

**CORPORATION OF THE CITY OF COURTENAY  
COUNCIL MEETING AGENDA**

**DATE:**        **October 6, 2014**  
**PLACE:**     **City Hall Council Chambers**  
**TIME:**      **4:00 p.m.**

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**1.00       ADOPTION OF MINUTES**

1. Adopt September 15, 2014 Regular Council and September 30, 2014 Committee of the Whole meeting minutes

**2.00       INTRODUCTION OF LATE ITEMS**

**3.00       DELEGATIONS**

1. Fred Bigelow, CEO, Comox Valley Airport Commission re: Tell a Friend Campaign
- 1     2. LUSH Valley Food Action Society Update

**4.00       STAFF REPORTS/PRESENTATIONS**

Pg #

**(a) Community Services**

**(b) CAO and Legislative Services**

- 5     1. Shaw Go Wi-Fi Final Agreement
- 9     2. Gladstone Brewery Co. Lounge Endorsement Final Recommendation
- 35    3. Forbidden Brew Corp. Lounge Endorsement Final Recommendation

**(c) Development Services**

**(d) Financial Services**

- 59    4. Waste and Recyclables Collection Agreement

**(e) Engineering and Operations**

**5.00       EXTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION**

- 79    1. Heritage Advisory Commission Minutes of June 25, 2014
- 81    2. Reply from FCM re: Fixing Canada's Housing Crunch
- 83    3. Island Coastal Economic Trust Update

**6.00       INTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION**

**7.00        REPORTS/UPDATES FROM COUNCIL MEMBERS INCLUDING REPORTS  
FROM COMMITTEES**

**8.00        RESOLUTIONS OF COUNCIL**

1. In Camera Meeting

Notice is hereby given that a Special In-Camera meeting closed to the public will be held at the conclusion of the October 6, 2014 regular Council meeting pursuant to the following sub-section of the *Community Charter*:

90 (1) (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity.

**9.00        UNFINISHED BUSINESS**

**10.00       NOTICE OF MOTION**

**11.00       NEW BUSINESS**

1.        Costco Noise – Councillor Hillian

That Council request a staff report on the steps taken to address and resolve the ongoing complaints regarding early morning noise from Costco that appears to contravene the City's noise bylaw.

**12.00       BYLAWS**

- 87        1. "Zoning Amendment Bylaw No. 2803, 2014"  
            (C-1 Zone and downtown land use regulations)

**13.00       ADJOURNMENT**

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1126 Piercy Ave, Courtenay BC V9N 3E6

(250) 331-0152 [admin@lushvalley.org](mailto:admin@lushvalley.org)

[www.lushvalley.org](http://www.lushvalley.org)

**Dear City of Courtenay Council Members,**

**October 1<sup>st</sup>, 2014**

**The following is an update on the past years activities for the Comox Valley Food Round Table and an Invitation to participate in the Comox Valley Food Strategy planning session on October 17th**

Last year's World Food Week provided Comox Valley with an excellent opportunity to implement a collaborative model of community development while marking the United Nations World Food Day on October 16th. The Comox Valley Food Round Table - a coalition of 20 organizations - came together to put on a week of events, each contributing in a way that allowed their organization to shine. Opportunities were created for local government to establish relationships with community groups and businesses over food security. This blossomed into local government allocating staff time and general support to the Comox Valley Food Round Table and their various initiatives. We raised the profile of food security within all the aspects of a food system at a community level.

LUSH Valley Food Action Society and the City of Courtenay created a Food Map of Comox Valley using the data collected from the Community Food Assessment research that LUSH Valley and the Comox Valley Food Round Table recently completed. This online map provides details of food businesses, farms, food education, services and resources in the Comox Valley. It can be found here: <http://www.lushvalley.org/comox-valley-food-system-map.html>. This Food Map provides us with an interactive way to communicate information about food in the Comox Valley and helps people to find information they need.

World Food Week last year and the Food Map were made possible by a funding partnership between Plan H, City of Courtenay and LUSH Valley Food Action Society.

At regular CVFRT Meetings we have 12-15 people attend from local government, non-profits, and businesses. We discuss and partner to address community wide projects, events and issues. A member of the CVFRT is attending United Way Public Policy Planning Workshops to learn how to develop a Food Chart and Strategy for the region.

Other work that the CVFRT has completed over the past year includes:

The Community Food Assessment was research taken on by volunteers with LUSH Valley Food Action Society. This group of volunteers brought together past research and collected fresh data on the state of community food security in Comox Valley. This involved interviewing managers of non-profits that provide food programs, doing food price analysis, looking at food deserts, and reviewing raw data on consumer habits.

We were also excited to receive a grant from the Real Estate Foundation to do research on land access barriers. This involved interviewing local small scale farmers and potential farmers and finding out what issues that experienced with acquiring land to farm or expand their already operational farm.

The results of both these research can be found at: <http://www.lushvalley.org/comox-valley-food-round-table.html>



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[www.lushvalley.org](http://www.lushvalley.org)

The past year we have been working towards preparing to create a Comox Valley Food Strategy. This facilitated planning process will support local government engagement with community in priority setting and collaborative action on identified supported policy areas. It is identified in several planning documents at a regional level including in the Regional Growth Strategy and Sustainability Strategy to support a coordinated regional food strategy.

We plan to build on the Food section of the Sustainability Strategy using recent Community Garden Scan, CFA and Land Access research to help identify actions that the Comox Valley Food Round Table can move forward with in collaboration with local government, institutions, community organizations, and businesses.

Also during this week we will be finalizing the Share the Harvest Community Garden Plan. The garden has grown this year from last year with the expansion of: twice as much growing space and room for a remaining third of the site to be developed for next year.

Activities at the garden in the past season include: Regular workshops were held on Sunday's and through the week. Food Not Bombs was hosted in the Garden monthly and became a source of more widespread community-potlucking. Weekly work parties were hosted, with a chance for new people to get involved. New people always did!

In the past year more agencies got involved as partners including LUSH Valley, Aboriginal Strong Start, Friday's Child, Upper Island Women's Ancestry, Comox Valley Growers and Seed Savers. As for infrastructure, a covered storage facility and community-board signage will be installed before the winter. Fencing is also planned before the growing season next year.

We are developing a stronger working relationship with the City of Courtenay. A Community Garden plan with clear guidelines for garden bed development, participation, governance and decision-making, enforcement and establishment of rules is being drafted. And will be shared with the community during World Food Week. Dawn to Dawn is happy to have the lease transferred over to LUSH who has a focused food security mandate. These lease arrangements will be secured with the in-coming council.

Kindest regards,

Cynthia Fitton, RN, BScN, MACD Candidate

Executive Director, LUSH Valley Food Action Society

[cynthiafitton@lushvalley.org](mailto:cynthiafitton@lushvalley.org)



# World Food Week

## Comox Valley Oct. 15 - 19



Photos of Comox Valley Farmers Market by: Hans Peter Meyer (except fish)

## Celebrating Diversity: Farmers, Feast and Film

This week of events is held to raise awareness of food issues locally and international and acknowledge the United Nations World Food Day on October 16th.



### **Wednesday October 15** - 7pm - 8:30 @ NIC Theatre, Courtenay

In celebration of World Food Day, World Community is screening the hour long film, Food Stamped, an informative and humorous documentary film following a couple as they attempt to eat a healthy, well-balanced diet on a food stamp budget. Admission by donation.



### **Thursday October 16th** - 6pm- Free Community Feast @ Lake Trail School

Come celebrate diversity through food! Learn different recipes from a variety of cultures and share in the feast.



### **Friday October 17th** - Comox Valley Community Food Strategy Planning Session

Community members, leaders, and elected officials are invited to come together and create a community food strategy that will define the Comox Valley Food Round Table and guide next steps for the collaborative group.



### **Saturday October 18th** – Last Outdoor Comox Valley Farmers Market 9-Noon @ Comox Valley Exhibition Grounds. Come find treasures of the fall harvest!



### **Sunday October 19th** - Share the Harvest Community Garden Neighborhood Outreach

The community garden of 6th and Harmston is expanding and the neighborhood is invited to take a stake in how it grows. Bring your favorite home cooked meal while learning about the Garden Plan.



Updates can be found at:  
[www.lushvalley.org/world-food-week.html](http://www.lushvalley.org/world-food-week.html) or by calling 250-331-0152





THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

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**To:** Council  
**From:** Chief Administrative Officer  
**Subject:** Shaw Go Wi-Fi Final Agreement

**File No.:** 5500-05  
**Date:** October 6, 2014

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### PURPOSE:

The purpose of this report is to request Council approval of the non-exclusive Shaw "Go Wi-Fi" agreement.

### CAO RECOMMENDATIONS:

That based on the October 6, 2014 staff report "Shaw Go Wi-Fi Final Agreement" Council approve OPTION 1 and approve the agreement with Shaw Cable Systems Limited for "Public Wi-Fi access for all".

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

At its regular meeting held March 17, 2014 Council passed the following resolution:

*"That based on the March 17, 2014 staff report "Shaw Go Wi-Fi" Council approve OPTION 1 and direct staff to negotiate an agreement with Shaw Cable Systems Limited for "Public Wi-Fi access for all", subject to legal review and final approval of the agreement by Council."*

Wi-Fi public access points are commonplace in urban areas, and especially in public gathering areas such as parks, downtown cores, and malls.

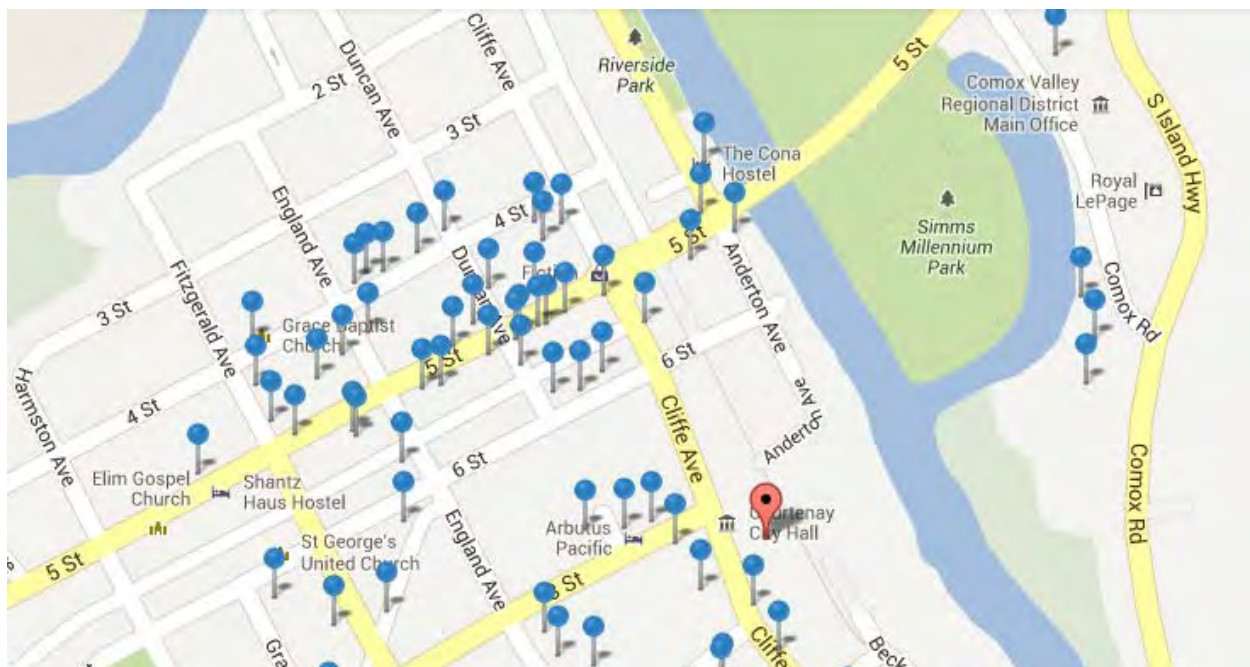
Municipal sponsored public Wi-Fi access points are also very common within municipalities and are available throughout the Vancouver Island area. Informa Media estimates that by 2015 there will be a 350% growth in Wi-Fi public access networks, with 5 million municipalities worldwide.

Shaw Communications has approached the City of Courtenay and numerous other municipalities from BC to Ontario. Shaw is requesting a non-exclusive agreement to place Wi-Fi infrastructure on city assets



(street lights, traffic signals, etc.) and in city buildings (Lewis Centre, Florence Filberg Centre, City Hall, etc.). The initial target areas are the downtown core, major parks, and recreation centres. Shaw's intent is to provide value-added Wi-Fi service for their customers.

Shaw currently has over 30,000 Wi-Fi Hotspots in Western Canada. Some municipalities participating in Shaw Go Wi-Fi are District of Oak Bay, City of Victoria, the City of Nanaimo, and the City of Surrey. A complete list is available at <http://www.shaw.ca/wifi/locations/>. SHAW Communications has established partnerships throughout the Comox Valley area with many local area businesses and would be able to strengthen their Wi-Fi network with the use of city assets.



A view of the businesses in the downtown area providing SHAW Go Wi-Fi

#### **DISCUSSION:**

Staff have negotiated a satisfactory agreement with Shaw, and the agreement has been reviewed by our legal counsel.

#### **FINANCIAL IMPLICATIONS:**

There are no financial implications for the City.

#### **ADMINISTRATIVE IMPLICATIONS:**

All work plans, building accesses, and road permits will be required and completed by Shaw to the appropriate city department along with all necessary documents.

There should be little, if any resources required by the City to implement this proposal. No administrative implications are contemplated other than routine follow up on any concerns or deficiencies in the future.



**STRATEGIC PLAN REFERENCE:**

The Shaw Go Wi-Fi proposal aligns with Council's strategic plan:

*An open, inclusive and vibrant community  
Support community initiatives and distinct neighbourhoods  
Support Downtown Courtenay...*

The proposed agreement aligns with the strategic plan by better connecting our downtown businesses and allowing entrepreneurs and visiting businesses people to stay connected.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

Not referenced.

**REGIONAL GROWTH STRATEGY REFERENCE:**

Not referenced.

**CITIZEN/PUBLIC ENGAGEMENT:**

In recent years, public expectation and demand for Wi-Fi access has increased. Free Wi-Fi helps provide consistent, high quality mobile access. Free Wi-Fi ensures everyone with a device can stay connected online, regardless of their ability to pay for a contract.

It also eliminates roaming charges for travellers, and therefore could be considered a significant benefit for tourism.

**OPTIONS:**

- OPTION 1: Approve the final agreement with Shaw for Go Wi-Fi (recommended).
- OPTION 2: Not approve the agreement.
- OPTION 3: Direct staff to negotiate other provisions in the agreement.

Prepared by:



John Ward, CMC  
Director of Legislative Services





THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

**To:** Council

**File No.:** 4320-20

**From:** Chief Administrative Officer

**Date:** October 6, 2014

**Subject:** Gladstone Brewery Co. Lounge Endorsement Final Recommendation

### PURPOSE:

The purpose of the report is to provide a Council resolution to the Liquor Control and Licencing Branch (LCLB) relating to the application by the Gladstone Brewing Company for a Brewery Lounge Endorsement.

### CAO RECOMMENDATIONS:

That based on the October 6, 2014 staff report, "Gladstone Brewery Co. Lounge Endorsement Final Recommendation", Council forward the resolution recommending the issuance of the Gladstone Brewing Co. Lounge Endorsement to the Liquor Control and Licencing Branch as recommended in Option 1 of this report.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

As Council is aware, Gladstone Brewing Company is requesting a Brewery Lounge Endorsement. At its regular meeting held August 18, 2014 Council passed the following resolution:

*"That based on the August 18, 2014 staff report, "Gladstone Brewing Co. Lounge Endorsement", Council approve Option 1 and direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City's website requesting input on the proposed Brewery Lounge Endorsement for Council consideration at the regular meeting scheduled for September 8, 2014; and*

*That the Downtown Courtenay Business Improvement District (DCBIA) be specially requested to provide comments regarding the application.*

The DCBIA subsequently submitted a letter expressing concerns regarding the provision of food at the brewery. At its regular meeting held September 8, 2014 Council passed the following resolution:

*"That based on the September 8, 2014 staff report "Gladstone Brewing Co. Lounge Endorsement", Council approve Option 1 and postpone the consideration of a final resolution to the Liquor Control and Licencing*

*Branch to allow the Gladstone Brewing Company the opportunity to address the concerns expressed by the Downtown Courtenay Business Improvement District (DCBIA) regarding the Brewery Lounge Endorsement."*

**DISCUSSION:**

The applicant has been in contact with the DCBIA. The DCBIA is now satisfied with the arrangements for food, and has submitted a letter of support. A detailed resolution in the specific format outlined in Option 1 is required by legislation.

