



## REVISED AGENDA - VICTORIA CITY COUNCIL

Thursday, July 19, 2018

COUNCIL CHAMBERS, CITY HALL, 1 CENTENNIAL SQUARE

Located on the traditional territory of the Esquimalt and Songhees People

To be held Immediately Following the Committee of the Whole Meeting

Pages

**A. CONVENE COUNCIL MEETING**

**B. APPROVAL OF AGENDA**

**\*C. CLOSED MEETING**

**MOTION TO CLOSE THE JULY 19, 2018 COUNCIL MEETING TO THE PUBLIC**

That Council convene a closed meeting that excludes the public under Section 90 of the *Community Charter* for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the *Community Charter*, namely:

Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

*Section 90(1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose*

**\*D. NEW BUSINESS**

**\*D.1 Legal Advice**

**\*E. RECONVENE OPEN MEETING**

**F. BYLAWS**

**\*F.1 Bylaw for Rezoning Application No.00645 for 230 Cook Street**

1

A report recommending:

- **1st and 2nd readings of:**
  - Zoning Regulation Bylaw, Amendment Bylaw (No. 1157) No. 18-074

The Rezoning Application is ready to proceed to Public Hearing and proposes

to add storefront cannabis retailer as a permitted use.

**\*F.2     Bylaw for Rezoning Application No. 00627 and Development Variance Permit Application No. 00063 for 3031 Jackson Street**

8

A report recommending:

- **1st and 2nd readings of:**
  - Zoning Regulation Bylaw, Amendment Bylaw (No. 1158) No. 18-075
- **1st, 2nd, and 3rd readings of:**
  - Housing Agreement (3031 Jackson Street) Bylaw No. 18-076

The Rezoning Application is ready to proceed to Public Hearing and proposes the construction of 8 attached dwelling units within 3 buildings.

**\*G.     CLOSED MEETING**

**MOTION TO CLOSE THE JULY 19, 2018 COUNCIL MEETING TO THE PUBLIC**

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Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

Section 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

Section 90(1)(k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.

**H.     APPROVAL OF CLOSED AGENDA**

**I.     READING OF CLOSED MINUTES**

**J.     UNFINISHED BUSINESS**

**K.     CORRESPONDENCE**

**L.     NEW BUSINESS**

**\*L.1     Deferred: Land**

2

L.2    Land

\*L.3    Proposed Municipal Service

\*L.4    Land

M.    CONSIDERATION TO RISE & REPORT

N.    ADJOURNMENT



## Council Report

For the Meeting of July 19, 2018

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**To:** Council **Date:** July 10, 2018  
**From:** C. Coates, City Clerk  
**Subject:** Zoning Bylaw, Amendment Bylaw (1157) Bylaw No. 18-074

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### RECOMMENDATION

That the following bylaw be given first and second readings:

1. Zoning Bylaw, Amendment Bylaw (1157) Bylaw No. 18-074

### BACKGROUND

Attached for Council's initial consideration is a copy of the proposed Bylaw No. 18-074.

The issue came before Council on May 24, 2018 where the following resolution was approved:

#### **230 Cook Street – Rezoning Application No. 00645 (Fairfield)**

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00645 for 230 Cook Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing be set.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Coates".

Chris Coates  
City Clerk

Report accepted and recommended by the City Manager:

A handwritten signature in black ink, appearing to read "Suzanne Thompson".

Date:

A handwritten date in black ink, "July 13, 2018".

#### **List of Attachments:**

- Bylaw No. 18-074



NO. 18-074

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Zoning Regulation Bylaw by adding storefront cannabis retailer as a permitted use in the CR-3M-1 Zone, Commercial Residential Apartment (Cook Street Village) District and to update Part 4.15.1 of Schedule B to the current format.

The Council of The Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the “ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1157)”.
- 2 The Zoning Regulation Bylaw is amended by replacing Part 4.15.1 of Schedule B with the provisions contained in Schedule 1 of this Bylaw.

