading to a bylaw in accordance with the request of the petitioners within eight weeks after the presentation of the petition, and shall then submit the bylaw to a referendum within ninety days.
16. Notwithstanding section 15 of this bylaw, Council is not required to submit a bylaw requested by a petition to a referendum if Council passes a bylaw that accords with the request of the petition before the referendum would otherwise have to be conducted.
17. Council may also choose to submit any proposed bylaw to a referendum before the bylaw is given third reading.

Eligible Voters for Referendums

18. Except as provided in section 21 of this bylaw, only persons who are eligible as electors in a municipal election are eligible to vote in a referendum.
19. A taxpayer may vote on any referendum:
 - (1) Required by the Minister respecting a bylaw that authorises borrowing in excess of the amount authorised under the *Municipal Act*;

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- (2) On a bylaw for the imposition or alteration of a tax or local improvement charge;
 - (3) For the undertaking or cessation of a local improvement, regardless of whether a local improvement charge has been imposed or is proposed for it.
20. A corporation that is a taxpayer is entitled to vote on any referendum referred to in section 19 of this bylaw.
 21. A person who is voting on behalf of a corporation shall certify that:
 - (1) He or she is the authorised agent for the corporation;
 - (2) No other agent has voted in this referendum on behalf of the corporation; and
 - (3) He or she has not voted and will not vote as an individual elector in this referendum.
 22. No person may vote on behalf of more than one corporation in the same referendum.
 23. A taxpayer may vote only once in each referendum, regardless of how many properties the taxpayer owns or the value of the said properties.
 24. A person who qualifies as both a taxpayer and an elector may vote only once in the same referendum.

Voting Proceedings

25. The rules of procedure for the conduct of referendums shall be those established by the City for a municipal election unless Council by bylaw directs otherwise.
26. A majority vote in a referendum shall be binding on Council.
27. Where a majority of voters participating in a referendum vote in support of a bylaw, the bylaw shall immediately come into force or shall come into force at a time specified in the bylaw, without the requirement for Council to give third reading to the bylaw.
28. Where a majority of voters participating in a referendum vote in opposition to a bylaw, the bylaw shall immediately be deemed to have been defeated without the requirement for Council to defeat third reading of the bylaw.

Plebiscites

29. Council may by bylaw provide for a plebiscite to obtain the public's opinion on any matter over which the City has jurisdiction.
30. A plebiscite under section 29 of this bylaw does not bind Council.

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31. The question asked on a plebiscite shall not be illegal or discriminatory in nature, shall be specific in nature, shall be clear in its intent, and shall be answerable by a “yes” or “no” response.
32. Council may by bylaw establish the qualifications of eligible voters for voting in plebiscites, including the geographic area of the City where a plebiscite may be applicable.
33. If Council has not adopted a bylaw under section 32 of this bylaw, only persons who are eligible as electors in a municipal election are eligible to vote in a plebiscite.
34. The rules of procedure for the conduct of plebiscites shall be those established by the City for a municipal election unless Council by bylaw directs otherwise.

Precedence and Severability

35. Where the *Municipal Act* imposes on Council an obligation to act, or directs Council to act in a specified manner, or prohibits Council to act, the provisions of the *Municipal Act* shall take precedence over the provisions of this bylaw.
36. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that is invalid shall not affect the validity of the remainder.

Bylaw Repeal

37. Bylaw 99-38 is hereby repealed.

Coming Into Force

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

FIRST AND SECOND READING: June 14, 2004

THIRD READING and ADOPTION: June 28, 2004

ORIGINAL BYLAW SIGNED BY:

“Yvonne Harris”

Yvonne Harris, Deputy Mayor

“David Boorse”

David Boorse, Acting City Clerk

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EXHIBIT "A"

Notice Of Petition

Section A

I, _____, City Clerk of the City of Whitehorse, do hereby certify that:
I received official notification of a petition for a referendum on _____,
_____ and the 90-day time period for submission begins as of this date.

City Clerk

Date

Section B

I, _____ hereby certify that on the _____ day
of _____, I was advised of the following by the City Clerk of the City of
Whitehorse:

1. The petition for a referendum must be initiated, completed and submitted to Council within a period of 90 days from the date the Notice of Petition is filed with the designated municipal officer.
2. The petition, when submitted to Council, must be in the same form as when it was signed by the electors.
3. Only persons who are valid electors in the City shall sign the petition, and they shall identify themselves by printed name, street address, and signature, and they shall indicate the date they have signed the petition.
4. The number of registered electors on the current voters list in the City of Whitehorse is _____. If the number of petitioners equals 25% of the total registered electors, _____, or 2,000 eligible electors, whichever is less, Council shall introduce a bylaw in accordance with the request of the petitioners within 8 weeks of the presentation of the petition, and shall submit the bylaw to referendum within 90 days. The results of the referendum will be binding on Council.

I certify that:

- (a) I have been given a copy of section 48 of the *Municipal Act* (R.S.Y. 2002) and understand that it is my responsibility to inform petitioners that they must be valid electors on the poll date; and
- (b) I have been given a copy of Part 3 Division 16 of the *Municipal Act* and understand that I have full responsibility for ensuring my petition complies with the requirements of the *Act*, and I have been advised that I should seek legal counsel in order to ensure that it does so.

Signature of Proponent of Petition