**FINANCIAL IMPLICATIONS:**

No further costs are anticipated.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan. This application consumed approximately 10 hours of staff time including drafting of reports, legislative research, preparation of notices, and liaising with the applicant.

**STRATEGIC PLAN & PRIORITIES REFERENCE:**

Statutory in nature.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

Not referenced.

**REGIONAL GROWTH STRATEGY REFERENCE:**

Not referenced.

**CITIZEN/PUBLIC ENGAGEMENT:**

Public notice was published, and submissions from the DCBIA were received.

**OPTIONS:**

- Option 1:
1. *"Be it resolved that the Council of the City of Courtenay recommends the issuance of the Gladstone Brewing Co. Lounge Endorsement for the following reason:*
    - (a) *That based on the lack of input received from the public and the comments from the Downtown Courtenay Business Improvement there appears to be general community support for the lounge endorsement.*
  2. *Council's comments on the prescribed considerations are as follows:*
    - (a) *The brewery lounge would be located in the City's downtown core within the DCBIA specified area;*
    - (b) *The proposed brewery lounge is within 350 metres of various social and recreational facilities and public buildings including restaurants, pubs, the Sid Williams Theatre, the Comox Valley Art Gallery, and Courtenay City Hall;*

- (c) *The person capacity of the lounge would be a maximum of 30 persons;*
- (d) *The hours of liquor service in the lounge would be 9:00 a.m. to Midnight – Monday to Sunday;*
- (e) *There are no traffic or parking issues anticipated in relation to the proposed lounge. The proposed use is permitted under the current zoning.*
- (f) *If the application were approved, the impact on the general community is expected to be positive.*

3. *The Council's comments on the views of the residents are as follows:*

- (a) *In order to gather the views of residents, the City of Courtenay posted a notice in two consecutive issues of a newspaper and on the City's website outlining the Gladstone application and accepting written submissions concerning the application. No submissions were received.*

*In addition, Council specifically requested the views of the Downtown Courtenay Business Improvement Association (DCBIA). The DCBIA has indicated support for the brewery.*

*Based on the above, Council supports the issuance of the brewery lounge endorsement.*

*(Recommended option)*

Option 2: Do not recommend issuance of the brewery lounge endorsement.

Prepared by:



John Ward, CMC  
Director of Legislative Services

*Attachments:*

1. *Staff report "Gladstone Brewery Lounge Endorsement August 18<sup>th</sup> 2014*
2. *Letter from the DCBIA regarding the Gladstone Brewery Lounge Endorsement dated September 8<sup>th</sup> 2014*



DOWNTOWN  
COURTENAY

Downtown Courtenay Business Improvement Association

**PRESIDENT**

Deana Simkin  
Billy D's Pub & Bistro  
250-334-8811

**VICE-PRESIDENT**

Jenny Deters  
Rattan Plus  
250-650-2338

**TREASURER**

Alana Pearson  
MNP  
778-225-7246

**RECORDING SECRETARY**

Lorna Hughes  
Carderos coffee & Tea  
250-338-2519

**DIRECTORS**

Christine Wilson  
The Butcher Block Meats  
250-338-1412

Colin Wilson  
Dr. Colin Wilson, Chiropractor  
250-898-8683

Jason McMahon  
Sock Soiree  
250-334-1992

Jorden Marshall  
Hot Chocolates and  
Cakebread Bakery  
250-338-8211

Mark Middleton  
CV Echo  
250-334-4722

Vicky Weber  
Velvet Underground Hair Group  
250-897-1800

**EXECUTIVE DIRECTOR**

Kim Stubblefield  
250-703-3790  
[info@downtowncourtenay.com](mailto:info@downtowncourtenay.com)

September 8, 2014

City of Courtenay  
830 Cliffe Avenue  
Courtenay, BC V9N 2J7

Attention: John Ward, Director of Legislative Services

Dear Mr. Ward:

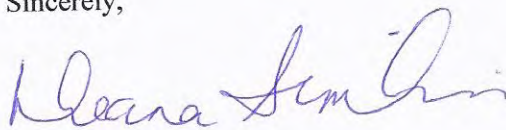
**Re: Gladstone Brewery – Lounge Endorsement**

The Downtown Courtenay Business Improvement Association (DCBIA) is happy to support the Gladstone Brewery Lounge Endorsement.

We are pleased to know that Gladstone Brewery has an agreement with two food establishments and can provide food to their patrons as stated in the lounge endorsement application.

The DCBIA wishes Gladstone Brewery much success in Downtown Courtenay.

Sincerely,



Deana Simkin, President  
Downtown Courtenay Business Improvement Association

#203 – 580 Duncan Ave.  
Courtenay, BC  
V9N 2M7

[www.downtowncourtenay.com](http://www.downtowncourtenay.com)



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

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**To:** Council  
**From:** Chief Administrative Officer  
**Subject:** Gladstone Brewing Co. Lounge Endorsement

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**File No.:** 4320-20  
**Date:** August 18, 2014

### PURPOSE:

The purpose of the report is to respond to the application by the Gladstone Brewing Company for a Brewery Lounge Endorsement.

### CAO RECOMMENDATIONS:

That, based on the August 18, 2014 staff report, "Gladstone Brewing Co. Lounge Endorsement", Council approve Option 1 and direct staff to publish notice for two consecutive weeks in a local newspaper and posted on the City's website requesting input on the proposed Brewery Lounge Endorsement for Council consideration at the regular meeting scheduled for September 8, 2014; and

That the Downtown Courtenay Business Improvement District (DCBIA) be specifically requested to provide comments regarding the application.

Respectfully submitted,

T. Manthey, Deputy CAO for:

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David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

As per the attached request, the new Gladstone Brewing Company is planning to open at 244 4<sup>th</sup> Street in the downtown core, and is requesting a Brewery Lounge Endorsement.

### DISCUSSION:

If Council wishes to comment on the application, the *Liquor Control and Licencing Regulations* require a local government detailed resolution as outlined in Appendix 1.

In addition, prior to recommending approval of an application, the local government must gather the views of residents if it considers the amendment may affect nearby residents and businesses.

Council has not considered this particular type of application in the past. With other types of liquor licence amendment applications, Council has resolved to publish a notice in a newspaper for two consecutive weeks and on the City's website.

Staff are of the opinion that notices in a local newspaper and on the City's website, along with a specific request for comment from the DCBIA, will satisfy the requirements of the Liquor Control and Licensing Branch.

Once Council receives public input on the applications, a resolution addressing the points outlined in Appendix 1 must be forwarded to the Liquor Control and Licensing Branch (LCLB). A proposed resolution in the correct format will be presented to Council for consideration at the regular meeting scheduled for September 8, 2014.

Council may choose to "opt out" of the process. This is a valid option only if Council feels the operation of the brewery lounge would not affect nearby residents (includes businesses).

**FINANCIAL IMPLICATIONS:**

Cost of advertising is anticipated to be in the range of \$250.00.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan.

**STRATEGIC PLAN & PRIORITIES REFERENCE:**

Statutory in nature.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

Not referenced.

**REGIONAL GROWTH STRATEGY REFERENCE:**

Not referenced.

**CITIZEN/PUBLIC ENGAGEMENT:**

Public notice required if Council wishes to comment on the application.

**OPTIONS:**

Option 1: Direct staff to publish notice for two consecutive weeks in a local newspaper and posted on the City's website requesting input on the proposed Brewery Lounge Endorsement for Council consideration at the regular meeting scheduled for September 8, 2014 along with a specific request to the DCBIA for comment (recommended).

Option 2: Direct staff to obtain public input through an alternative method.

Option 3: Opt out of the process and advise the LCLB.

Prepared by:



John Ward, CMC  
Director of Legislative Services

## APPENDIX 1

Excerpts from the Liquor Control and Licencing Act Regulations:

- (9) *In considering an application for which notice has been given under subsection (8), the local government or first nation must, in providing comments with respect to the application, take into account the following criteria:*
- (a) *the location of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (b) *the proximity of the winery lounge, brewery lounge, distillery lounge or special event area to other social or recreational facilities and public buildings;*
  - (c) *the person capacity and hours of liquor service of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (d) *the impact of noise on the community in the immediate vicinity of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (e) *the impact on the community if the application is approved.*
- (10) *If the operation of a winery lounge, brewery lounge, distillery lounge or special event area may affect nearby residents, the local government or first nation must gather the views of residents of an area determined by the local government or first nation.*
- (11) *If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:*
- (a) *its comments addressing the criteria in subsection (9);*
  - (b) *if it has gathered the views of residents under subsection (10),*
    - (i) *the views of the residents,*
    - (ii) *the method used to gather the views of the residents, and*
    - (iii) *its comments and recommendations respecting the views of the residents;*
  - (c) *its recommendations with respect to whether the endorsement should be issued;*
  - (d) *the reasons for its recommendations.*
- (12) *The written comments referred to in subsection (11) must be provided to the general manager within 90 days after the local government or first nation receives notice*

*under subsection (8), or any further period authorized by the general manager in writing.*

- (13) If under subsection (11) (c), the local government or first nation recommends that an endorsement be issued, the general manager must take that recommendation into account in deciding whether to issue the endorsement.*
- (14) Subject to subsection (15), the general manager must not approve an application that is not supported by the local government or first nation.*
- (15) The general manager need not comply with subsection (14) if the general manager is satisfied that*
  - (a) the local government or first nation did not comply with the requirements of this section, or*
  - (b) the recommendation provided by the local government or first nation is contrary to the public interest.*
- (16) If, after notice is provided to the local government or first nation under subsection (8), the local government or first nation informs the general manager that the local government or first nation will not provide input to the general manager in respect of the application or does not respond to the notice within the time allowed under subsection (12), the general manager may, in deciding whether or not to approve the application, take into account*
  - (a) the criteria in subsection (9), and*
  - (b) any other matters the general manager considers relevant.*





July 30, 2014

Job #23688898-2

via email: [jward@courtenay.ca](mailto:jward@courtenay.ca)

John Ward  
Director of Legislative Services  
City of Courtenay  
830 Cliffe Ave  
Courtenay BC V9N 2J7

Dear Mr. Ward:

**Re: Application Summary - Application for Brewery Lounge Endorsement**  
**Applicant: Gladstone Brewing Co. Incorporated**  
**Proposed Establishment Location: 244 4th Street, Courtenay**  
**Proposed Establishment Name: Gladstone Brewing Co.**

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The applicant, Gladstone Brewing Co. Incorporated, has applied to the Liquor Control and Licensing Branch (the Branch) for a Brewery Lounge Endorsement to be located at the above-noted address. The Branch has completed the initial review of the application to determine applicant suitability and eligibility of the establishment type for licensing.

Having determined applicant eligibility, we are now proceeding to the Site and Community Assessment (SCA) stage which is the stage for local government input.

The City of Courtenay (Council) is requested to consider the application and provide the Branch with a resolution which includes comments and recommendation with respect to the licence application. To assist with Council's assessment of the application, the Branch has prepared a summary report (enclosed) for review and consideration by Council. The summary report is based on information provided by the applicant and by Branch staff.

Council has 90 days to either provide comments, in the form of a Council resolution, to the General Manager of the Branch, or to advise that they wish to "opt out" of the process. Additional time over the 90 days can be approved by the Branch if the request is received in writing prior to the end of the 90 day period.

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**Liquor Control and  
Licensing Branch**

Mailing Address:  
PO Box 9292 Stn Prov Govt  
Victoria BC V8W 9J8  
Telephone: 250 952-5787  
Facsimile: 250 952-7066

Location:  
4<sup>th</sup> Floor, 3350 Douglas Street  
Victoria, BC  
<http://www.pssg.gov.bc.ca/lclb>

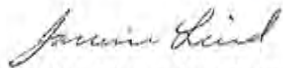
Upon receipt of a Council Resolution, the Branch will review the Resolution to determine if all the regulatory criteria have been met in accordance with section 10 of the Liquor Control and Licensing Regulation and, if recommended by local government, assess whether the granting of the Lounge Endorsement to the Brewery licence (if approved) would be contrary to the public interest. Should you gather the views of local residents and businesses as part of your consideration, please be reminded that the applicant cannot gather the views themselves. As part of your process, the gathering of the views must be administered by the local government. Following the rendering of a decision by the General Manager as to whether to grant Site and Community Approval, the applicant and the local government will be advised in writing.

Once granted SCA, the application proceeds to the building assessment stage of the process, where floor plans are reviewed and if approved in principle, the applicant may proceed with construction/renovation of the establishment, followed by the final stages of the licence endorsement process.

Further details of the liquor licensing application process can be found in the "Role of Local Government and First Nations in the Provincial Liquor Licensing Process" guidelines, enclosed for your reference and also available on the branch website at <http://www.hsd.gov.bc.ca/lclb/>.

If you have any questions regarding this application please contact me at 250 952-5767 or [janine.lind@gov.bc.ca](mailto:janine.lind@gov.bc.ca).

Sincerely,



Senior Licensing Analyst

Enclosure

copy: Terrance Trytten, Liquor Inspector  
Daniel Sharratt, Gladstone Brewing Co. Incorporated



**APPLICATION SUMMARY**  
For Applicant and Local Government/First Nation  
Brewery Lounge Endorsement

Date: July 29, 2014

Job #23688898-2

Created by: Janine Lind  
Senior Licensing Analyst

Re: Application for a Brewery Lounge Endorsement Area  
Proposed Manufacturer Name: Gladstone Brewing Co.  
Applicant Name: Gladstone Brewing Co. Incorporated  
Location: 244 4th Street, Courtenay

### 1. APPLICATION INFORMATION

Date Application deemed complete: July 28, 2014

Local Government or First Nation Jurisdiction: City of Courtenay

The primary business focus of the proposed endorsement area: Food and Beverage

Person Capacity/Occupant Load Requested: Person 01 = 30 persons (interior lounge)  
(person capacity is patrons plus staff)

#### Liquor Service Hours Requested:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM
12:00 Midnight	12:00 Midnight	12:00 Midnight	12:00 Midnight	12:00 Midnight	12:00 Midnight	12:00 Midnight

Statutory Prohibitions to Consider: none identified

Terms and Conditions Requested: none

The Brewery Lounge Endorsement Area, if approved, will allow patrons to consume liquor in a designated interior lounge area on the manufacturing site. In the case of a brewery, the sale and service of liquor is restricted to beer registered to the licensee, by the glass (or other single serving). Food and non-alcoholic beverages must be available at reasonable prices to customers. Minors are permitted in a lounge endorsement area when accompanied by a parent or guardian.

### 2. APPLICATION SUITABILITY INFORMATION (Fit and Proper)

Applicant has met the eligibility and suitability requirements for this type of endorsement as stated in the *Liquor Control and Licensing Act*.

### 3. LOCATION/SITE FACTORS

The legal description of the site is: PID 006-264-999 Lot 1 Plan 3169 Sec 61 CDL49 PL 311. The proposed brewery lounge endorsement area is an interior area of the proposed manufacturing facility, overlapping the on-site store endorsement area (see attached site plan).

*The following sections are compiled from information provided by the applicant except where indicated otherwise.*

The Applicant's "Letter of Intent" (attached) provides information relative to the categories noted below. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.

- a) **Purpose**
- b) **Target Market**
- c) **Composition of the Neighborhood**
- d) **Site factors**
- e) **Benefits to the Community**
- f) **Impact of Noise on the Surrounding Community**
- g) **Other impacts on the Surrounding Community**

### **Community Indicators**

#### **Contravention Statistics**

- The Liquor Control and Licensing Branch can provide contravention statistics for liquor primary and liquor primary club establishments within your area upon request.

#### **POPULATION AND SOCIO-ECONOMIC INFORMATION :**

- Circle population statistics for 2006 are available from BC Stats by emailing your request to [BC.Stats@gov.bc.ca](mailto:BC.Stats@gov.bc.ca)
- BC Stats Community Facts includes the BC Benefits recipient and EI Beneficiary statistics and is available at <http://www.bcstats.gov.bc.ca/data/dd/facsheet/facsheet.asp>
- Statistics Canada Population breakdown by categories is available at: <http://www12.statcan.ca/census-recensement/2006/dp-pd/prof/92-591/index.cfm?Lang=E>

#### **4. PUBLIC INTEREST**

In providing the resolution on the proposed Brewery Lounge application, Local Government must consider and comment on each of the regulatory criteria indicated below.

The written comments must be provided to the general manager by way of a resolution within 90 days after the Local Government receives notice of the application, or any further period authorized by the General Manager, Liquor Control and Licensing Branch, in writing.

Regulatory criteria Local Government or First Nation must consider and comment on:

- a) the location of the lounge;
- b) the proximity of the lounge to other social or recreational facilities and public buildings;
- c) the person capacity and hours of liquor service of the lounge;
- d) the impact of noise on the community in the immediate vicinity of the lounge;
- e) the impact on the community if the application is approved.

