

# THE CORPORATION OF THE CITY OF COURTENAY

## BYLAW NO. 2523

### A bylaw for the licencing and regulation of businesses

WHEREAS, Council may, pursuant to s. 8(6) of the *Community Charter*, regulate in relation to business;

AND WHEREAS, Council has given notice of its intention to adopt this Bylaw by publishing such notice in the Comox Valley Echo on January 11<sup>th</sup>, 2008 and January 15<sup>th</sup>, 2008, and has provided an opportunity for persons who consider they are affected by this Bylaw to make representations to Council at a Council meeting pursuant to s. 59 of the *Community Charter* on January 21<sup>st</sup>, 2008;

NOW THEREFORE, The Council of the City of Courtenay in open meeting assembled, enacts as follows:

#### SECTION 1 - INTRODUCTION

##### 1.1 TITLE

This bylaw may be cited for all purposes as "**Business Licence Bylaw No. 2523, 2008**".

##### 1.2 DEFINITIONS

In this Bylaw:

**"Auctioneer"** means a person who conducts auctions for the sale of goods by calling for bids and declaring goods sold.

**"City"** means the Corporation of the City of Courtenay, or the area governed by it.

**"Council"** means the Municipal Council of the City of Courtenay.

**"Food Cart"** means a non-motorized mobile cart with a maximum area of 4.65m<sup>2</sup>, from which food and/or drink is dispensed, and where the entire stock of goods offered for sale is carried and contained in the cart and which may change locations from time to time, and which is not located in a permanent building or structure, and is removed from public access when not in use.

**"Food Truck"** means a motorized, mobile, self-contained vehicle that is equipped to cook, prepare and/or serve food or beverages but does not include food trailers or food carts.

**"Food Trailer"** means a portable, self-contained trailer that is equipped to cook, prepare and/or serve food or beverages but does not include food carts.

**"Intermunicipal business licence"** means a business licence issued by a municipality that is party to the Courtenay-Comox Business Licence Agreement authorized by Intermunicipal Business Licence Agreement Authorization Bylaw No. 2464, 2006.

**“Licence Inspector”** means a person, or his designate, appointed by Council for the purpose of enforcing and carrying out the provisions of this bylaw and includes Building Inspectors and Bylaw Enforcement Officers.

**“Mobile Food Vending”** means the operation of a food service business from a food cart, food trailer or food truck.

**“Non-resident Business”** means a business, other than a resident business, carried on in the City, or with respect to which any work or service is performed in the City.

**“Person”** includes a corporation, partnership, proprietorship, firm and the personal or other legal representative of a person to whom the context may apply under this bylaw.

**“Resident business”** means a business carried on, in or from a premises or place located within the City.

## **SECTION 2 - GENERAL REGULATIONS**

- 2.1 No person shall carry on a business within the City without first:
- a. paying the fee for a business licence as described under Schedule A of this bylaw; and
  - b. obtaining a City business licence; or
  - c. being the holder of a valid intermunicipal business licence.
- 2.2 Any person carrying on more than one business shall obtain and pay for a separate business licence for each and every business.
- 2.3 Every person issued a licence to carry on a resident business shall keep the licence posted in a conspicuous place on the business premises named in the licence.
- 2.4 A business licence is not a representation or warranty that the licenced business complies with the bylaws of the City or with any other regulations or standards.
- 2.5 A licence inspector may grant a business licence when satisfied that the applicant has complied with the requirements of the bylaws of the City.
- 2.6 A licence inspector of the City may, subject to s. 16 of the Community Charter, enter at all reasonable times on any property that is subject to this bylaw to determine whether the regulations in this bylaw are being observed.
- 2.7 A licence inspector may refuse or suspend a licence for reasonable cause, including where a licensee:
- (a) has failed to comply with a term or condition of the licence,
  - (b) the licensee’s premises ceases to comply with a bylaw regulating building, land use, health, fire, environmental or business issues, or