READ A FIRST TIME the	day of	2018
READ A SECOND TIME the	day of	2018
Public hearing held on the	day of	2018
READ A THIRD TIME the	day of	2018
ADOPTED on the	day of	2018

CITY CLERK

MAYOR

**PART 4.15.1 – CR-3M-1 ZONE, COMMERCIAL RESIDENTIAL APARTMENT (COOK STREET VILLAGE) DISTRICT****4.15.1.1 Permitted Uses in this Zone**

The following uses are the only uses permitted in this Zone:

- a. Uses permitted in the CR-3M Zone, Commercial Residential Apartment Modified District;
- b. Liquor retail store; and
- c. Storefront cannabis retailer provided that only one storefront cannabis retailer is permitted to operate on a single lot.

**4.15.1.2 Size & Location of Uses**

- a. A storefront cannabis retailer must:
  - i) not occupy more than 77m<sup>2</sup>; and
  - ii) be located on the ground floor.
- b. The total area of a liquor retail store must not exceed 127 m<sup>2</sup>.

**4.15.1.3 General Regulations**

- a. Subject to the regulations in this Part 4.15.1, the regulations in the CR-3M Zone, Commercial Residential Apartment Modified District apply in this Zone.



NO. 18-074

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BYLAW (NO. 1157)”.
- 2 The Zoning Regulation Bylaw is amended by replacing Part 4.15.1 of Schedule B with  
the provisions contained in Schedule 1 of this Bylaw.

READ A FIRST TIME the day of 2018

READ A SECOND TIME the \_\_\_\_\_ day of \_\_\_\_\_ 2018

Public hearing held on the \_\_\_\_\_ day of \_\_\_\_\_ 2018

READ A THIRD TIME the \_\_\_\_\_ day of \_\_\_\_\_ 2018

ADOPTED on the \_\_\_\_\_ day of \_\_\_\_\_ 2018

CITY CLERK

MAYOR

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### 4.15.1.2 Size & Location of Uses

- a. A storefront cannabis retailer must:
  - i) not occupy more than 77m<sup>2</sup>; and
  - ii) be located on the ground floor.
- b. The total area of a liquor retail store must not exceed 127 m<sup>2</sup>.

### 4.15.1.3 General Regulations

- a. Subject to the regulations in this Part 4.15.1, the regulations in the CR-3M Zone, Commercial Residential Apartment Modified District apply in this Zone.





## Council Report For the Meeting of July 19, 2018

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**To:** Council **Date:** July 12, 2018  
**From:** Jonathan Tinney, Director, Sustainable Planning and Community Development  
**Subject:** Update Report for Rezoning Application No. 00627 and Development Permit with Variances Application No. 00063 for 3031 Jackson Street

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### RECOMMENDATION

That the following bylaws be given first and second readings:

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1158) No. 18-075

Further, that the following bylaw be given first, second, and third readings:

1. Housing Agreement (3031 Jackson Street) Bylaw (2018) No. 18-076.

### EXECUTIVE SUMMARY

The purpose of this report is to inform Council that, in accordance with Council's motion of May 24, 2018, the applicant has fulfilled the conditions set by Council in relation to Rezoning Application No. 00627:

- Preparation of a Housing Agreement to ensure that future Strata Bylaws cannot prohibit the rental of units, executed by the applicant to the satisfaction of City staff.
- Proof of an agreement with Modo, to the satisfaction of the Director of Sustainable Planning and Community Development, ensuring eight lifetime car share memberships that run with the individual units provided.

Respectfully submitted,

Handwritten signature of Michael Angrove in black ink.

Michael Angrove  
Planner  
Development Services

Handwritten signature of Jonathan Tinney in blue ink.

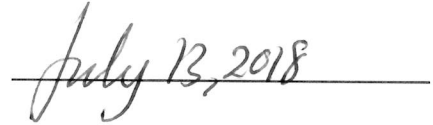
Handwritten signature of Jonathan Tinney in blue ink.