If the operation of the lounge is may affect nearby residents, the Local Government must gather the views of residents\* in accordance with section 11.1 (2) (c) of the Act and include in the resolution:

- (i) the views of the residents\*,
- (ii) the method used to gather the views of the residents\*, and
- (iii) comments and recommendations respecting the views of the residents\*;

**\* Note: "residents" includes business owners**

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*For use by Liquor Control and Licensing Branch:*

**REGULATORY CONSIDERATIONS**

Liquor Control and Licensing Act, sections: 11, 16 and 18

Liquor Control and Licensing Regulations sections: 4, 5, 6, 8, 9, 10

**POLICY CONSIDERATIONS**

Class of Licence

Applicant Eligibility Assessment

Site and Community Assessment

Building Assessment and Issue of a Licence



**ATTACHMENT 1**

**APPLICANT'S LETTER OF INTENT**

## Letter of Intent (Lounge Endorsement)

The purpose of Gladstone Brewing Co.'s lounge will be to provide a seating area where patrons can purchase and consume pints of beer manufactured by Gladstone Brewing Co. We will serve the beer from our onsite bar and allow people to enjoy our space as a lounge.

We plan on having food available to our patrons, but the brewery will not make any food on site. Instead we plan on partnering with our neighbour (Mud Sharks Café) to supply food for our patrons, and also have a food truck on site for the evening hours.

### 5. Benefits to the Community

Gladstone Brewing Co. consulted with the Courtenay Downtown Business Association regarding our proposed project to build a micro-brewery with lounge in the downtown area. The association described a need to increase tourism to the area through the Comox Valley's reputation of provided local products. They feel that the Comox Valley is well represented in the areas of wineries, distilleries, and local food producers. What they said the Valley really needs was a local beer manufacturer. They feel that it will draw more people to the area, and with a lounge endorsement it will drive more people downtown, which will have a major positive impact on all downtown businesses.

### 6. Impact of Noise on the Surrounding Community

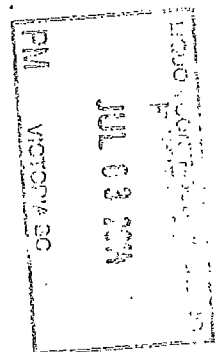
Noise should be minimal. The lounge area is all indoors at our site. There has been a restaurant in the site in the past that had over 30 seats and there were no noise complaints that I am aware of during that time.

### 7. Other Impacts on the Surrounding Community

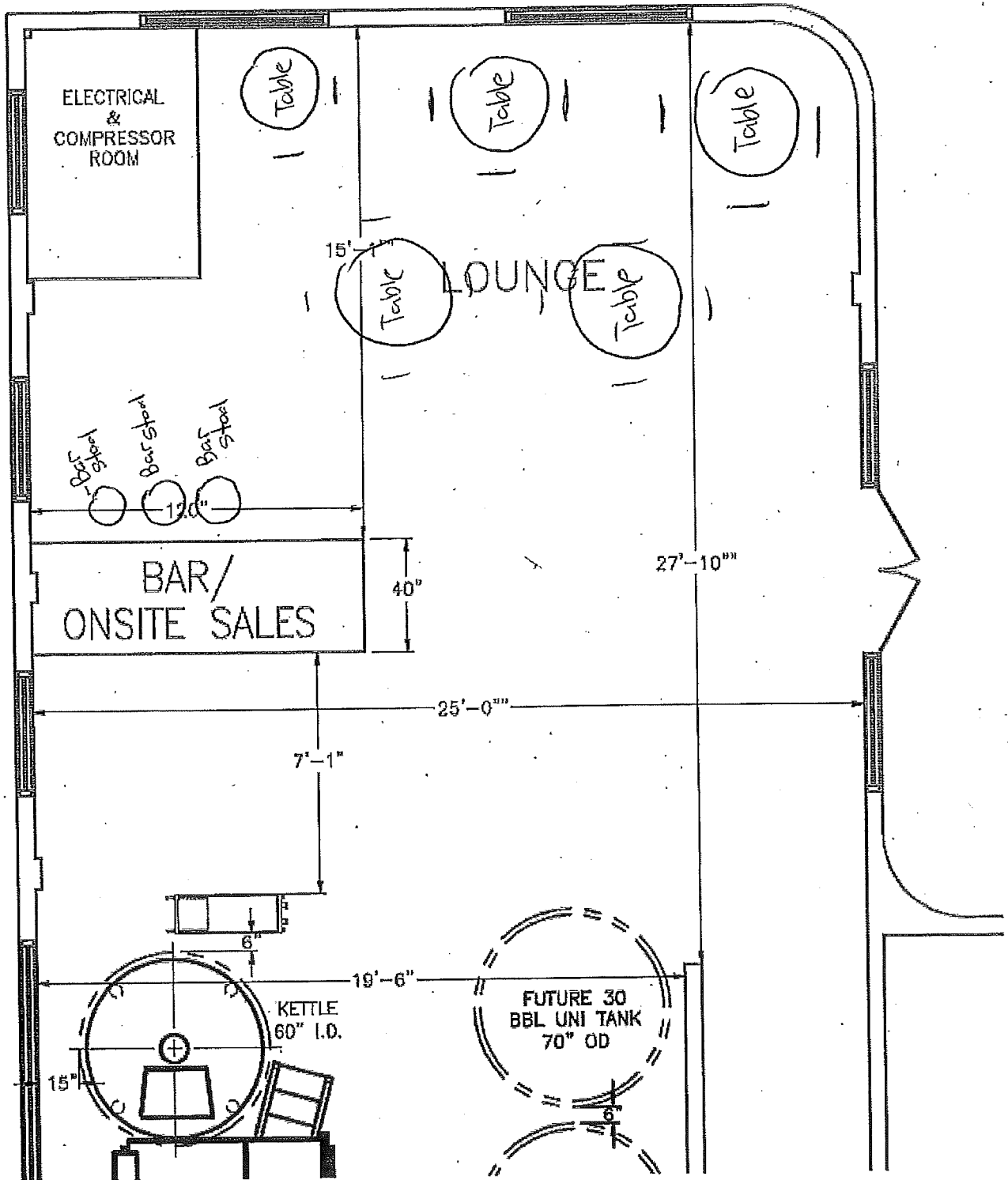
There will be more foot traffic in the 4<sup>th</sup> street and Cliff Ave areas, as more people will be drawn to that area with our new business.

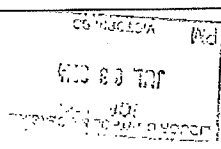
### 8. Other Information and Requests

We have consulted with the Downtown Business Association, all our future neighbours, the fire department, and the Chief Building Inspector, and everyone is very supportive of the brewery and on site lounge area.



# Preliminary Concept





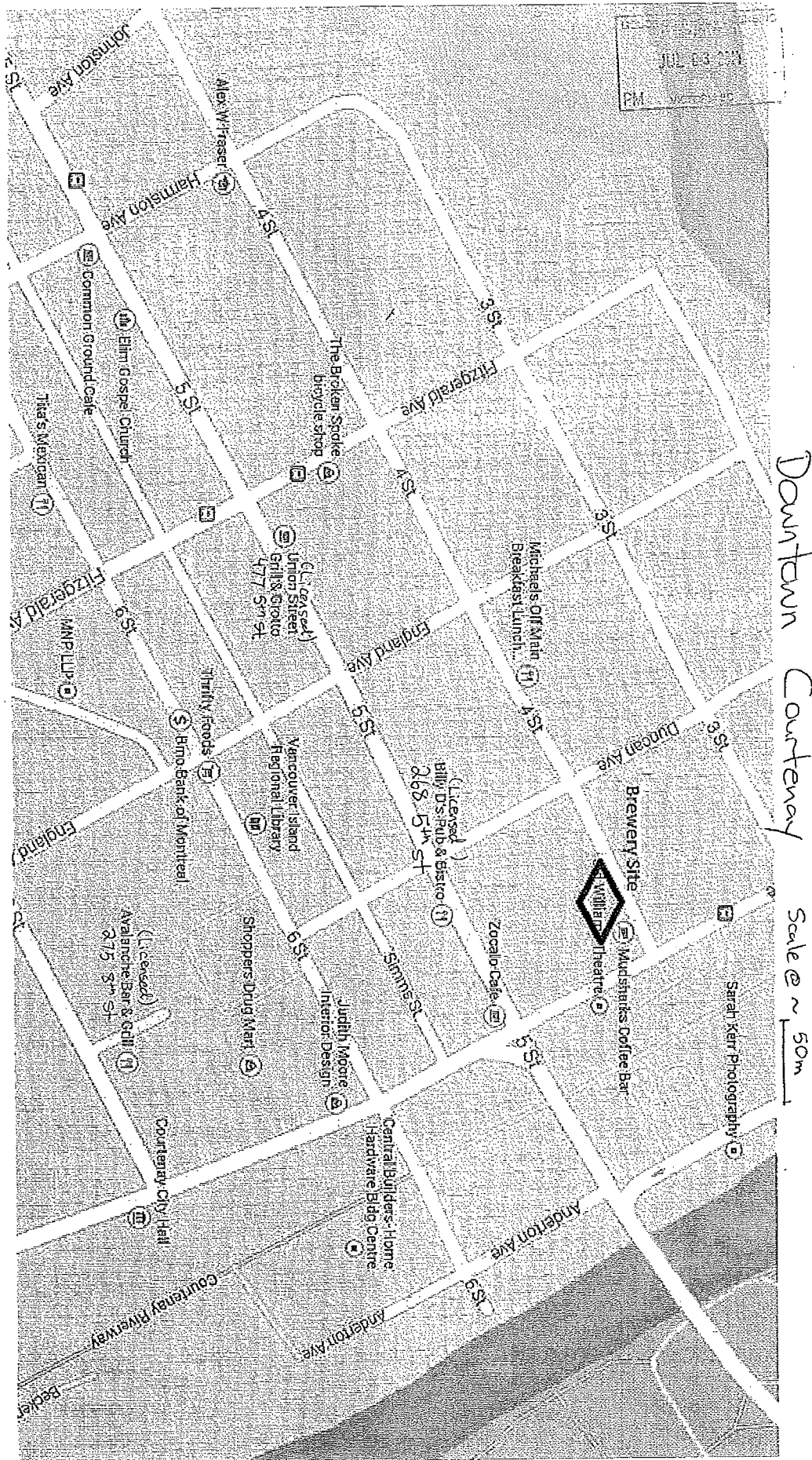
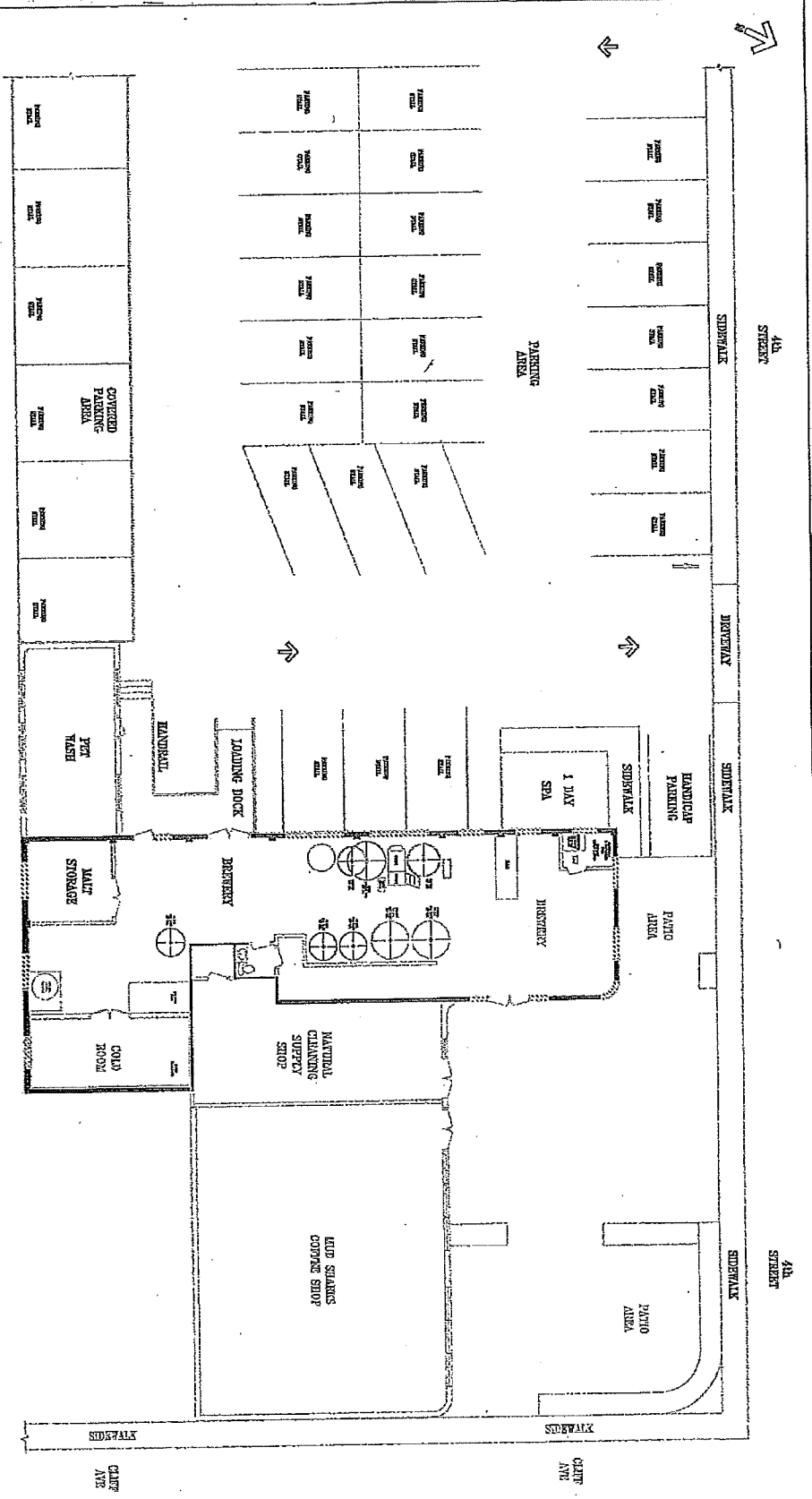


FIG. 6.3 TOP



# PILOT PLAN

GLADSTONE BREWERY

PILOT PLAN

CUSTOMER: GLADSTONE BREWING

LOCATION: COLUMBIA

JOB# GB-1402

DATE 14/05/20 SCALE 1/4"=1'-0" DWG# GB-PP-001 REV 1

**ATTACHMENT 2****Sample Resolution Template for a Winery Lounge or Special Event Area Endorsement**

General Manager, Liquor Control and Licensing Branch

RE: Application for a winery lounge or special event area endorsement at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named Winery licence:

"Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the winery lounge or special event area endorsement for the following reasons: (detail and explain reasons for recommendation)

2. The (council's/board's) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion – a comment on each must be included in the resolution. Where a staff report has been prepared that addresses the criteria this can be used to provide Council's comments provided the staff report is referenced in the resolution and there is a clear statement that Council endorsed the comments in the report.)

- (a) The location of the winery lounge or special event area (provide comments)
- (b) The proximity of the winery lounge or special event area to other social or recreational facilities and public buildings (provide comments)
- (c) In the case of a winery lounge, the person capacity of the winery lounge (provide comments)
- (d) hours of liquor service of the winery lounge or special event area
- (e) traffic, noise, parking and zoning, and
- (f) The impact on the community if the application is approved (provide comments)

If the operation of the winery lounge or special event area may affect nearby residents, the local government must gather the views of residents of an area determined by the local government or first nation.

If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:

- (a) Its comments addressing the criteria in subsection (9);
- (b) If it has gathered the views of residents under subsection (10),
  - (i) the views of the residents\*
  - (ii) the method used to gather the views of the residents\*, and
  - (iii) it's comments and recommendations respecting the views of the residents\*
  - (iv) The reasons for its recommendations.

**\* Note: "residents" includes business owners**

3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered,



provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)

(name and title of official)

(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2 (a) through (f) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

### ATTACHMENT 3

#### Sample Resolution for a Winery Lounge or Special Event Area Endorsement Application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these 'pros and cons'.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the winery lounge or special event area:

The location of the winery lounge is within the primary manufacturing facility. It has an interior and a patio area. It is located in a remote location and is suitable for such an endorsement.

(b) The proximity of the winery lounge to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a winery lounge.

– or –

The proposed location of the winery lounge is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed winery lounge is considered compatible with the neighbouring facilities.

(c) The person capacity of the winery lounge:

The maximum person capacity of the winery lounge is 65 persons as per building authorities.

(d) Hours of liquor service of the winery lounge:

Hours of liquor service are proposed to be from 4 PM to 10 PM daily. A larger capacity or later hours is not supported given the few number of police on duty to respond to concerns.