- (c) is convicted of an offence under an Act or bylaw in respect of the business for which the licence has been issued or with respect to the premises named in the licence.
- 2.8 Where an applicant has been refused a licence, or a licence is suspended in accordance with this bylaw, the applicant may appeal the decision to Council. The licence inspector must notify the applicant or the licensee affected by the decision of their right to have the matter reconsidered by Council. On appeal, Council may confirm or set aside the refusal or suspension on any terms it may think fit.
- 2.9 No licence shall be transferred from one person in respect of certain premises to that same person in respect of other premises without the prior approval of the licence inspector and the payment of Twenty Dollars (\$20.00) for the required transfer fee. Such transfer fee shall be refused by the licence inspector where the premises to which the applicant wishes to transfer the licence does not comply with the requirements of the bylaws of the City.
- 2.9 Every holder of a licence shall notify the licence inspector of any change in the mailing and/or business address, the classification of the business, area of premises, or any alteration to the premises in which the business is carried out, and upon termination of the carrying on of business by the Licence Holder, he or she shall notify the licence inspector that the licence is no longer required and shall surrender the licence to the licence inspector.
- 2.10 No person shall offer for sale any goods or merchandise on a highway within the boundaries of the City except as provided elsewhere in this bylaw.

### **SECTION 3 - LICENCE FEES AND LICENCE PERIOD**

- 3.1 Except as hereinafter provided, licences shall be granted for a one-year period to commence the first day of January and to terminate the thirty-first day of December in each year.
- 3.2 The licence fee prescribed in this bylaw shall be reduced by one-half in respect of a business that becomes liable to be licensed after the thirty-first day of July in any year.
- 3.3 If a licensee continues to carry on business within the City and does not renew and pay for its licence prior to March 1<sup>st</sup> of each licence period (January 1<sup>st</sup> to December 31<sup>st</sup>), a late payment fee calculated at 25% of the annual licence fee will be applied.
- 3.4 If a licensee continues to carry on business within the City and does not renew and pay for their licence prior to June 1<sup>st</sup> of each licence period (January 1<sup>st</sup> to December 31<sup>st</sup>), a late payment fee calculated at 50% of the annual licence fee will be applied.
- 3.5 No refund of the annual licence fee shall be made because the licensee ceases to do business at any time. A licence fee shall be refunded only if the application is withdrawn prior to issuance of the business licence or if issuance of a business licence is refused.

### **SECTION 4 - AUCTIONEERS**

- 4.1 Every Auctioneer shall, whenever goods are put into his hands for sale, give a receipt containing an itemized statement of all such goods.
- 4.2 Every Auctioneer shall keep proper books of accounts of the business transacted by him as an Auctioneer, whether in public auction or elsewhere. The books shall record:

- (a) the names and addresses of persons entrusting goods to him for resale;
- (b) an itemized list of all such goods; and
- (c) the names and addresses of the persons purchasing any goods from him.

4.3 Every Auctioneer shall permit any police officer or a Licence Inspector to inspect the books referred to in the preceding sections, at all times during business hours, and to take extracts therefrom.

## **SECTION 5 - EXOTIC DANCING**

5.1 In respect of cabarets, nightclubs and other premises licenced for the on-premises consumption of liquor, a licence inspector may impose terms and conditions on the business licence relating to exotic dancing.

5.2 Exotic dancing shall only be permitted to be operated for a maximum of 3 consecutive days once per calendar month.

## **SECTION 6 - CIRCUSES AND CARNIVALS**

6.1 No licence shall be issued to any person for the purpose of holding an exhibition, circus or carnival, using ferris wheels, merry go rounds, or other similar rides until such person has filed with the Licence Inspector, evidence of his holding a Comprehensive Liability Policy of insurance for Five Million Dollars (\$5,000,000.00) inclusive limits covering bodily injury, death, and property damage including loss of use thereof. The insurance shall name the City as an additional insured.

## **SECTION 7 - CONTRACTORS**

7.1 All General Contractors shall supply a list to the Licence Inspector of all sub trades employed by them to the City prior to applying for an occupancy permit.

## **SECTION 8 - DOOR TO DOOR AND/OR DIRECT SALES**

8.1 Any door to door or direct sales person shall:

- (a) state to any person with whom he is conducting or attempting to conduct business, the name of the business or other organization with whom he is associated, affiliated or representing;
- (b) state to any person with whom he is conducting or attempting to conduct business, his full legal name consisting of all personal names and his surname;
- (c) when conducting or attempting to conduct business, have affixed to his clothing and clearly visible to the public, an identification card on which is printed his full legal

name and on which is affixed his photograph, said photograph being of passport size, namely 5 cm x 5cm (2" x 2");

- (d) display to any person with whom he is conducting or attempting to conduct business, a copy of the business licence issued hereunder.

## **SECTION 9 - ESCORT SERVICES**

9.1 Every person carrying on the business of or operating an "Escort Service" shall:

- (a) obtain a business licence for the agency and pay an additional fee for each escort to whom customers are referred by the escort service; and
- (b) provide a Business Licence Inspector with the name, address and birth date for each escort to whom customers are referred by the escort service, for approval from the Licence Inspector.