Jonathan Tinney, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date:



**List of Attachments:**

- Attachment A: Council Motion from May 24, 2018 Meeting
- Attachment B: Bylaw No. 18-075
- Attachment C: Bylaw No. 18-076
- Attachment D: Executed Car Share Agreement.



**E.1 3031 Jackson Street - Rezoning Application No. 00627 and Development Permit with Variances Application No. 00063 (Hillside/Quadra)**

Committee received reports dated May 10, 2018 from the Director of Sustainable Planning and Community Development regarding the rezoning of the property located at 3031 Jackson Street to permit the construction of eight, two-storey townhouse units within three buildings. Variances are being requested relating to reduced lot width and front, rear, and side yard setbacks.

*Committee discussed:*

- *Staff reporting back on the success of introduced Garry Oak Trees*

**Moved By** Councillor Young

**Seconded By** Councillor Coleman

**3031 Jackson Street - Rezoning Application No. 00627**

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00627 for 3031 Jackson Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation of a Housing Agreement to ensure that future Strata Bylaws cannot prohibit the rental of units, executed by the applicant to the satisfaction of City Staff.
2. Proof of an agreement with Modo, to the satisfaction of the Director of Sustainable Planning and Community Development, ensuring eight lifetime share memberships that run with the individual units are provided.

**3031 Jackson Street - Development Permit with Variances Application No. 00063**

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00627, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit with Variances Application No. 00063 for 3031 Jackson Street, in accordance with:

3. Plans date stamped March 29, 2018
4. Development meeting all *Zoning Regulation Bylaw* requirements, excepts for the following variances:
  - i. reduce the lot width from 60.0m to 53.17m

- ii. reduce the separation space between the building with units 1 & 2 and the building with units 3 & 4 from 7.50m to 4.90m
  - iii. reduce the separation space between the building with units 3 & 4 and the building with units 5, 6, 7, & 8 from 7.50m to 7.30m
  - iv. reduce the distance between the building with units 1 & 2 and the building with units 3 & 4 from 10.0m to 4.90m
  - v. reduce the distance between the building with units 3 & 4 and the building with units 5, 6, 7, & 8 from 10.0m to 6.68m.
5. Revised plans, to the satisfaction of the Director of Sustainable Planning and Community Development, that state the 7.0m distance behind visitor parking stalls 3, 12, & 13 does not exceed an 8% grade.
6. The Development permit lapsing two years from the date of this resolution."

**CARRIED UNANIMOUSLY**

NO. 18-075

## A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw by creating the RJ-10 Zone, Jackson Street Townhouse District, and to rezone land known as 3031 Jackson Street from the R1-B Zone, Single Family Dwelling District to the RJ-10 Zone, Jackson Street Townhouse District.

The Council of The Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1158)".
- 2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended in the Table of Contents of Schedule "B" under the caption PART 2 – ATTACHED DWELLING ZONES by adding the following words:  
  
"2.148 RJ-10 Zone, Jackson Street Townhouse"
- 3 The Zoning Regulation Bylaw is also amended by adding to Schedule B after Part 2.147 the provisions contained in Schedule 1 of this Bylaw.
- 4 The land known as 3031 Jackson Street, legally described as PID 005-840-767, Lot 3, Section 4, Victoria District, Plan 6385, and shown hatched on the attached map, is removed from the R1-B Zone, Single Family Dwelling District, and placed in the RJ-10 Zone, Jackson Street Townhouse District.

READ A FIRST TIME the	day of	2018
READ A SECOND TIME the	day of	2018
Public hearing held on the	day of	2018
READ A THIRD TIME the	day of	2018
ADOPTED on the	day of	2018

CITY CLERK

MAYOR



**PART 2.148 – RJ-10 ZONE, JACKSON STREET TOWNHOUSE DISTRICT****2.148.1 Permitted Uses in this Zone**

The following uses are the only uses permitted in this Zone:

- a. Uses permitted in the R-J Zone, Low Density Attached Dwelling District, subject to the regulations set out in Part 2.2 of the Zoning Regulation Bylaw.
- b. Notwithstanding subsection (a), two family dwellings are subject to the regulations in Part 2.1, except as otherwise specified in this Part.