(e) Traffic, noise, parking and zoning:

Traffic in the area is not an issue. The road is located away from the main road resulting in noise not being an issue. Ample parking is available at the winery. Zoning permits a winery lounge for the sale and service of wine by the glass or bottle.

(f) The impact on the community if the application is approved:

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

The Council's comments on the views of residents are as follows:

The views of residents within a half mile\* of the proposed winery lounge area were gathered by way of \*written comments that were received in response to a public notice posted at the site and newspaper advertisements placed in two consecutive editions of the local newspaper. Residents were given 30 days from the date of the first newspaper advertisement to provide their written views. Residents were also given an opportunity to provide comments at the public meeting of Council held on date.

A total of 63 responses were received from businesses and residents. Of the responses received, 21 were in support of the application citing the creation of additional jobs and a new entertainment venue for the area as their primary reasons. A total of 42 letters were received in opposition to the application. The primary reason cited by those in opposition was the proposed closing hours. A number of business residents in the area also cited the lack of parking as an area of concern.

The following examples illustrate one option that Council may complete their comments on the views of residents based upon the preceding fact pattern.

Based upon the input received by residents within a half mile of the proposed winery lounge there is a two to one ratio of opposed residents to residents that support the application. The opposition to this endorsement comes from both homeowners and businesses. Council is of the view that with both the residential and business communities' opposition to this proposed establishment that the issuance of a winery lounge endorsement would be contrary to the community standard for this area.

Despite the potential creation of additional jobs and a new entertainment venue for the area Council is unable to support the issuance of the endorsement. Council recommends that a licence not be issued.

**\* The local government or First Nation determines the appropriate area to be included and the method for gathering those views**

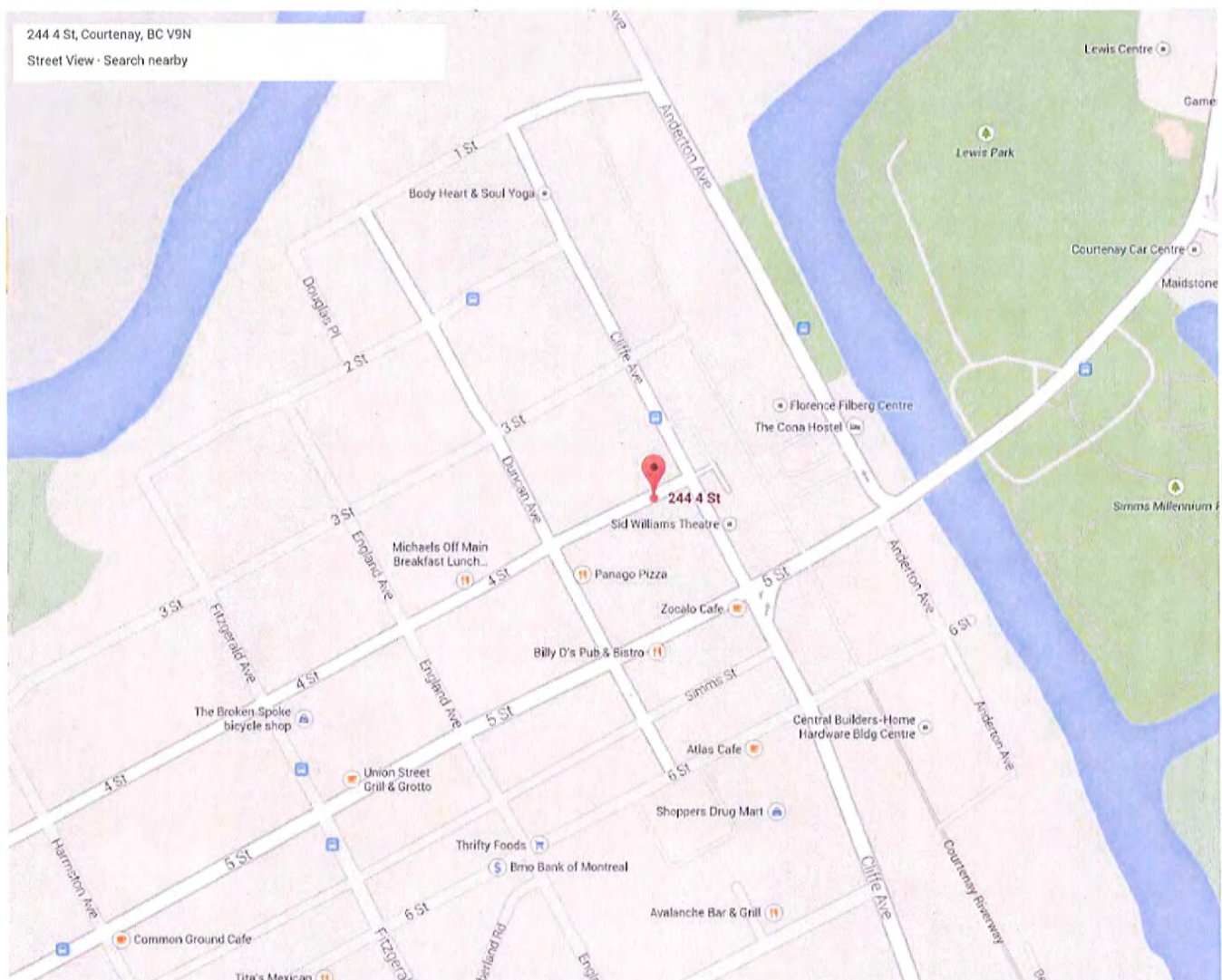














THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

**To:** Council

**File No.:** 4320-20

**From:** Chief Administrative Officer

**Date:** October 6, 2014

**Subject:** Forbidden Brew Corp. Lounge Endorsement Final Recommendation

### PURPOSE:

The purpose of the report is to provide a Council resolution to the Liquor Control and Licencing Branch (LCLB) relating to the application by the Forbidden Brew Corp. for a Brewery Lounge Endorsement.

### CAO RECOMMENDATIONS:

That based on the October 6, 2014 staff report, "Forbidden Brew Corp. Lounge Endorsement Final Recommendation", Council forward the resolution recommending the issuance of the Forbidden Brew Corp. Lounge Endorsement to the Liquor Control and Licencing Branch as recommended in Option 1 of this report.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

At its regular meeting held September 15<sup>th</sup>, 2014 Council passed the following resolution:

*"That based on the September 15, 2014 staff report, "Forbidden Brew Corp. Lounge Endorsement" Council approve Option 1 and direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City's website requesting input on the proposed brewery lounge endorsement for Council consideration at the regular meeting scheduled for October 6, 2014."*

### DISCUSSION:

Advertising was conducted according to Council's direction. No submissions were received.

A detailed resolution in the specific format outlined in Option 1 is required by legislation.



**FINANCIAL IMPLICATIONS:**

No further costs are anticipated.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan. This application consumed approximately 4 hours of staff time including drafting of reports, preparation of notices, and liaising with the applicant.

**STRATEGIC PLAN & PRIORITIES REFERENCE:**

Statutory in nature.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

Not referenced.

**REGIONAL GROWTH STRATEGY REFERENCE:**

Not referenced.

**CITIZEN/PUBLIC ENGAGEMENT:**

Public notice was published, and no submissions were received.

**OPTIONS:**

- Option 1:
1. *“Be it resolved that the Council of the City of Courtenay recommends the issuance of the Forbidden Brewery Corp. lounge endorsement for the following reason:*
    - (a) *That based on the lack of input received from the public there appears to be general community support for the lounge endorsement.*
  2. *Council’s comments on the prescribed considerations are as follows:*
    - (a) *The brewery lounge would be located in a commercial area near the City’s downtown;*
    - (b) *The proposed brewery lounge is within 250 metres of various restaurants, pubs, and various commercial buildings;*
    - (c) *The person capacity of the lounge would be a maximum of 50 persons;*
    - (d) *The hours of liquor service in the lounge would be 11:00 a.m. to Midnight – Monday to Sunday;*
    - (e) *There are no traffic or parking issues anticipated in relation to the proposed lounge. The proposed use is permitted under the current zoning.*
    - (f) *If the application were approved, the impact on the general community is expected to be positive.*
  3. *The Council’s comments on the views of the residents are as follows:*

- (a) *In order to gather the views of residents, the City of Courtenay posted a notice in two consecutive issues of a newspaper and on the City's website outlining the Forbidden Brewery Corp. application and accepting written submissions concerning the application. No submissions were received.*

*Based on the lack of submissions from the public, Council must conclude there is general community support for the application and recommends the issuance of the brewery lounge endorsement.*

*(Recommended option)*

Option 2: Not recommend issuance of the brewery lounge endorsement.

Prepared by:



John Ward, CMC  
Director of Legislative Services

*Attachments:*

1. *Staff report "Forbidden Brew Corp. Lounge Endorsement dated September 15<sup>th</sup>, 2014.*



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

COPY FOR REFERENCE

**To:** Council  
**From:** Chief Administrative Officer  
**Subject:** Forbidden Brew Corp. Lounge Endorsement

**File No.:** 4320-20  
**Date:** September 15, 2014

### PURPOSE:

The purpose of the report is to respond to the application by the Forbidden Brew Corp. for a Brewery Lounge Endorsement.

### CAO RECOMMENDATIONS:

That, based on the September 15, 2014 staff report, "Forbidden Brew Corp. Lounge Endorsement", Council approve Option 1 and direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City's website requesting input on the proposed brewery lounge endorsement for Council consideration at the regular meeting scheduled for October 6, 2014.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

As per the attached request, the new Forbidden Brew Corp. is planning to open at 1590 Cliffe Avenue and is requesting a Brewery Lounge Endorsement.

### DISCUSSION:

If Council wishes to comment on the application, the *Liquor Control and Licencing Regulations* require a local government detailed resolution as outlined in Appendix 1.

In addition, prior to recommending approval of an application, the local government must gather the views of residents if it considers the amendment may affect nearby residents and businesses. Staff are of the opinion that notices in a local newspaper and on the City's website will satisfy the requirements of the Liquor Control and Licencing Branch (LCLB).

Once Council receives public input on the applications, a resolution addressing the points outlined in Appendix 1 must be forwarded to the LCLB. A proposed resolution in the correct format will be presented to Council for consideration at the regular meeting scheduled for October 6, 2014.

Council may choose to “opt out” of the process. This is a valid option only if Council feels the operation of the brewery lounge would not affect nearby residents (includes businesses).

**FINANCIAL IMPLICATIONS:**

Cost of advertising is anticipated to be in the range of \$250.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan. The recent Gladstone Brewery application consumed over 8 hours of staff time; however this application should be significantly less.

**STRATEGIC PLAN & PRIORITIES REFERENCE:**

Statutory in nature.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

Not referenced.

**REGIONAL GROWTH STRATEGY REFERENCE:**

Not referenced.

**CITIZEN/PUBLIC ENGAGEMENT:**

Public notice required if Council wishes to comment on the application.

**OPTIONS:**

- Option 1: Direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City’s website requesting input on the proposed Brewery Lounge Endorsement for Council consideration at the regular meeting scheduled for October 6, 2014. (recommended).
- Option 2: Direct staff to obtain public input through an alternative method.
- Option 3: Opt out of the process and advise the LCLB.

Prepared by:



John Ward, CMC  
Director of Legislative Services

**Attachments**

1. Application summary and notification from the LCLB.

## APPENDIX 1

Excerpts from the Liquor Control and Licencing Act Regulations:

- (9) *In considering an application for which notice has been given under subsection (8), the local government or first nation must, in providing comments with respect to the application, take into account the following criteria:*
- (a) *the location of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (b) *the proximity of the winery lounge, brewery lounge, distillery lounge or special event area to other social or recreational facilities and public buildings;*
  - (c) *the person capacity and hours of liquor service of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (d) *the impact of noise on the community in the immediate vicinity of the winery lounge, brewery lounge, distillery lounge or special event area;*
  - (e) *the impact on the community if the application is approved.*
- (10) *If the operation of a winery lounge, brewery lounge, distillery lounge or special event area may affect nearby residents, the local government or first nation must gather the views of residents of an area determined by the local government or first nation.*
- (11) *If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:*
- (a) *its comments addressing the criteria in subsection (9);*
  - (b) *if it has gathered the views of residents under subsection (10),*
    - (i) *the views of the residents,*
    - (ii) *the method used to gather the views of the residents, and*
    - (iii) *its comments and recommendations respecting the views of the residents;*
  - (c) *its recommendations with respect to whether the endorsement should be issued;*
  - (d) *the reasons for its recommendations.*
- (12) *The written comments referred to in subsection (11) must be provided to the general manager within 90 days after the local government or first nation receives notice*

*under subsection (8), or any further period authorized by the general manager in writing.*

- (13) If under subsection (11) (c), the local government or first nation recommends that an endorsement be issued, the general manager must take that recommendation into account in deciding whether to issue the endorsement.*
- (14) Subject to subsection (15), the general manager must not approve an application that is not supported by the local government or first nation.*
- (15) The general manager need not comply with subsection (14) if the general manager is satisfied that*
  - (a) the local government or first nation did not comply with the requirements of this section, or*
  - (b) the recommendation provided by the local government or first nation is contrary to the public interest.*
- (16) If, after notice is provided to the local government or first nation under subsection (8), the local government or first nation informs the general manager that the local government or first nation will not provide input to the general manager in respect of the application or does not respond to the notice within the time allowed under subsection (12), the general manager may, in deciding whether or not to approve the application, take into account*
  - (a) the criteria in subsection (9), and*
  - (b) any other matters the general manager considers relevant.*





August 13, 2014

Job #23716601-2

via email: jward@courtenay.ca

John Ward, Planning City of Courtenay  
830 Cliffe Avenue  
Courtenay, B.C. V9N 2J7

Dear John:

**Re: Application Summary - Application for Brewery Lounge Endorsement**  
**Applicant: Forbidden Brew Corp**  
**Proposed Establishment Location: 1590 Cliffe Avenue in Courtenay**  
**Proposed Establishment Name: Forbidden Brew**

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The applicant, Forbidden Brew Corp., has applied to the Liquor Control and Licensing Branch (the Branch) for a Brewery Lounge Endorsement to be located at the above-noted address, the Brewery manufacturing licence application is still in process. The Branch has completed the initial review of the application to determine applicant suitability and eligibility of the establishment type for licensing. As part of that process, a Liquor Inspector has completed a site visit at the proposed establishment location.

Having determined applicant eligibility, we are now proceeding to the Site and Community Assessment (SCA) stage which is the stage for local government input.

The City of Courtenay (Council) is requested to consider the application and provide the Branch with a resolution which includes comments and recommendation with respect to the licence application. To assist with Council's assessment of the application, the Branch has prepared a summary report (enclosed) for review and consideration by Council. The summary report is based on information provided by the applicant and by Branch staff.

Council has 90 days to either provide comments, in the form of a Council resolution, to the General Manager of the Branch, or to advise that they wish to "opt out" of the process. Additional time over the 90 days can be approved by the Branch if the request is received in writing prior to the end of the 90 day period.

Upon receipt of a Council Resolution, the Branch will review the Resolution to determine if all the regulatory criteria have been met in accordance with section 10 of the Liquor Control and Licensing Regulation and, if recommended by local government, assess whether the granting of the Lounge Endorsement to the Brewery licence would be contrary to the public interest. Should you gather the views of local residents and

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**Liquor Control and  
Licensing Branch**

Mailing Address:  
PO Box 9292 Stn Prov Govt  
Victoria BC V8W 9J8  
Telephone: 250 952-5787  
Facsimile: 250 952-7066

Location:  
4<sup>th</sup> Floor, 3350 Douglas Street  
Victoria, BC  
<http://www.pssg.gov.bc.ca/lclb>

businesses as part of your consideration, please be reminded that the applicant cannot gather the views themselves. As part of your process, the gathering of the views must be administered by the local government. Following the rendering of a decision by the General Manager as to whether to grant Site and Community Approval, the applicant and the local government will be advised in writing.

Once granted SCA, the application proceeds to the building assessment stage of the process, where floor plans are reviewed and if approved in principle, the applicant may proceed with construction/renovation of the establishment, followed by the final stages of the licence endorsement process.

Further details of the liquor licensing application process can be found in the "Role of Local Government and First Nations in the Provincial Liquor Licensing Process" guidelines, enclosed for your reference and also available on the branch website at <http://www.hsd.gov.bc.ca/lclb/>.

If you have any questions regarding this application please contact me at 250 952-7052 or [emma.ross@gov.bc.ca](mailto:emma.ross@gov.bc.ca).