## **SECTION 10 - MOBILE FOOD VENDING**

10.1 No person shall operate mobile food vending within the City of Courtenay without first obtaining and maintaining a valid Mobile Food Vending licence for each mobile food vending unit in operation. Licences will be issued on a first come first served basis. Depending on demand for Mobile Food Vending on Public Property, time limits on the duration of stay may be imposed by the licence inspector.

10.2 No person shall operate mobile food vending without providing proof satisfactory to the City that the following permissions have been obtained, and regulations met:

- (a) Island Health Approval;
- (b) BC Safety Authority Approval;
- (c) Proof of Motor Vehicle Insurance (Food Trucks and Food Trailers);
- (d) Proof of Liability Insurance coverage which meets the following minimum requirements:
  - i. Inclusive limit of \$2,000,000 and Public Liability & Property Damage;
  - ii. Cross Liability Clause
  - iii. City of Courtenay named as joint insured under the policy
  - iv. Provide that the coverage under the policy cannot be cancelled or any provisions changed or deleted unless thirty days' prior written notice is given to the City by the Insurer.
- (e) A Discharge Management Plan satisfactory to the City of Courtenay that describes how and where fats, oils and grease will be disposed.

- 10.4 No person shall sell goods other than food and beverages from mobile food vending.
- 10.5 No person shall operate mobile food vending in locations other than the following:
- (a) Private Property zoned for Restaurant Use with the Mobile Food Business being at least a distance of 30 metres from an existing permanent food service establishment.
  - (b) City property and park locations as specified in Schedule 'B' attached hereto and forming part of this bylaw.
- 10.6 No person shall operate mobile food vending on private property, without first supplying the Licence Inspector with a written letter of permission from the owner of the property on which the vendor will be locating.
- 10.7 No person shall carry on a Mobile Food Vending business on public property unless located in a location specified in Schedule 'B' attached hereto and forming part of this bylaw, or under a permit issued by the City for Special Events.
- 10.8 No person shall operate or provide mobile food vending that is not maintained at all times in good sanitary and aesthetically pleasing condition.
- 10.9 No person shall operate or provide mobile food vending without its own power and water source. No person shall operate generators used to provide power if they, in the opinion of the City, create a disturbance.
- 10.10 No person shall operate or provide mobile food vending without providing proper waste and recycling receptacles adequate to ensure the cleanliness of the adjacent area. No person shall operate a mobile vending unit without a cleanup within a 10 metre radius after service at a location, and removing of all collected garbage from the location.
- 10.11 No person shall operate mobile vending without maintaining clearance on all sides of the mobile food vending unit such that pedestrians are able to easily and safely pass by without congestion.
- 10.12 No person shall operate mobile food vending in a manner that restricts or interferes with the ingress or egress of the adjacent property owner or constitute an obstruction to adequate access by emergency services, City services, or sanitation vehicles.
- 10.13 No person shall leave mobile food vending unattended.
- 10.14 No person shall store mobile food vending on public property overnight.
- 10.15 No person shall operate mobile food vending without maintaining a location log that tracks the time and duration of the food truck/trailer at each location and making the log available to the Licence Inspector upon request.
- 10.16 No person who is providing or operating mobile food vending shall use or allow to be used

any polystyrene (Styrofoam), non-recyclable or non-biodegradable materials in relation to the sale or delivery of food.

10.17 No person shall operate mobile food vending in public locations outside the following hours where applicable:

Public Property: 7:00 a.m. to 10:00 p.m.; or  
Park opening hours.

10.18 No person shall operate mobile food vending within:

- (a) 30 metres of an existing permanent food service establishment;
- (b) 100 metres of any elementary school;
- (c) 150 metres of a special event or festival (except where permission from the event coordinator has been obtained); and
- (d) Residentially zoned areas unless approved by the Licence Inspector for a special event such as a Block Party.

10.19. FOOD TRUCKS & FOOD TRAILERS

Size and Configuration:

No person shall provide or operate a food truck or trailer more than:

- (a) 2.5 metres in width; and
- (b) 8 metres in length.