**2.148.2 Number of Buildings on a Lot**

The maximum number of two family dwellings on one lot shall be two.

**2.148.3 Height**

The maximum height of a two family dwelling shall be 8.5m from grade to the highest ceiling.

**2.148.4 Setbacks, Separation Space, Distance Between Buildings**

- a. Front yard setback (minimum) 7.5m
- b. Rear yard setback (minimum) 7.5m
- c. Side yard setback (minimum) 7.5m, except the side yard of a blank wall or of a wall containing only side windows shall have a minimum width of 2.5m.
- d. The minimum separation space in front of a main window of a habitable room shall be 7.5m, and in front of all other windows shall be 2.5m
- e. The minimum distance between the two nearest dwelling walls of any two family dwelling on one lot shall be 10.0m.





NO. 18-076

**HOUSING AGREEMENT (3031 JACKSON STREET) BYLAW**  
**A BYLAW OF THE CITY OF VICTORIA**

The purpose of this Bylaw is to authorize an agreement for rental housing for the lands known as 3031 Jackson Street, Victoria, BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria enacts the following provisions:

**Title**

- 1** This Bylaw may be cited as the "HOUSING AGREEMENT (3031 JACKSON STREET) BYLAW".

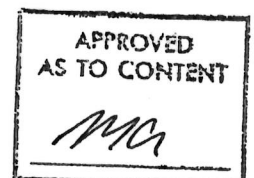
**Agreement authorized**

- 2** The Mayor and the City Clerk are authorized to execute the Housing Agreement
- (a) substantially in the form attached to this Bylaw as Schedule A;
  - (b) between the City and Beverley Irene Canfield and Brian Albert Canfield or other registered owners from time to time of the lands described in subsection (c); and
  - (c) that applies to the lands known as 3031 Jackson Street, Victoria, BC legally described as:  
 PID 005-840-767  
 Lot 3, Section 4, Victoria District, Plan 6385

READ A FIRST TIME the	day of	2018
READ A SECOND TIME the	day of	2018
READ A THIRD TIME the	day of	2018
ADOPTED on the	day of	2018

CITY CLERK

MAYOR



**HOUSING AGREEMENT**  
(Pursuant to Section 483 of the *Local Government Act*)

BETWEEN:

**THE CORPORATION OF THE CITY OF VICTORIA**

#1 Centennial Square  
Victoria, B.C.  
V8W 1P6  
(the "City")

OF THE FIRST PART

AND:

Beverley Irene Canfield and Brian Albert Canfield  
420-6880 Wallace Drive, Brentwood Bay, B.C. V8M 1N8  
CANADA

(the "Owner")

OF THE SECOND  
PART

**WHEREAS**

- A. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*;
- B. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 3031 Jackson Street, Victoria, BC and legally described as:  
PID: 005-840-767 Lot 3, Section 4, Victoria District, Plan 6385  
(the "Lands").
- C. The Owner has applied to the City to rezone the Lands from R-1B to a Site Specific Zone.
- D. The Dwelling Units are intended to be stratified and therefore will be subject to the *Strata Property Act* (British Columbia) and the bylaws of the Strata Corporation, but the intent of this Housing Agreement is to ensure the perpetual availability of rental units (in

addition to owner-occupied units);

- E. The City and the Owner wish to enter into this Agreement, as a Housing Agreement pursuant to section 483 of the *Local Government Act*, to establish the terms and conditions regarding the occupancy of the residential units identified in this Housing Agreement.