Sincerely,



Emma Ross  
Senior Licensing Analyst

Enclosure

copy: Terrence Trytten, Liquor Inspector  
Michael Vincent, Forbidden Brew





## APPLICATION SUMMARY

For Applicant and Local Government/First Nation

Lounge Endorsement

Date: August 13, 2014

Job #23716601-2

Created by: Emma Ross  
Senior Licensing Analyst

Re: Application for a Brewery Lounge Endorsement Area  
Proposed Manufacturer Name: Forbidden Brew  
Applicant Name: Forbidden Brew Corp.  
Location: 1590 Cliffe Avenue in Courtenay

### 1. APPLICATION INFORMATION

Date Application deemed complete: August 12, 2014

Local Government or First Nation Jurisdiction: City of Courtenay

The primary business focus of the proposed endorsement area: Food and Beverage

Person Capacity/Occupant Load Requested: Person 01 = 50 persons (interior lounge)  
(person capacity is patrons plus staff)

Note: Person capacity requested is shown as 30 in the letter of intent portion. It was confirmed that 50 is the requested capacity.

#### Liquor Service Hours Requested:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM.

Statutory Prohibitions to Consider: none identified

Terms and Conditions Requested: none

The Brewery Lounge Endorsement Area, if approved, will allow patrons to consume liquor in a designated interior lounge area on the manufacturing site. In the case of a brewery, the sale and service of liquor is restricted to beer registered to the licensee, by the glass (or other single serving). Food and non-alcoholic beverages must be available at reasonable prices to customers. Minors are permitted in a lounge endorsement area when accompanied by a parent or guardian.

### 2. APPLICANT SUITABILITY INFORMATION (Fit and Proper)

Applicant has met the eligibility and suitability requirements of the Liquor Control and Licensing Act.

### 3. LOCATION/SITE FACTORS

The legal description of the site is: Lot 1, Plan VIP68779, Section 41 Comox Land District. The proposed brewery lounge endorsement area is an interior area of the manufacturing facility, overlapping the on-site store endorsement area at the front of the building facing into the shared parking with the Best Western Hotel on Cliffe Avenue(see attached site plan).

See the attached Applicant's Letter of Intent for details of the proposed Liquor Primary establishment, including the following details:

- a) **Business Focus or Purpose**
- b) **Target Market**
- c) **Composition of the Neighbourhood and Reasonable Distance Measure**
- c) **Benefits to the Community**
- d) **Noise in the Community**
- f) **Impact on the Community**
- g) **Other impacts, comments or requests**

*Please note that the applicant's letter of intent is enclosed as an attachment to this report for reference purposes. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.*

#### **4. CONTRAVENTION STATISTICS:**

The Liquor Control and Licensing Branch will provide contravention statistics for liquor primary and liquor primary club establishments near the subject location upon request.

#### **5. POPULATION AND SOCIO-ECONOMIC INFORMATION**

- Circle population statistics for 2001 and 2006 are available from BC Stats by emailing your request to [BC.Stats@gov.bc.ca](mailto:BC.Stats@gov.bc.ca)
- BC Stats Community Facts includes the BC Benefits recipient and EI Beneficiary statistics and is available at <http://www.bcstats.gov.bc.ca/data/dd/facsheet/facsheet.asp>
- Statistics Canada Population breakdown by categories is available at: <http://www12.statcan.ca/census-recensement/2006/dp-pd/prof/92-591/index.cfm?Lang=E>

#### **6. PUBLIC INTEREST**

In providing its resolution on the proposed Liquor Primary application, local government must consider and comment on each of the regulatory criteria indicated below. The written comments must be provided to the general manager by way of a resolution within 90 days after the local government receives notice of the application, or any further period authorized by the general manager in writing.

**Regulatory Criteria local government or First Nation must consider and comment on:**

- a) The location of the establishment;
- b) The proximity of the establishment to other social or recreational facilities and public buildings;
- c) The person capacity and hours of liquor service of the establishment;
- d) The number and market focus or clientele of liquor primary licence establishments within a reasonable distance of the proposed location;
- e) The impact of noise on the community in the immediate vicinity of the establishment; and
- f) The impact on the community if the application is approved.

**The local government or first nation must gather the views of residents in accordance with section 11.1 (2) (c) of the Act and include in their resolution:**

- (i) the views of the residents,
- (ii) the method used to gather the views of the residents, and
- (iii) its comments and recommendations respecting the views of the residents;

---

*A sample resolution template and comments are enclosed as attachments 2 and 3 to this report for reference purposes.*

---

*For use by Liquor Control and Licensing Branch:*

**REGULATORY CONSIDERATIONS**

Liquor Control and Licensing Act, sections: 11, 16 and 18

Liquor Control and Licensing Regulations sections: 4, 5, 6, 8, 9, 10

**POLICY CONSIDERATIONS**

Class of Licence

Applicant Eligibility Assessment

Site and Community Assessment

Building Assessment and Issue of a Licence

**ATTACHMENT 1**

**APPLICANT'S LETTER OF INTENT**



**ATTACHMENT 2****Sample Resolution Template for a Winery Lounge or Special Event Area Endorsement**

General Manager, Liquor Control and Licensing Branch

RE: Application for a winery lounge or special event area endorsement at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named Winery licence:

“Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the winery lounge or special event area endorsement for the following reasons: (detail and explain reasons for recommendation)
2. The (council's/board's) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion – a comment on each must be included in the resolution. Where a staff report has been prepared that addresses the criteria this can be used to provide Council's comments provided the staff report is referenced in the resolution and there is a clear statement that Council endorsed the comments in the report.)
  - (a) The location of the winery lounge or special event area (provide comments)
  - (b) The proximity of the winery lounge or special event area to other social or recreational facilities and public buildings (provide comments)
  - (c) In the case of a winery lounge, the person capacity of the winery lounge (provide comments)
  - (d) hours of liquor service of the winery lounge or special event area
  - (e) traffic, noise, parking and zoning, and
  - (f) The impact on the community if the application is approved (provide comments)

If the operation of the winery lounge or special event area may affect nearby residents, the local government must gather the views of residents of an area determined by the local government or first nation.

If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:

- (a) Its comments addressing the criteria in subsection (9);
- (b) If it has gathered the views of residents under subsection (10),
  - (i) the views of the residents\*
  - (ii) the method used to gather the views of the residents\*, and
  - (iii) its comments and recommendations respecting the views of the residents\*
  - (iv) The reasons for its recommendations.

**\* Note: “residents” includes business owners**

**3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).**

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)

(name and title of official)

(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2 (a) through (f) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

### ATTACHMENT 3

#### Sample Resolution for a Winery Lounge or Special Event Area Endorsement Application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these 'pros and cons'.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the winery lounge or special event area:

The location of the winery lounge is within the primary manufacturing facility. It has an interior and a patio area. It is located in a remote location and is suitable for such an endorsement.

(b) The proximity of the winery lounge to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a winery lounge.

– or –

The proposed location of the winery lounge is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed winery lounge is considered compatible with the neighbouring facilities.

(c) The person capacity of the winery lounge:

The maximum person capacity of the winery lounge is 65 persons as per building authorities.

(d) Hours of liquor service of the winery lounge:

Hours of liquor service are proposed to be from 4 PM to 10 PM daily. A larger capacity or later hours is not supported given the few number of police on duty to respond to concerns.

(e) Traffic, noise, parking and zoning:

Traffic in the area is not an issue. The road is located away from the main road resulting in noise not being an issue. Ample parking is available at the winery. Zoning permits a winery lounge for the sale and service of wine by the glass or bottle.

(f) The impact on the community if the application is approved:

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

The Council's comments on the views of residents are as follows:

The views of residents within a half mile\* of the proposed winery lounge area were gathered by way of \*written comments that were received in response to a public notice posted at the site and newspaper advertisements placed in two consecutive editions of the local newspaper. Residents were given 30 days from the date of the first newspaper advertisement to provide their written views. Residents were also given an opportunity to provide comments at the public meeting of Council held on date.

A total of 63 responses were received from businesses and residents. Of the responses received, 21 were in support of the application citing the creation of additional jobs and a new entertainment venue for the area as their primary reasons. A total of 42 letters were received in opposition to the application. The primary reason cited by those in opposition was the proposed closing hours. A number of business residents in the area also cited the lack of parking as an area of concern.

The following examples illustrate one option that Council may complete their comments on the views of residents based upon the preceding fact pattern.

Based upon the input received by residents within a half mile of the proposed winery lounge there is a two to one ratio of opposed residents to residents that support the application. The opposition to this endorsement comes from both homeowners and businesses. Council is of the view that with both the residential and business communities' opposition to this proposed establishment that the issuance of a winery lounge endorsement would be contrary to the community standard for this area.

Despite the potential creation of additional jobs and a new entertainment venue for the area Council is unable to support the issuance of the endorsement. Council recommends that a licence not be issued.

**\* The local government or First Nation determines the appropriate area to be included and the method for gathering those views**

## PART 5: Letter of Intent (Functions and Services to be Provided)

Explain the functions and services your facility or venue will provide. The information you provide in the letter of intent must address all of the factors indicated below.

☐ I have attached a separate sheet.

### 1. Purpose

Describe the purpose of the endorsement including beverage service, entertainment and hospitality services you intend to provide:

### 2. Describe the target market. Your proposed endorsement area may serve some of the following:

☒ Urban locals ☒ Suburban locals ☒ Rural locals ☒ Neighbouring communities ☒ Tourists

☐ Other (please specify):

### 3. Describe the composition of the neighbourhood. The composition of the neighbourhood may include some of the following:

☒ Commercial ☐ Residential ☐ Industrial ☐ Light Industrial ☐ Urban ☐ Downtown ☐ Suburban

☐ Rural ☐ Agricultural Land Reserve (ALR) ☐ First Nations' Land ☐ Neighbouring residents

☒ Other (please specify): hospitality/hotel

### 4. Provide a street map of the area surrounding the manufacturing site which identifies the following social and public facilities within a reasonable distance\* (see below):

- All other licensed liquor primary or liquor primary club establishments
- Churches
- Clubs
- Schools (K-12, colleges, universities)
- Preschools
- Day care centres
- Health care facilities
- Seniors facilities
- Recreational/sports facilities
- Neighbouring residents
- Police stations
- Fire halls
- Libraries
- Government buildings
- Any other relevant local public or private facilities

\*Note: What constitutes a reasonable distance will vary depending on individual circumstances.

#### Reasonable Distance Guidelines:

- In a densely populated city or municipality, reasonable distance is probably a 2 block radius;
- In a pocket community having no adjacent developed regional areas (e.g. Gold River, Tumbler Ridge, Whistler, Valemont) reasonable distance is probably the whole community;
- In a rural area having large acre parcels, reasonable distance is probably up to 8 km (five miles);
- In a moderately populated area of developed subdivisions, suburbs, reasonable distance is probably 1.5 or 2 km (1 mile).

On the same map, please mark the boundaries of the neighbourhood of the proposed location as per the reasonable distance guidelines above. State what distance measure you chose.

### 5. Benefits to the Community

Describe the community/market need you are addressing by providing an additional licensed area within the community (e.g. the proposed lounge will support tourism activities at the manufacturing facility OR there are currently no licensed establishments in the area).

### 6. Impact of Noise on the Surrounding Community

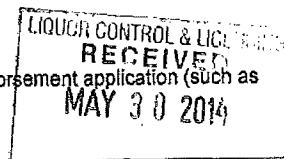
Describe the noise impact expected from your proposed endorsement area and describe the measures you will take to ensure others, including neighbouring residents, are not disturbed if the endorsement area is approved (e.g. entertainment will not involve amplified music given the bylaws in place; noise from outdoor patio will be addressed by closing patio at 10 p.m.; outdoor lighting and cameras will be installed; additional traffic should not create additional noise given the location and size of the endorsement).

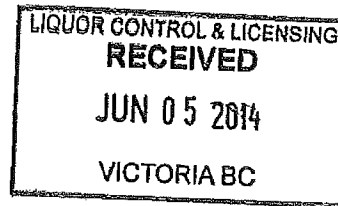
### 7. Other Impacts on the Surrounding Community

Describe any further impacts of the new licensed area(s) on the surrounding community if the endorsement application is approved.

### 8. Other Information and Requests

Provide any additional information or requests that might be relevant to your manufacturer endorsement application (such as zoning restrictions, bylaw restrictions, entertainment, etc.)





## **Community Benefits**

Craft brewing is a growing market in the beer industry. The success of this segment of the beer industry can be seen in Victoria with one of the largest number of breweries per capita in British Columbia. The Comox Valley, which is already an agricultural community with strong representation of culinary and wine experiences, lacks a craft brewery. This addition will enhance the already established food and beverage offerings in the Valley for both tourists and local residence. Our brewery's strategy is to fulfill the desire of the beer community with local, fresh beer. The lounge endorsement is a important factor for our success, not just for the cash flow, but also as a place to offer tours and tastings as well as a place for the local craft beer enthusiasts to gather and sample, discuss, and enjoy local beer.

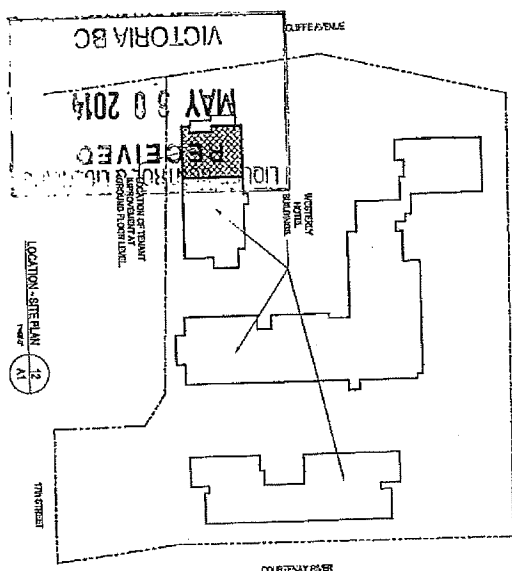
## **Community Impact**

The location of brewery/lounge is within a space at the Westerly Hotel and Convention Centre (Westerly). The Westerly has a liquor primary, club endorsement, in their Flying Canoe outlet. The addition of the lounge endorsement within the brewery, with a seating capacity of 30 people, will not add an additional noise impact to neighbouring residents. We are requesting a 3PM - 11pm Wednesday, Thursday, Friday; 12pm - 11pm on Saturday and Sunday hours of operation, which is within the hours of operation of the Flying Canoe. The Westerly has given us full support of the brewery with lounge endorsement. At this time, there will be no outdoor patio or entertainment involving amplified music to cause additional noise issues.

[illegible][illegible]

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 TAKING PLACE IN THE FEEDING OF THE  
 SHEEP, AND THE CONDITION OF THE  
 FLOCKS IS IMPROVING.