## **SECTION 11 - OFFENCES AND PENALTIES**

11.1 Any person who violates any provision of this bylaw or who suffers or permits any act or thing to be done in contravention of the bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this bylaw shall be liable on summary conviction to a fine not exceeding Two Thousand Dollars (\$2000.00) and not less than the amount set out with respect to each section in Schedule 1 of Municipal Ticket Information Bylaw No. 2435, 2006 and amendments thereto. For each day that a violation is permitted to exist, it shall constitute a separate offence.

## **SECTION 12 - SEVERABILITY**

12.1 If any section, subsection, clause, sub-clause or phrase of this bylaw is for any reason held to be invalid, unlawful or unenforceable by the decision of any Court of competent jurisdiction, that section subsection, clause, sub-clause of phrase shall be struck from the Bylaw and its severance shall not affect the validity of the remaining portions of this Bylaw.

## **SECTION 13 - REPEAL AND ADOPTION**

13.1 “Business Licence Bylaw No. 1351, 1984” and all amendments thereto, are hereby repealed.

13.2 This bylaw shall come into full force and effect on adoption.

Read a first time this 7<sup>th</sup> day of January, 2008

Read a second time this 7<sup>th</sup> day of January, 2008

Read a third time this 7<sup>th</sup> day of January, 2008

Finally passed and adopted this 21<sup>st</sup> day of January, 2008

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Mayor

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Manager of Corporate Administration



**SCHEDULE A**  
**BYLAW NO. 2523, 2008**

**Business categories and annual licence fees payable:**

1. Apartments, Hotel, Motel, Hostel, Mobile Home Park, etc.(10 units or more) .....\$150.00  
*Under 10 Units..... \$50.00*  
*(a person having not more than two rooms for rent shall not be required to take out or hold a licence under this section)*
2. Auctioneer/Pawn Brokers/ Secondhand Dealer .....\$150.00
3. Automotive Dealer.....\$250.00  
*(includes new and used vehicles, recreational vehicles, motorcycles, etc.)*
4. Automotive Repair, Service Station .....\$150.00
5. Banks, Credit Unions .....\$1,500.00
6. Bingo Facility.....\$1,500.00  
*(as defined in Zoning Bylaw No. 2500)*
7. Brokers, Mortgage and Investment Companies .....\$250.00
8. Business Service  
*(operating as a non-resident or resident business, but not including retail).....\$100.00*
9. Exhibition/Circus/Carnival/Door to Door Sales .....\$100.00 per day
10. Escort Service .....\$500.00  
*+ per escort.....\$100.00*
11. Intermunicipal .....\$150.00  
*(as set out in Intermunicipal Business Licence Agreement Authorization Bylaw No. 2464, 2006)5*
12. Home Occupation.....\$75.00  
*(As defined in Zoning Bylaw No. 2500, 2007)*
13. Mini-Storage Facility .....\$150.00
14. Nightclub/Cabaret/Neighbourhood Pub.....\$1,000.00
15. Professional.....\$100.00  
*(a person carrying on a business that is governed by a Special Act, statute, etc)*
16. Radio/TV Station/Private Utility Company .....\$150.00
17. Retail/Wholesale

*every business which has a floor area (the area of which customers have normal access for shopping purposes) of:*

(a) under 4,000 sq.ft. ....	\$100.00
(b) 4,001 sq.ft. to 10,000 sq.ft. ....	\$250.00
(c) 10,001 sq.ft. to 20,000 sq.ft. ....	\$450.00
(d) over 20,001 sq.ft. ....	\$650.00
18. Restaurant .....	\$150.00
19. Snack Bar .....	\$50.00
20. Theatre/Movie Theatre/Concert Hall .....	\$250.00
21. Unclassified.....	\$100.00
22. Mobile Food Vendor on private property .....	\$150.00
(fees will not be prorated)	
23. Mobile Food Vendor on public property .....	\$450.00
(fees will not be prorated)	

## SCHEDULE 'B'

### Mobile Restaurant Locations on Public Property

Mobile Restaurants may operate on Public Property only in the following locations:

Location	Total Food Truck spots	Details
Lewis Park	4	<ul style="list-style-type: none"><li>• west of playing field near river and washrooms</li><li>• north of playing field to the right of the park entrance</li></ul> <p><i>(On selected dates, food truck spots would be unavailable due to special events in the park)</i></p>
Airpark	2	Grassy median off Mansfield Drive, south of Rotary Skypark
Standard Park	1	Gravel parking area

Specific locations are shown on the following maps.



Food Truck Location: Airpark near Rotary Skypark (two spots)



Food Truck Location: Lewis Park (four spots)



Food Truck Location: Standard Park (one site)