**NOW THIS AGREEMENT WITNESSES** that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this Agreement, the parties agree each with the other as follows:

## **1.0 Definitions**

### **1.1 In this Agreement:**

**"Development"** means the proposed townhouse complex on the Lands to include 8 townhouse Dwelling Units.

**"Dwelling Unit"** means a self-contained residential dwelling unit within the building that *is/will be* located on the Lands, and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise, and "Dwelling Units" means collectively all of such residential dwelling units located on the Lands.

**"Immediate family"** includes a person's husband, wife, child, mother, father, brother, sister, mother-in-law, father-in-law, grandparent, brother-in-law, sister-in-law, niece and nephew.

**"Non-owner"** means a person who occupies a Dwelling Unit for residential purposes, other than the Owner of that Dwelling Unit, and other than a member of the Owner's Immediate family.

**"Owner"** includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 7.3.

**"Tenancy Agreement"** means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act only as it is in force and effect as at June 14, 2017.

**"Strata Corporation"** means, for the portions of the Lands or any building on the Lands that is subdivided under the *Strata Property Act*, a strata corporation as defined in that Act, including the Owner while in control of the strata corporation and subsequently the individual strata lot owners collectively acting as the strata corporation.

### **1.2 In this Agreement:**

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and



- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

## **2.0 No Restrictions on Rentals**

- 2.1 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.
- 2.2 Without limiting the generality of section 2.1, the Owner covenants and agrees that it will not make application to deposit a strata plan for or in respect of the Lands or a building on the Lands unless the strata bylaws in no way restrict rental of any Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.
- 2.3 For certainty, if the Lands or the Development on the Lands are subdivided under the *Strata Property Act*, the Dwelling Units within the Development may be occupied by the Owners of the strata lots.

## **3.0 Reporting**

- 3.1 The Owner covenants and agrees to provide to the City, upon written request from the City's Director of Sustainability Planning and Community Development, a report in writing confirming:
  - (a) the number, type and location by suite or strata lot number, of Dwelling Units that are being rented to Non-owners; and
  - (b) any changes or proposed changes to the Strata Corporation's bylaws that may affect the terms of this Agreement.
- 3.2 The Owner covenants and agrees:
  - (a) to exercise its voting rights in the Strata Corporation against the passage of any bylaws that would restrict the availability for rental of any Dwelling Unit under the terms of a Tenancy Agreement unless this Agreement is amended; and
  - (b) to notify the City of any proposed amendments to its strata bylaws.
- 3.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications to this Agreement and that such consent may be withheld for any reason.

## **4.0 Notice to be Registered in Land Title Office**

- 4.1 Notice of this Agreement ("**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483(5) of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

## **5.0 Liability**

- 5.1 The Owner agrees to indemnify and save harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement.
- 5.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

## **7.0 General Provisions**

### Notice

- 7.1 If sent as follows, notice under this Agreement is considered to be received
- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
  - (b) on the date of delivery if hand-delivered,
- to the City:

City of Victoria  
#1 Centennial Square  
Victoria, BC V8W 1P6  
Attention: Director of Sustainability Planning and  
Community Development  
Fax: 250-361-0386

to the Owner:

Beverley Irene Canfield and Brian Albert Canfield  
420-6880 Wallace Drive, Brentwood Bay, B.C.  
V8M 1N8, CANADA

or upon registration of a strata plan for the Lands, to the Strata Corporation, and to the Owner of any Dwelling Unit that is subject to the restrictions under section 2.1.