PROJECT DATA	
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A1	



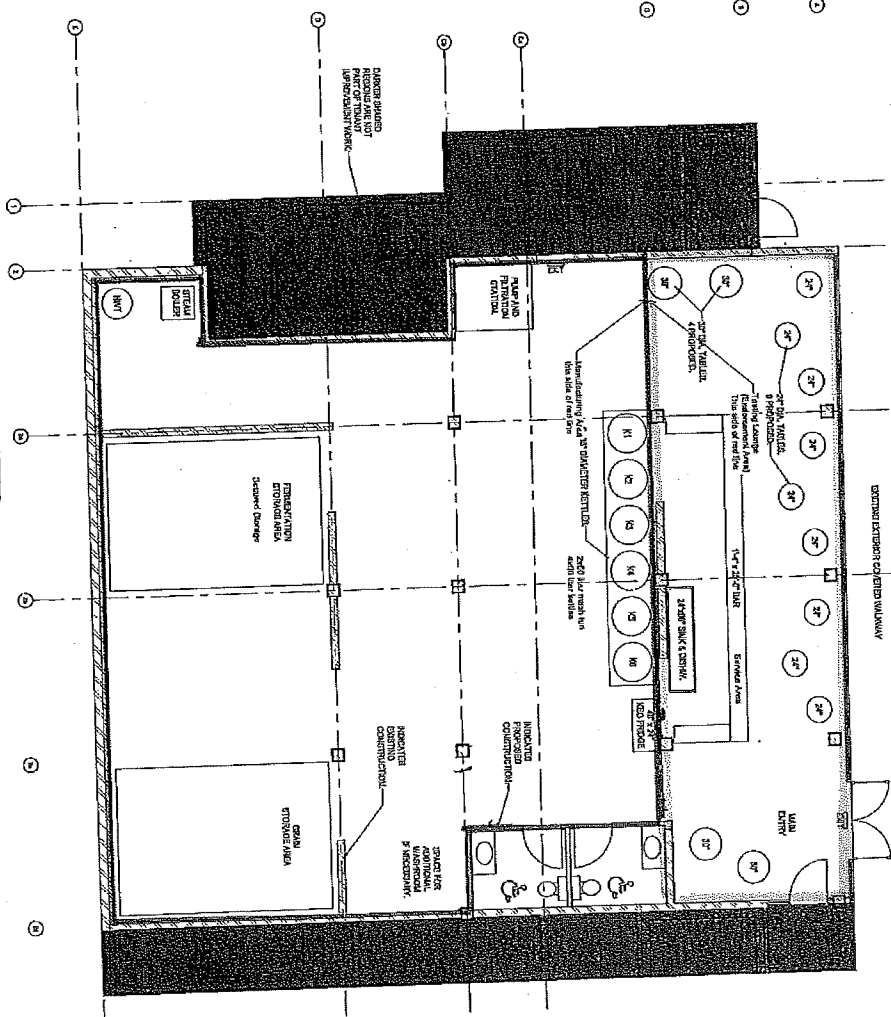
LOCATION - SITE PLAN

LIQUOR CONTROL AND LICENSING BRANCH  
FLOOR PLAN - APPROVAL IN PRINCIPLE  
DATE August 27, 2014  
LICENSING ADMINISTRATOR [Signature]

**LICENSING  
ADMINISTRATOR**

**Maximum Capacity:** \_\_\_\_\_  
 Unless otherwise approved by the General Manager, Liquor Control and Licensing, approval is subject to the terms and conditions of specified in the approval letter(s) dated: \_\_\_\_\_

PSA \_\_\_\_\_ PCA \_\_\_\_\_ ATP \_\_\_\_\_



PROPOSED FLOOR PLAN

1st

A1

17th ST. BLDG. (PLAN ROOM 111)

**PROJECT**  
**PROPOSED WESTERLY**  
**MICRO-BREWERY**  
**TENANT IMPROVEMENT**  
**(SEE SHEET 4.0000)**

PROPOSED LAYOUT.  
LOCATION/SITE PLAN

PROJECT DATA

304

Industry User-Building	AS NOTED

2004

NAME	Private Unit
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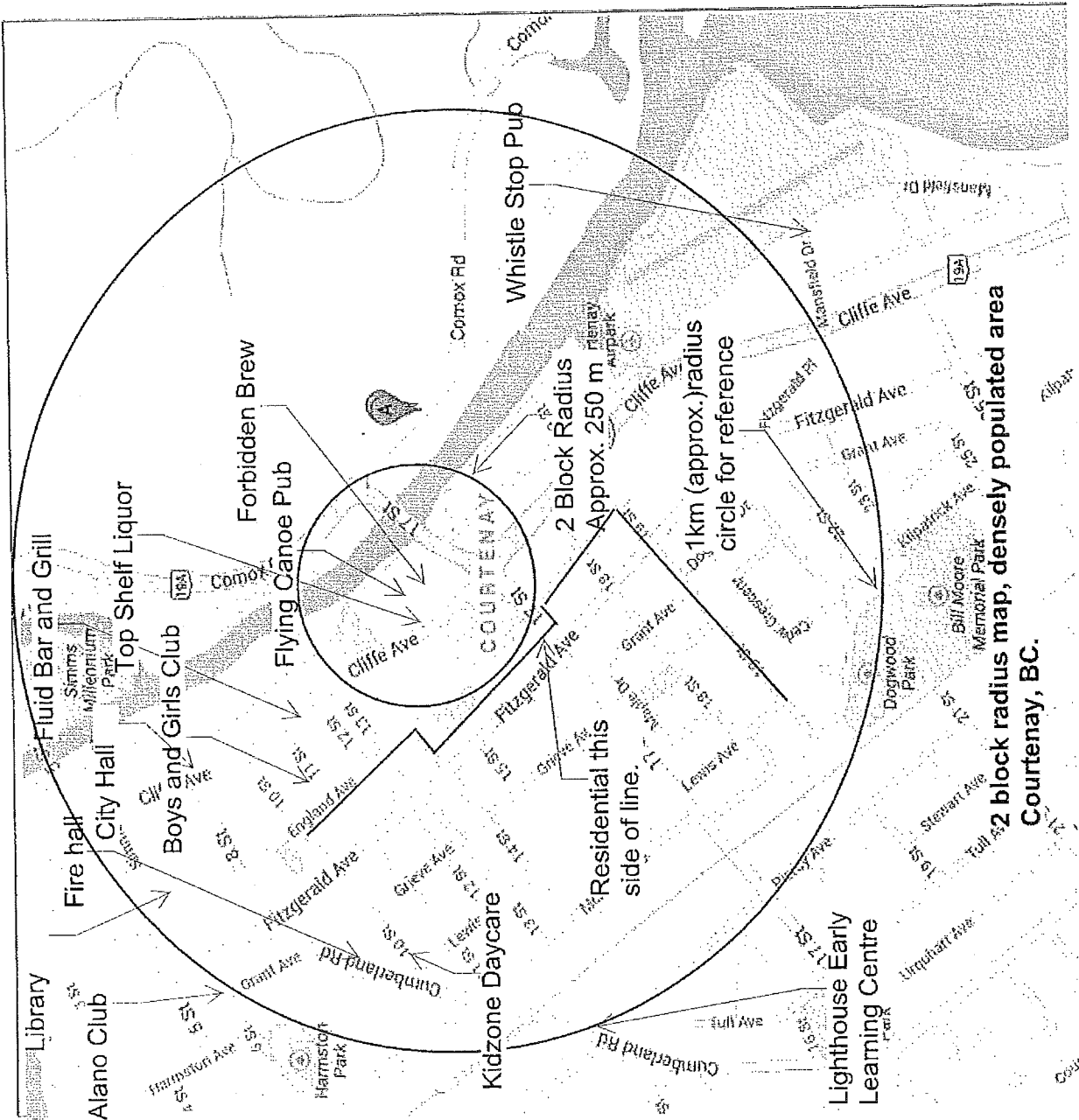
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LIQUOR CONTROL & LICENSING  
 RECEIVED  
 MAY 30 2014  
 VICTORIA BC







THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

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**To:** Council  
**From:** Chief Administrative Officer  
**Subject:** Waste and Recyclables Collection Agreement

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**File No.:** 5360-02  
**Date:** October 6, 2014

### PURPOSE:

The purpose of this report is to request Council approval for entering into an agreement with Emterra Environmental for the collection of solid waste, yard waste, and recyclables.

### POLICY ANALYSIS:

Section 8 of the *Community Charter* empowers a municipality to provide any service the Council considers necessary or desirable, and may do this directly or through another public authority or another person or organization. Section 175 of the *Community Charter* limits the term of agreements to five years or less. Agreement may be made for terms exceeding five years, but only with the approval of the electors.

### EXECUTIVE SUMMARY:

On July 7, 2014 Council approved the following resolution:

*"That the City enter into a new contract with Emterra Environmental for the collection of solid waste, yard waste, and recyclables within the City of Courtenay conditional on an expiry date of November 30, 2018; and*

*That the draft contract be returned to Council for approval."*

The new agreement has been reviewed by Emterra, City staff, and the City's legal counsel. Agreement language aligns with the requirements set out Multi-Material BC–Master Services Agreement, as well as incorporates language for recent services provided by Emterra but not yet detailed in their existing contract with the City.

### CAO RECOMMENDATIONS:

That based on the October 6, 2014 staff report "Waste and Recyclables Collection Agreement" Council approve OPTION 1 as follows:

That the City enter into the Garbage, Recyclables, Yard Waste and Cardboard Collection Service Agreement with Emterra, with the expiry date of November 30, 2018; and

That the Mayor and the Director of Legislative Services be authorized to sign the contract documentation.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### **BACKGROUND:**

At their regular meeting held July 7, 2014 Council considered a staff report in regards to entering into a new contract with the City's current waste and recyclables collection service provider. Following due consideration, Council approved the following resolution:

*"That the City enter into a new contract with Emterra Environmental for the collection of solid waste, yard waste, and recyclables within the City of Courtenay conditional on an expiry date of November 30, 2018; and  
That the draft contract be returned to Council for approval."*

### **DISCUSSION:**

The new agreement with Emterra Environmental has now been drafted and is brought forward for consideration by Council. The document has been reviewed by Emterra, City staff, and the City's legal counsel. The agreement provides for the following new items:

1. Alignment with the statement of work requirements set out Multi-Material BC–Master Services Agreement, inclusive of reporting requirements.
2. Recognition of ownership by MMBC of residential recyclables.
3. Responsibility for compliance with collection parameters of MMBC prescribed "in-scope" residential recyclables.
4. Rates language for services already provided by Emterra but not detailed in the existing contract.

Staff recommends that the City enter into the new agreement with Emterra Environmental. The agreement expiry date of November 2018 is aligned with the expiry of the City's contract with MMBC. The option to extend the contract term by an additional 11 months is provided in the event that circumstances require this extension. The combined maximum term of the agreement - inclusive of the option to extend – falls within the maximum of five years permitted under legislation.

### **ADMINISTRATIVE IMPLICATIONS:**

On Council's endorsement, Staff will execute the new agreement between the City and Emterra Environmental.

### **STRATEGIC PLAN REFERENCE:**

While waste and recyclables collection is not specifically referred to in the City's Strategic Plan, the provision of this service to residential and commercial properties is considered to be an essential service. Additionally, the program of recycling and yard waste removal assists in diverting significant waste product away from the landfill.

### **OFFICIAL COMMUNITY PLAN REFERENCE:**

Section 6.5 Solid Waste

The disposal of refuse is handled at the Pigeon Lake Landfill site which is operated by the Comox Valley Regional District. The City has and will continue to lead in efforts to reduce the amount of solid waste going to the landfill. There is mandatory garbage collection for all lands within the City.

### **REGIONAL GROWTH STRATEGY REFERENCE:**

Objective 5-E: Reduce regional solid waste and improve landfill performance.

**CITIZEN/PUBLIC ENGAGEMENT:**

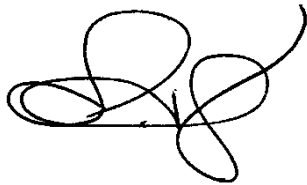
Citizen and public engagement is not required.

**OPTIONS:**

OPTION 1: That Council approves entering into the Garbage, Recyclables, Yard Waste and Cardboard Collection Service Agreement with Halton Recycling Ltd dba Emterra Environmental.  
(Recommended)

OPTION 2: That Council does not approve entering into a new agreement with Emterra Environmental.

Prepared by:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

Tillie Manthey, BA, CPA, CGA  
Director of Financial Services/Deputy CAO



- b. The City will have the option of renewing the Term of this Agreement for an additional Eleven (11) Months on the same terms and conditions set out in this Agreement; which shall be exercisable upon the City giving Emterra 60 (sixty) days prior written notice. Upon delivery of such notice, the Term will be deemed to have been renewed for Eleven (11) Months commencing on the 1<sup>st</sup> day of December 2018 and expiring at midnight, October 31st, 2019.

## 2. DEFINITIONS

<b>“Cardboard”</b>	means corrugated cardboard, boxboard and similar paper packaging that is not intended to contain liquids when sold.
<b>“Contract Year”</b>	means any consecutive 12 month term beginning on the first day of the Term or any anniversary of that date.
<b>“DCBIA”</b>	means Downtown Courtenay Business Improvement Area, a defined area established by Bylaw 2264, as amended or replaced from time to time.
<b>“Facility”</b>	means a Trades Premises receiving Recycling Services pursuant to paragraph 5(a).
<b>“hh”</b>	means, in respect of Residential Premises, a single dwelling unit intended for occupancy by a single household.
<b>“Garbage”</b>	means garbage, ashes, trade waste, household waste, and rubbish, but excludes Restricted Waste and Recyclables.
<b>“MMBC”</b>	means Multi-Material BC Society.
<b>“MMBC Master Services Agreement”</b>	means the Multi-Material BC Society Master Services Agreement, including all Statements of Works, addendums and schedules thereto dated October 14, 2013 and as amended from time to time.
<b>“Monthly Payment”</b>	has the meaning set out in section 16.
<b>“Premises”</b>	means all Residential Premises and Trade Premises.
<b>“Recyclables”</b>	has the same meaning as “In-Scope PPP” as defined under the MMBC Master Services Agreement, as amended from time to time.
<b>“Recycling Services”</b>	means the voluntary service for the collection of Recyclables from certain Trades Premises on an opt-in basis, as more



fully described in section 5.

<b>“Refuse Collection Bylaw”</b>	means the City of Courtenay Refuse Materials Collection, Removal and Regulation Bylaw No. 2244, 2002 as amended or replaced from time to time.
<b>“Residential Premises”</b>	means all residential dwelling units, including single family homes, duplex homes, mobile homes, multi-family residential units, and apartments.
<b>“Restricted Waste”</b>	Means all restricted waste as prescribed in the Refuse Collection Bylaw
<b>“Single Residential Dwelling”</b>	Has the same meaning as “dwelling, single residential” in the City of Courtenay Zoning Bylaw No. 2500, 2007, as amended from time to time.
<b>“Trades Premises”</b>	Means all retail, commercial, industrial, institutional or other uses for property not otherwise included within the meaning of Residential Premises.
<b>“Yard Waste”</b>	means leaves, grass clippings, flowers, plants, tree or hedge prunings, small amounts of sod and soil or other garden refuse, but specifically excludes Recyclables, plastic bags, flower pots, animal feces, rocks, stumps, wood waste, kitchen waste, or garbage.

### 3. GARBAGE/RECYCLABLES/YARD WASTE/CARDBOARD COLLECTION SERVICES

Emterra agrees to collect Garbage, Recyclables, Yard Waste, and Cardboard from Premises on the terms and conditions set out in this agreement.

Courtenay hereby grants to Emterra during the term of this agreement, the exclusive right to collect from all Premises within the limits of the Corporation of the City of Courtenay, all Garbage, Recyclables, Yard Waste and Cardboard as follows:

- a. Garbage, from Residential Premises and Trades Premises;
- b. Recyclables, including Cardboard, from Residential Premises (for clarity, Recyclables excluding Cardboard will not be collected from Trade Premises by Emterra and paid for under this paragraph by Courtenay);
- c. Yard Waste from Single Family Dwellings; and

- d. Cardboard from Trade Premises, which shall be deposited by the owners or occupiers in accordance with the provisions of the Refuse Collection Bylaw; except that:
  - i. Excluded from collection under this paragraph 2(d) is compacted cardboard from Trades Premises that is hauled out of the Comox Valley by each Premises owner to an external processing centre.

#### 4. NEW SERVICES

Notwithstanding paragraph 3 hereof, the exclusive rights granted to Emterra hereunder are limited to services which Emterra performs for Courtenay as of the date hereof. Without limitation, the exclusive rights granted hereunder do not include the pickup of Recyclables, Yard Waste, or compostable garbage with the exception of Recyclables and Yard Waste from Residential Premises, and Cardboard from Trade Premises as described in paragraph 3.

Courtenay agrees to negotiate with Emterra the collection of commercial and residential organic kitchen waste, including coffee grounds, in the event that a facility acceptable to Courtenay becomes available.

#### 5. RECYCLABLES SERVICES TO FACILITIES

- a. Despite paragraph 3(b), Emterra shall be authorized to provide Recycling Services to the following Facilities:
  - i. Institutional premises, including without limiting the generality of the foregoing, all schools administered by the Board of Education of School District 71 falling within the limits of the Corporation of the City of Courtenay; and
  - ii. Commercial recycling facilities or operators.
- b. In the provision of any Recycling Services, Emterra shall:
  - i. Provide Courtenay with a client list as and when required by Courtenay.
  - ii. Provide blue boxes, toters, single stream front load bins as required, and upon request of any Facility operator.
  - iii. Bill each Facility directly for this service.
- c. Courtenay agrees to assist Emterra in publicizing the Recycling Services by distributing information packages, provided by Emterra, in Courtenay-run facilities and buildings.

## 6. LOCATION

- a. Emterra will deposit all Garbage, Cardboard, Yard Waste, and Recyclables collected by it in such locations or locations as Courtenay may from time to time direct.
- b. The composting and disposal of Yard Waste collected is the sole responsibility of Emterra and is part of the Yard Waste collection service provided to Courtenay.
- c. Emterra acknowledges that all recyclables collected must be deposited with the Designated Post-Collection Service Provider as determined by MMBC, and in the manner specified under the MMBC Master Services Agreement.

## 7. FREQUENCY OF COLLECTION

Emterra will collect:

- a. All Garbage and Yard Waste (as applicable) from Residential Premises not less than once in each week;
- b. All Recyclables, including Cardboard, from Residential Premises every two weeks on the same day as Garbage collection;
- c. All Garbage from those Trade Premises having no discarded fruit, vegetable and other food scraps in their Garbage stream, not less than once in each week; and
- d. From all butcher shops, cafes, dining rooms and similar Trade Premises that have discarded fruits, vegetables or other food scraps in their Garbage stream, not less than twice in each week, and not less than 5 days per week when instructed to do so in writing from Courtenay.

Forthwith upon demand by Courtenay, Emterra will provide more frequent service as directed by Courtenay. Courtenay will pay Emterra for such additional service proportionally increased fees based on the frequency of garbage removal and the fee schedule set out in paragraph 13 hereof.

## 8. LABOUR AND EQUIPMENT

Emterra will employ at its own expense such labour and provide such equipment as it may require in order to properly carry out and perform the duties imposed upon Emterra by this agreement, and without limiting the foregoing:

- a. Emterra shall not use, in the provision of any services to Courtenay under this agreement, any collection vehicle with an age greater than eight years;

- b. Despite paragraph 8(a), Emterra may use a collection vehicle greater than eight years of age for the purpose, only, of a spare collection vehicle to provide relief service for break downs in collection vehicles; and
- c. Emterra, at its own expense, further agrees to install and make available to the public an unmanned after hours message system.

## 9. GARBAGE COLLECTION UNITS

- a. Emterra will supply and use at its own expense garbage collection units approved by Courtenay for all operations carried out by Emterra under this agreement.
- b. Emterra will remove from service within ten days of notification, any garbage containers on which graffiti or tagging occurs. These containers will not be put back into service until the graffiti or tagging is removed or covered.

## 10. REPORTING REQUIREMENTS

- a. Emterra agrees to provide Courtenay, within a reasonable period of time after Courtenay makes such a request, with any and all available greenhouse gas emissions data for storage, recycling and composting facilities operated by Emterra and used in the provision of garbage collection and recycling services provided to Courtenay under the terms of this agreement.
- b. Emterra will provide Courtenay with written notification on changes to client bin or container types and/or scheduled pickup on no less than a monthly basis, specifically:
  - i. Courtenay is to be notified of changes within 24 hours of Emterra receiving the change order from the client;
  - ii. Emterra will notify Courtenay of “extra” client pickups by way of a monthly summary spreadsheet, which shall be forwarded to Courtenay not later than 10 business days after the end of the month; and
  - iii. Once annually, Courtenay will forward to Emterra a spreadsheet detailing services provided by civic address. This worksheet is intended to be used to reconcile Courtenay's waste services data base with that of Emterra. Emterra shall review the annual spreadsheet, identify client service level changes, and return the spreadsheet to Courtenay within three weeks of receipt.
- c. Emterra will provide reporting to Courtenay as and where required by the MMBC Master Services Agreement.

## 11. INDEXING OF ANNUAL COLLECTION RATES

- a. Beginning with January 1, 2015, the rates described in paragraphs 13(B) and (C) shall be increased annually on January 1 each year by the net change (since the last rate increase was made) in the consumer prices at December 31<sup>st</sup> for the following two indexes:
  - i. Consumer Price Index for Vancouver (weighted 90/100ths)
  - ii. Price Index for Diesel Fuel in BC (weighted 10/100ths)
- b. All indexes are to be those published by Statistics Canada.
- c. If the weighted calculation in 11(a) yields a negative result, the effective increase applied shall be zero percent (0.0%), and the following year's calculation shall start with the indexes from the last effective year producing a positive result.

## 12. COMPLIANCE WITH MMBC MASTER SERVICES AGREEMENT

- a. Emterra acknowledges all Recyclables collection services to Residential Premises within the City of Courtenay will be carried out in compliance the terms and conditions in the MMBC Master Services Agreement.
- b. Emterra acknowledges full responsibility for any failure to meet the service level terms and conditions specified in the MMBC Master Services Agreement, and agrees to bear the financial cost or penalty of such failures as set out in the MMBC Master Services Agreement.

## 13. COLLECTION RATES

The rates described in paragraphs 13(B) and (C) below will be paid in accordance with the mechanism described in paragraph 16 of this agreement.

### A. Container Rentals

Containers rented by Emterra to property owners or tenants of Trades Premises will be granted at the following rates for year, to be paid by each property owner or tenant, as the case may be:

2 cubic yard containers	\$	20.10	per month
3 cubic yard containers	\$	21.28	per month
4 cubic yard containers	\$	31.89	per month
6 cubic yard containers	\$	39.01	per month
20 cubic yard containers	\$	100.45	per month

## B. Residential Collection Services

The Single Family Dwelling owner is responsible for the purchase of blue bins, and for complying with Courtenay's limit of no more than one can (max. 121 litres) of garbage per week.

The multi-family Residential Premises are responsible for the purchase of toter containers or purchase/rental of single stream bins, as applicable, for the collection of Recyclables and Cardboard. The rates for collection of Garbage, Recyclables and Cardboard from multi-family Residential Premises fall under paragraph 13 (C).

Courtenay will pay Emterra the following amounts during the Term of this agreement for each Residential Premises from which Emterra, collects the following:

Garbage removal (both Single Family and Multi-Family)	\$	3.22	per hh/month
"Extra Garbage" tags	\$	1.18	per tag
Single Family Blue-bin Recyclables - bi-weekly	\$	1.36	per hh/month
Yard Waste collection - bi-weekly	\$	3.87	per hh/month
Multi-Family residential Recyclables:			
96 Gallon Toters, bi-weekly	\$	8.16	per month/toter
Multi-Family residential Recyclables Bins, weekly:			
(a) 3 yard front load bin	\$	39.35	per month/bin
(b) 6 yard front load bin	\$	78.69	per month/bin

## C. Trades Premises Collection Services

### a) Scheduled collection services

Courtenay will pay Emterra municipal and commercial bin and compactor pickup fees at the Trades Premises rates during the Term of this agreement for each Premises per pickup:

1 can or equivalent	\$	1.28	per collection
<u>DCBIA Recyclables 96 Gallon Toters</u>			
(a) weekly pickup of blue bin - per unit		0.68	per collection
(b) weekly pickup of toter - per toter rate		4.08	per collection
<u>Containers Garbage</u>			
2 cubic yard	\$	6.13	per collection
3 cubic yard		9.21	per collection
4 cubic yard		12.27	per collection
6 cubic yard		18.40	per collection



Compactor Garbage

27 cubic yard	\$	115.77	per collection
30 cubic yard		115.77	per collection
35 cubic yard		115.77	per collection
40 cubic yard		115.77	per collection

Containers Cardboard

2 cubic yard	\$	6.13	per collection
3 cubic yard		9.21	per collection
6 cubic yard		18.40	per collection
9 cubic yard		27.62	per collection

Compactor Cardboard

27 cubic yard	\$	115.77	per collection
30 cubic yard		115.77	per collection
35 cubic yard		115.77	per collection
40 cubic yard		115.77	per collection

b) Unscheduled and Special Request Collection Services

Where bin collection, compactor or roll-off work is on an unscheduled temporary, one-off, or special request basis, Emterra shall be responsible for the collection of same and for the direct billing to the property owner or tenant of such Premises for unscheduled services rendered. All related disposal charges are the sole responsibility of Emterra.

14. CHANGE IN QUANTITY

If the quantity of Garbage, Cardboard, Yard Waste and Recyclables collected per Premises changes substantially during the terms of this agreement, for any reason, Courtenay and Emterra will, upon written demand by either party, renegotiate the fees payable hereunder. If the parties are unable to reach an agreement as to fees within 30 days from the date of demand, then the parties will appoint an arbitrator pursuant to paragraph 27 hereof.

15. COLLECTION AT CITY-OWNED BUILDINGS

- a. Emterra will provide for the collection of office paper from all Courtenay-owned buildings free of charge for the duration of this agreement. Emterra will provide totes that can be used by the staff and will be collected weekly from all locations. The office paper can be bagged and emptied in the Cardboard waste container supplied by Emterra. Courtenay will, at its own discretion, elect whether to use this service.
- b. Emterra shall provide to Courtenay, for Courtenay's use in its water efficiency plan (toilet rebate program), such Garbage collection containers as Emterra deems

appropriate for this use, at any and all locations as Courtenay may from time to time direct.

- c. Emterra agrees to dump or remove any containers described in paragraphs 15(a) and (b) provided as requested by, or on the direction of, Courtenay.
- d. The provision of containers described in paragraphs 15(a) and (b) shall be at Courtenay's sole expense, at rates and charges to be agreed to between the parties prior to the provision of the containers by Emterra.

#### 16. PAYMENT OF FEES

Courtenay will pay to Emterra on the last day of each month during the Term of this agreement, the sum of \$80,000.00 ("Monthly Payment") plus applicable taxes. At the expiration of each Contract Year, Courtenay and Emterra will determine the total amount of residential and commercial fees for the preceding Contract Year, and:

- a. If, at the end of each Contract Year, Courtenay has paid to Emterra by way of Monthly Payments more than is owing to Emterra pursuant to the rates then in effect, then Emterra will forthwith pay to Courtenay any overpayment;
- b. If, during any Contract Year, Emterra has received from Courtenay by way of Monthly Payments less fees than are owed to Emterra pursuant to the rates then in effect, then Courtenay will forthwith pay to Emterra in the amount owing to Emterra; and
- c. The extra garbage sticker fee due to Emterra for the removal of extra Garbage will be calculated as the number of stickers sold per Contract Year multiplied by the collection fee per extra bag sticker in paragraph 13 and will be paid to Emterra at the end of each Contract Year.

#### 17. TIPPING FEES

Courtenay will pay all tipping fees with respect to the disposal of Garbage collected by Emterra pursuant to this agreement, with the exception of garbage tipping fees related to waste collected pursuant paragraph 13 [C] (b).

#### 18. GOODS AND SERVICES TAX

Courtenay shall pay to Emterra, in addition to any fees referred to herein, any and all GST or PST charges that may be applicable to the services provided.

#### 19. PERFORMANCE

Emterra will perform and carry out its duties under this agreement in a prompt, efficient and workmanlike manner, and will obey and carry out all directions, which may be given

from time to time by Courtenay. Emterra will cause its manager in charge of operations to attend at the Courtenay City Hall daily during regular office hours for the purpose of reporting to Courtenay and receiving instructions.

## 20. VIOLATIONS OF BYLAW

Emterra will forthwith advise Courtenay if any owner or occupier of a Premises within Courtenay commits any violation of the Refuse Collection Bylaw, which Emterra has knowledge of, and Emterra will assist and cooperate with Courtenay in any legal proceeding dealing with the prosecution of such owner or occupier.

## 21. TERMINATION

If Emterra fails, neglects or refuses to perform and properly carry out any of the duties imposed upon it by this agreement, and if such neglect, failure or refusal continues after 5 days' notice in writing given by Courtenay to Emterra requiring it to remedy such default, Courtenay may cancel this agreement forthwith and, in such event, Emterra will pay Courtenay liquidated damages in the amount of \$50,000.00.

## 22. BOND

In order to ensure the liquidated damages referred to in paragraph 21 hereof, Emterra will deliver to Courtenay a bond ("Bond") of a surety company satisfactory to Courtenay, which bond shall be in the amount of \$50,000.00. The Bond will provide that upon demand by the City, the sum of \$50,000.00 will be paid to Courtenay in respect of all damages and losses to Courtenay. It is hereby agreed that the amount of \$50,000.00 is a genuine pre-estimate of damages and is not a penalty.

## 23. WITHHOLD PAYMENT

Notwithstanding paragraph 16 of this agreement, and in lieu of the Bond, Courtenay may, if Emterra consents, withhold one month's payment of \$50,000.00 and hold that amount in trust during the term of this agreement, in order to secure the liquidated damages referred to in paragraph 21 hereof. The monies held in trust may be retained by Courtenay for its use in the event of cancellation as set out in paragraph 21.

## 24. INSURANCE

Emterra shall, at its own expense, throughout the term of this agreement, secure and maintain a Comprehensive General Liability Insurance Policy ("Liability Insurance") with an inclusive limit of not less than \$5,000,000 per occurrence for bodily injury and property damage. The Liability Insurance shall include all premises and operations necessary or incidental to the performance of this agreement and shall include, but not necessarily be limited to, the following coverage:

- (a) Contingent Employers Liability;
- (b) Owners and Contractors Protective Liability;
- (c) 'Broad Form' Property Damage on an occurrence basis, including loss of use of property;
- (d) Contractual Liability assumed under this agreement;
- (e) Non-Owned and Hired Auto;
- (f) Products and Completed Operations Liability,

and shall include Courtenay, its elected officials, officers, agents and employees, and contractors acting on behalf of Courtenay, as additional insured. The Liability Insurance also shall be: primary and non-contributing with respect to any insurance carried by the City; include a Cross Liability clause; preclude subrogation claims by the insurer against any of the insureds; include a provision requiring the insurer to give Courtenay 30 days' prior written notice before making any material change to the insurance coverage or the termination or cancellation thereof; provide that Courtenay, its elected officials, officers, agents and employees, and contractors acting on behalf of Courtenay are protected notwithstanding any act, neglect or misrepresentation of Emterra which might otherwise result in the avoidance of a claim and that such policy is not affected or invalidated by an act, omission or negligence of any third party which is not within the knowledge or control of the insureds; be underwritten by a responsible insurance company or companies licensed to do business in the Province of British Columbia and that meets with Courtenay's reasonable approval; and not include a deductible greater than \$1,000 per occurrence. Prior to the commencement of the work to be performed by Emterra under this agreement and upon Courtenay's request, Emterra shall furnish Courtenay with a certificate or certificates of insurance as evidence that the insurance required by this agreement is in force, including any insurance renewal policy or policies. Maintenance of the insurance required by this agreement and the performance by Emterra of its obligations under this clause shall not relieve Emterra from liability under any indemnity provisions set forth in this agreement. It shall be the sole responsibility of Emterra to determine its own additional insurance coverage, if any, including workers' compensation, that are necessary and advisable for its own protection or to fulfill its obligations under this agreement. Any such additional insurance shall be secured and maintained by Emterra at its own expense. The foregoing insurance provisions shall not limit the insurance Emterra is required to secure and maintain by law, whether provincial, federal or municipal. If Emterra fails to secure or maintain insurance as required by this agreement, then Courtenay shall have the right, but not the duty or obligation, to secure and maintain such insurance and give evidence thereof to Emterra. Emterra shall pay the cost thereof to Courtenay upon demand or Courtenay may deduct such cost from any amount, which is due or may become due to Emterra under this agreement.

## 25. LICENSES AND PERMITS

- a. Emterra and its sub-contractors shall acquire and maintain a Business License issued by Courtenay prior to the commencement of the services described in this agreement and shall maintain such permit in good standing for the term of this agreement.

- b. All permits, licenses and fees are the responsibility of the Emterra.
- c. Emterra and its sub-contractors must comply with all applicable federal, provincial and municipal legislation, regulations and bylaws.

## 26. HEALTH AND SAFETY

- a. Without limiting paragraph 25(c), during the term of this agreement Emterra shall ensure that all services are performed in compliance with all applicable health and safety regulations and guidelines, including without limitation the *Workers Compensation Act* (British Columbia) and its Regulations.
- b. Emterra shall be responsible for WorkSafe BC assessments relating to its services under this Agreement and the services of its sub-contractors. Emterra shall remain in good standing with WorkSafe BC for the term of the agreement.
- c. If Emterra fails to comply with paragraphs 26(a) and 26(b) of this agreement, Courtenay may terminate this agreement for cause.
- d. Emterra will be designated the "Prime Contractor" under the *Workers Compensation Act* by the City for the designated work area. Emterra shall complete, authorize and forward a Prime Contractor Designation form to Courtenay prior to the commencement of the services described in this agreement.

## 27. ENVIRONMENTAL

- a. Emterra shall abide by the requirements of Courtenay's Official Community Plan which sets greenhouse gas emissions targets from time to time and requires Courtenay to track and report its greenhouse gas emissions, and in addition, report emissions by contractors (and their sub-contractors) hired by Courtenay. Courtenay shall provide a fuel use reporting form and guidelines to Emterra to be completed by Emterra for the term of the agreement.
- b. In the interest of reducing negative impacts on human health, Emterra and its sub-contractors must ensure that when vehicles or equipment are not required to be running for operational purposes every effort is made to reduce or eliminate engine idling.

## 28. RELEASE AND INDEMNIFICATION

- a. Emterra hereby indemnifies and releases Courtenay, its elected officials, officers, employees, and agents from all costs, losses, damages and disbursements including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by Courtenay, its elected officials, officers, servants and agents, in connection with their performance of the services under this agreement

except where such loss arises solely out of negligence on the part of Courtenay, its elected officials, officers, servants and agents.

- b. The release and indemnification in paragraph 28(a) shall survive termination of the term of this agreement.

29. NUMBER AND GENDER

All references to any party to this agreement shall be read with such changes in number and gender as the context hereof or reference to the parties hereto may require.

30. SEVERABILITY

Should any provision of this agreement be declared or held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability will not affect the validity or enforceability of any or all the remaining provisions of this agreement which will continue in full force and effect and be construed as if this agreement had been executed without the invalid or unenforceable provision.