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slow-down, force majeure, or other cause,

- (a) notice sent by the impaired service is considered to be received on the date of delivery, and
- (b) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

#### Time

7.2 Time is to be the essence of this Agreement.

#### Binding Effect

7.3 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

#### Waiver

7.4 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

#### Headings

7.5 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

#### Language

7.6 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

#### Equitable Remedies

7.7 The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

#### Cumulative Remedies

7.8 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

#### Entire Agreement

- 7.9 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

#### Further Assurances

- 7.10 Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

#### Amendment

- 7.11 This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

#### Law Applicable

- 7.12 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

#### No Derogation from Statutory Authority

- 7.13 Nothing in this Agreement shall:
- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
  - (b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

#### Joint and Several

- 7.14 The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

#### Counterpart

- 7.15 This Agreement may be executed in counterparts and delivered by facsimile or emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

Effective Date

7.16 This Agreement is effective as of the date of the signature of the last party to sign.

**IN WITNESS WHEREOF** the parties have hereunto set their hands as of the dates inscribed at a place within British Columbia:

**THE CORPORATION OF THE CITY OF VICTORIA** by its authorized signatories:

MAYOR \_\_\_\_\_

CITY CLERK

Date signed: \_\_\_\_\_

**Owner:**

**Witness:**

Print Name:

**Address:**

Occupation:

### As to Both Signatures

Date Signed:

Beverley Irene Canfield

**Brian Albert Canfield**

**CO-OPERATIVE CARSHARING AGREEMENT**

**This Agreement** dated this 8th day of June, 2018, is made

**BETWEEN:**

**Brian and Beverley Canfield**

**("the Developer")**

OF THE FIRST PART

**AND:**

**MODO CO-OPERATIVE,**  
a Cooperative Association incorporated pursuant to  
the *Cooperative Association Act* of British Columbia

**("Modo")**

OF THE SECOND PART

**WHEREAS:**

- A. The Developer proposes to develop Town Houses with a total of eight (8) strata lots on the property known by its current civic address as:  
**3031 Jackson Street, Victoria B.C.,**  
and more particularly known and described as:  
**PID: 005-840-767**  
**Legal lot description – Lot 3, Section 4 VD Plan 6385**  
**(the "Development")**
- B. Modo is a co-operative that facilitates carsharing for individuals and businesses as an alternative to privately-owned automobiles;
- C. Modo will, at its cost, operate, maintain, repair and insure carsharing vehicles and administer the carsharing program;



- D. The Developer and Modo wish to ensure that the occupiers of the Development, as Owners of the units or Tenant of the units, are able to become members of Modo by virtue of their ownership or lease of the units of the Development

**WHEREFORE in consideration of the premises and the mutual covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:**

## **I. DEFINITIONS**

**"Agreement"** means this agreement, the attached Schedule A referred to in this agreement, and every properly executed instrument which by its terms amends, modifies, supplements, or extends this agreement;

**"Arbitrator"** means a member in good standing of the Arbitrators Association of British Columbia;

**"Building Permit"** means the building permit issued by the City of Victoria, or applicable local government authority;

**"Developer"** means the parties of the first part to this agreement and any heirs, administrators, successors, assigns, subsidiaries or nominees of the parties of the first part who may assume the right, title or interest in the Development and/or this agreement from the parties of the first part, and expressly includes any party which may manage or operate the Development from time to time;

**"Development"** means the strata housing development referred to in Article A of the recitals herein, and includes the property and the building being developed during and after the development has been completed;

**"Membership Obligations"** means and includes any and all obligations or liabilities that a member of Modo or other person who participates in MODO's activities, including any Tenant, may have or incur to Modo or any other member of Modo or any other person as a result of or in connection with such membership in Modo, participation in the activities of Modo, use of Modo's vehicles, or otherwise associated with the ownership of shares of Modo including, without limiting the generality of the foregoing, the obligation to pay any fee, monthly administrative fee, charge, fine or other cost to Modo or any other person;

**"Occupancy Date"** means the date that the City of Victoria issues the first occupancy permit for the Development;

**"Occupancy Permit"** means the Occupancy Permit issued by the City of Victoria or applicable local government on completion of the construction of the Development;

**"Owner"** means the first and each subsequent registered owner or owners of a Strata Lot, from time to time;

**"Participating Strata Lot"** means one of 8 Strata Lots for which the Developer has assigned the Subject Shares;

**"Rental Agreement"** means any agreement between a party and an Owner for the occupancy of a Strata Lot in the Development for any length of time;