31. NON-DISCLOSURE

- a. Emterra acknowledges that in performing the services required under this agreement, it will acquire information about certain matters which are confidential to Courtenay, and such information is the exclusive property of Courtenay.
- b. Emterra undertakes to treat as confidential all information received by reason of its position as contractor and agrees not to disclose it to any third party either during performance of the services or after the services have been rendered under this agreement.

32. NOTICE

- a. Any notice, payment, direction or other instrument or communication required or permitted to be given under the provisions of this agreement will be made in writing and may be given by delivery of the same or by mailing the same by prepaid registered or certified mail or by sending the same by fax transmission, email transmission or other similar form of communication, in each case addressed as follows:

If to Courtenay at:                      830 Cliffe Avenue, Courtenay, BC, V9N 2J7  
Email: info@courtenay.ca  
Email: info@courtenay.ca  
Fax: (250) 334-4241

If to Emterra at: 2982 Ulverston Avenue, Cumberland BC, V0R 1S0  
Email: dave.ross@emterra.ca  
Fax: (250) 336-8077

- b. Any notice, payment, direction or other instrument or communication aforesaid, will, if delivered be deemed to have been given and received on the third business day following the day of mailing, except in the event of disruption of postal service existing at that time of mailing or within three (3) days thereof in which event notice will be deemed to be received only actually received and, if sent by facsimile transmission or other similar form of communication be deemed to have been given or received on that day it was sent.
- c. Any party may at any time give to the other notice in writing of any change in address of the party giving such notice and from and after the giving of such notice the address or addresses therein specified will be deemed to be the address of such party for the purpose of delivery of any notice, direction or instrument hereunder.

### 33. TIME OF ESSENCE

Time is of the essence in the performance of this agreement and of each of its terms.

### 34. ENUREMENT

This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

### 35. ENTIRE AGREEMENT

This agreement embodies the entire agreement and understandings between the parties relating to the subject hereof. This agreement supersedes all prior agreements, memoranda, correspondence, discussions, communications and negotiations between or by the parties.

### 36. HEADINGS

The headings to the provisions of this agreement are inserted for convenience of reference only and shall not form a part of nor affect the interpretation of this agreement.

### 37. ARBITRATION

In the event of any dispute between the parties in respect of the interpretation of this agreement or any matter to be agreed upon, such dispute shall be determined by a single



arbitrator appointed pursuant to the provisions of the *Commercial Arbitration Act* (British Columbia). The decision of the arbitrator shall be final and binding upon the parties.

### 38. BRIBES

Emterra hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of Courtenay for or with a view of obtaining of this agreement by Emterra any bribe, gift or other inducement and that it has not nor has any person on its behalf, employed any reason to solicit or secure this agreement upon agreement for a commission, percentage, brokerage or contingent fee.

### 39. ASSIGNMENT

Emterra will not assign this agreement without the prior written consent of Courtenay, which consent may not be unreasonably withheld.

### 40. CHANGE IN CONTROL

Any sale or other disposition of the shares in the capital of Emterra, resulting in a change of control or beneficial ownership of Emterra will be deemed to be an assignment under paragraph 34 hereof.

IN WITNESS WHEREOF the parties hereto have executed this agreement the date and year first above written.

SIGNED, SEALED AND DELIVERED )  
By THE CORPORATION OF THE CITY )  
OF COURTENAY by its authorized )  
signatories: )

\_\_\_\_\_  
Larry Jangula, Mayor

\_\_\_\_\_  
John Ward, Director of Legislative Services

SIGNED, SEALED AND DELIVERED )  
By HALTON RECYCLING LTD. by its )  
authorized signatories: )

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:



**Minutes of a City of Courtenay Heritage Advisory Commission meeting held June 25, 2014 at 10:00 a.m. in the City Hall Council Chambers**

**Present:** L. Burns J. Hagen D. Griffiths L. Grant  
J. Fortin H. Squire R. Smith E. Ferguson, staff

**Absent:** C. Piercy D. Levett

FOR  
info

**MINUTES** Moved by L. Grant and seconded by J. Hagen that the minutes of the May 28, 2014 meeting be adopted as circulated.

**Carried**

**TREE BYLAW** Moved by R. Smith and seconded by J. Hagen that the Heritage Advisory Commission would like to be involved in the identification, nomination and selection of significant trees to be protected as part of the new tree bylaw.

**Carried.**

**40 HOUSES** Tabled until September meeting.

**MILES TITUS** L. Burns preparing letters of thanks to those involved in the restoration and placement of the Miles Titus headstone.

**LETTERS OF APPRECIATION** J. Fortin has prepared the appreciation cards. L. Burns to sign and city to mail.

**CENTENNIAL COMMITTEE** Logo to be announced July 1, 2014.

**MUSEUM REPORT** D. Griffiths provided an update on the Museum's centennial activities. Discussion of a McPhee photo of Lewis Park and Bridge House Restaurant, Vesee's grocery, Mrs. Young's Photo Studio.

**CENTENNIAL WORKSHOPS** Every Wednesday at 1:00 pm at the Museum. Next workshop is July 2.

**BYLAW INQUIRY** L. Burns, E. Ferguson and J. Ward to meet and discuss updates to the Heritage Advisory Commission Bylaw.

**HERITAGE BC CONFERENCE** Moved by R. Smith and seconded by L. Grant that the HAC send J. Hagen and J. Fortin to the Annual BC Heritage Conference in Cloverdale.

**Carried.**

**CORRESPONDENCE** L. Burns reviewed Heritage BC Update.

FOR YOUR  
INFORMATION

Resident from Comox inquired about process of establishing a Heritage Advisory Commission.

E. Ferguson reported that there is a rezoning application for a house on the heritage inventory. The application is to rezone the property to allow the creation of a new single residential lot with a new dwelling. The original home is to remain on the adjacent lot.

Next Meeting: September 24, 2014 at 10 a.m.  
The meeting adjourned at 12:00 pm.

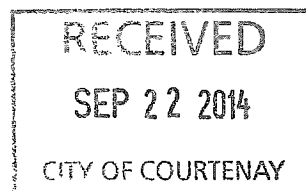
  
Chair





FEDERATION  
OF CANADIAN  
MUNICIPALITIES

FÉDÉRATION  
CANADIENNE DES  
MUNICIPALITÉS



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President  
Président

Brad Woodside  
Mayor,  
City of Fredericton, NB

First Vice-President  
Premier vice-président  
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City of Winnipeg, MB

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24, rue Clarence Street,  
Ottawa, Ontario K1N 5P3

T. 613-241-5221  
F. 613-241-7440

www.fcm.ca

September 15, 2014

City of Courtenay  
830 Cliffe Avenue  
Courtenay BC V9N 2J7

Dear Mayor Larry Jangula,

I want to personally thank you for organizing, mobilizing, and passing a council resolution supporting FCM's nationwide Fixing Canada's Housing Crunch campaign. Your actions and the success of this campaign demonstrate that when municipalities across this country stand together, our voices do grow louder.

When we first imagined this campaign, you, perhaps like me, wondered if we could connect the diverse experiences of cities and towns across Canada into one resounding message. Now, as we reflect on the over 200 municipalities representing more than 70 percent the Canadian population that have passed council resolutions supporting the campaign, it is clear that we have achieved just that. We have shown that whether we make our home in a small-town harbour, a towering urban skyline, or the hills of a rural horizon, we are united in our belief that everyone benefits from a stable and secure housing system.

Your organizing and leadership have raised the profile of housing as an issue of national concern. In addition to the over 200 resolutions passed, our message was amplified by an active social media campaign, community roundtable discussions, nation-wide media coverage, and outreach to members of parliament and by-election candidates. As our campaign comes to a close, we are preparing a report that summarizes what we heard in community housing roundtables and resolutions passed across the country. I look forward to sharing that report with you in the coming months.

The Housing Crunch campaign taught us what a powerful message it sends when grassroots leaders across the country mobilize their communities. Your resolution joined the chorus of voices asking the government to take stock of the state of housing in Canada and to work with all orders of government to develop a long-term plan for the future.

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Looking forward, we want to build on this success and apply it to our advocacy work in the 2015 Federal Election. This past month, at FCM's Annual Conference in Niagara Falls, we launched a national campaign encouraging all federal parties to recognize that a strong Canada begins with strong hometowns. To learn more about this exciting new campaign, you can visit [fcm.ca/hometowns](http://fcm.ca/hometowns) and sign up to become a Hometown Champion.

Thank you again for passing a council resolution and taking a leading role in fixing Canada's housing crunch. With your help, we can continue to keep the concerns of our hometowns front and centre with all orders of government.

Sincerely,

A handwritten signature in cursive script, reading "Brad Woodside".

Brad Woodside  
Mayor, City of Fredericton  
FCM President



FOR IMMEDIATE RELEASE

September 15, 2014

### **VOTING WITH THEIR FEET: ACTUAL QUALITY OF LIFE RANKINGS**

***In most 'best places to live' lists, subjective stats, skewed perspectives paint an unfair picture***

COURTENAY – It seems like every few months, a new 'best place to live in Canada' list pops up in media outlets across the country.

Focusing on a range of factors like weather, housing prices, culture, and even the number of luxury cars in a community, these oft-subjective lists are helpful in generating headlines (and anger amongst communities left out of the beauty pageant-like winners list), but in terms of real value: they're lacking.

The Island Coastal Economic Trust decided to do its own analysis with a different - and incredibly straightforward - methodology:

*The communities that are most desirable as a place to live are, quite simply, the communities that attract the most new residents compared to the number of former residents who move away.*

When that metric is applied to people who moved within Canada between 2006 and 2011, all seven urban centres in the ICET region attracted significantly more new residents from elsewhere in Canada than they lost. Who suffered the biggest outflow of Canadian residents? Toronto and Montreal, which were net exporters of 70,000 and 50,000 residents, respectively, to the rest of Canada.

Looking only at 25-49 olds (people in their prime working years) moving into a community versus out of a community, the Courtenay area ranks 14<sup>th</sup> nationally out of 147 urban centres with a net inflow of more than 1,200 people. Nanaimo is just behind, ranked at #16, with Campbell River coming in at #25. In fact, all seven of the ICET-region communities come out on the positive side of the ledger. So much for the perception that the region only attracts retirees.

"The bottom line is that there are a wide range of subjective lifestyle factors that people consider," said Line Robert, CEO of ICET. "The number of days of rain may not matter if it means there is no snow to shovel and you can golf, mountain bike and play soccer year round. We feel that the best measure is looking at how many new people, especially the young community building demographic, are choosing to make our communities their home for the long term."



Not surprisingly, ICET communities also fared well in the rankings for those aged 50+. This group tends to be more reflective of 'pure' quality of life, as employment becomes less of a pressing concern.

In the 50+ category, Parksville ranked #5 nationally, with Courtenay at #6. All seven ICET-region communities ranked in the top-third nationally. Once again, Canada's major metro areas ranked poorly, becoming the country's largest exporters of Baby Boomers.

The report, titled 'Voting with their Feet: Actual Quality of Life Rankings in Canada', was prepared by ICET's consulting economist, Jamie Vann Struth using data from Statistics Canada's 2011 National Household Survey.

"The typical 'best place to live' lists are wildly out-of-touch with the actual location decisions made by Canadians," stated Vann Struth. "One of those publications said that Port Alberni was the worst place to live in Canada, even though it attracted 465 more residents than it lost, including nearly 200 people of prime working age. It's clearly a desirable place."

To be fair to those major urban metros, they do fare well when it comes to attracting new international in-migrants (different from immigrants, as some of the people could be Canadian citizens returning from living abroad, or foreigners moving here temporarily).

"There are lots of places with great weather and natural beauty, but if there are no job prospects, is it really a great place to live? And there are places in Canada with huge opportunities for earning, but if the money wasn't there, people wouldn't be there either," said ICET Chair Phil Kent. "The truly 'best places to live' are the ones that have a combination that works for real people, and on that score, the Island Coastal region consistently stands out among the top places in the country."

Read the full report here: [islandcoastaltrust.ca/RESOURCES/ECONOMICANALYSIS](http://islandcoastaltrust.ca/RESOURCES/ECONOMICANALYSIS).

### **About the Island Coastal Economic Trust**

The Island Coastal Economic Trust is a \$50 million endowment established in 2006 by the Government of British Columbia to help diversify the economies of central and northern Vancouver Island and the Sunshine Coast.

ICET is guided by a Board of Directors and two Regional Advisory Committees which include more than 50 locally elected officials and MLAs and five appointees. This exceptional team of leaders collaborates to set regional priorities and build vital multi-regional networks.

Through a community-centred decision-making process, ICET has approved \$47.6 million for over 125 economic infrastructure and economic development readiness projects on the Island and Sunshine Coast since implementing its grant program in 2007. ICET investments have leveraged more than \$268 million in incremental funding into the region.

A full overview of ICET can be found at [www.islandcoastaltrust.ca](http://www.islandcoastaltrust.ca).

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**For further information:**

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# THE CORPORATION OF THE CITY OF COURTENAY

## BYLAW NO. 2803

### A bylaw to amend Zoning Bylaw No. 2500, 2007

The Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as “**Zoning Amendment Bylaw No. 2803, 2014**”.
2. That Division 3 Interpretation – Part 1 Definitions be hereby amended as follows:
  - (a) by adding the following:

‘*Cultural Facility*’ means a museum, art gallery, library or theatre for the performing arts.

‘*Farmers Market*’ means the temporary use of buildings, structures or land for the purpose of selling agricultural products, crafts and liquor and ancillary food concessions and entertainment.
  - (b) by removing the definition for ‘*care facility*’ and replaced with the following:

‘*Care facility*’ means a use or facility in which food, lodging and care or supervision is provided, with or without charge, to persons unrelated to the operator of the facility, who on account of age, infirmity, physical or mental disability, require special care.
  - (c) by removing the definition for ‘*Transportation depot*’ and replaced with the following:

‘*Transportation Depot*’ means premises used for the pick-up and discharge of fare paying, intercity and intracity bus, train and taxi passengers and may include vehicle bays and shelters and convenience retail stores.
3. That Division 8, Part 18, Commercial One Zone (C-1), Section 8.18.1, Permitted Uses be hereby amended by adding the following uses, and re-numbering this section accordingly:
  - (a) *Accessory buildings and structures*
    - Care facility*
    - Carriage house*
    - Cultural facility*
    - Duplex dwelling*
    - Farmer’s Market*
    - Granny flat*
    - Multi residential dwellings*
    - Secondary suite*
    - Single residential dwelling*
    - Studio*
  - (b) by removing the following:

(16) *Liquor Store* permitted only on the following properties:
    - Lot A, Plan VIP57166, except Plan VIP59867 (1095 Cliffe Avenue)
    - Lot 1, Plan VIP51746 (315 8<sup>th</sup> Street)

and replacing with the following:

(16) *Liquor Store*

(c) by removing the following:

(19) Micro-brewing limited to 400 m<sup>2</sup> and including *accessory retail* sale of goods produced on site

and replacing with the following:

(19) Micro-brewing, distilling and U-brew/U-Vin limited to 400 m<sup>2</sup> and including accessory sales

(d) by removing the following:

(20) *Museum*

and replacing with the following:

(20) *Cultural Facility*

(e) by removing the following:

(31) *Transportation depot* and taxi stand

and replacing with the following:

(31) *Transportation depot*

(f) by removing the following:

(32) Combined commercial residential uses are permitted provided that residential units are contained within a dual use *building* and are located above *storeys* used for commercial purposes, and that no *storey* is used for both commercial and residential purposes

and replacing with the following:

(32) Combined commercial/residential uses are within the same building or in separate buildings on the same property.

4. That Division 8, Part 18, Commercial One Zone (C-1), Section 8.18.6, be amended by removing Setbacks, and Figure #6: 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Street Map and replacing with the following:

Except where otherwise specified in this bylaw there are no setback requirements in the C-1 Zone

5. That Division 8, Part 18, Commercial One Zone (C-1), Section 8.18.8, Useable Open Space be removed.
6. That Division 8, Part 18, Commercial One Zone (C-1), be amended by removing Section 8.18.9, Off Street Parking and Loading and replaced with the following:

Notwithstanding any other provisions of this bylaw, parking and loading spaces as a requirement under Division 7, shall be deemed not to apply to properties zoned Commercial One Zone (C-1) except that one parking space is required for each residential unit.

7. This bylaw shall come into effect upon final adoption hereof.

Read a first time this 2<sup>nd</sup> day of September, 2014

Read a second time this 2<sup>nd</sup> day of September, 2014

Considered at a Public Hearing this 15<sup>th</sup> day of September, 2014

Read a third time this                                      day of                                      , 2014

Finally passed and adopted this                                      day of                                      , 2014

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Mayor

\_\_\_\_\_  
Director of Legislative Services