**"Strata Corporation"** means the strata corporation to be formed pursuant to the *Strata Property Act*, S.B.C. 1998, c. 43, upon deposit of the Strata Plan at the Victoria Land Title Office;

**"Strata Lot"** means a strata lot shown on the Strata Plan;

**"Strata Plan"** means the strata plan of the Development;

**"Subject Shares"** means the specific membership shares in Modo purchased by the Developer on behalf of the Strata Corporation, the beneficial interest in which attaches to the respective Strata Lots; and

**"Tenant"** means the first and each subsequent party renting a Strata Lot in the Development, from time to time;

## **II. OBLIGATIONS OF THE DEVELOPER**

1. The Developer will be the developer of the Development, upon which there is to be built a development containing eight (8) Strata Lots, each one a Strata Lot.
2. On the issuance by the City of Victoria of the appropriate and approved Building Permit or Permits or similar purpose document for the Development, the Developer will forthwith tender payment of \$4,000.00 to Modo, representing the price to purchase eight (8) memberships at a cost of \$500 per membership. [There are Fifty (50) Modo Subject Shares on behalf of each membership and a Subject Share price of \$10, for a total price \$4,000.00].
3. The Developer will deposit the Strata Plan of the Development at the Victoria Land Title Office, thereby creating the Strata Corporation pursuant to the *Strata Property Act*, S.B.C. 1998, c. 43.
4. The Developer will cause the Strata Corporation to become party to this Agreement at its inception upon the deposit of the Strata Plan with the Victoria Land Title Office and the creation of the Strata Corporation.
5. Upon stratification as carried out under Articles 3 and 4, and on completion of the Developer's obligations under Article 2, the Developer will cause fifty (50) Subject Shares for each of the eight (8) Participating Strata Lots to be transferred to each Owner of a Participating Strata Lot by way of the Strata Corporation subject to Article 10 herein.

(4/11)



6. Subject to Article 17 herein and concurrent with stratification, the Developer will ensure that a bylaw in the form attached hereto as Schedule A will be included with the bylaws filed with the stratification documents or will be added as an addition to the Standard Bylaws provided by the *Strata Property Act*.
7. The Developer warrants and agrees the Developer will cause its subsidiaries and any successors or assigns or any successors or assigns of the Developer or its interests to continue to be bound by the terms of this Agreement.
8. The Developer agrees that Modo will not be under any obligation whatsoever to provide share equity for use at the Development if Modo has not received full payment from the Developer by the required deadlines of the sums owing in Article 2 of this Agreement.

### **III. OBLIGATIONS OF THE STRATA CORPORATION**

9. The fifty (50) Subject Shares allotted for each of the eight (8) Participating Strata Lots will be registered in the name of the Strata Corporation. The Strata Corporation will hold fifty (50) Subject Shares each for the benefit of the Owner of each of the eight (8) Participating Strata Lots in accordance with this Agreement.
10. The Developer will cause the Strata Corporation to have bylaws registered in the Victoria Land Title Office dealing with its ownership of the Subject Shares. For greater clarity, and notwithstanding those bylaws listed in Schedule A, the bylaws of the Strata Corporation will include, *inter alia*, provisions to the following effect:
  - (a) each of the Subject Shares will have a notation indicating that it is issued and to be held by the Strata Corporation pursuant to this Agreement;
  - (b) an Owner of a Strata Lot who wishes to participate in the benefits of membership in Modo must apply to Modo, satisfy Modo's requirement for membership and enter into such agreements that Modo may require from its members generally;
  - (c) an Owner of a Participating Strata Lot may only have the benefit of membership in Modo attached to the fifty (50) Subject Shares held by the Strata Corporation for the benefit of such Owner for as long as the Owner is the registered owner of the Participating Strata Lot;
  - (d) no Owner of a Participating Strata Lot has any right to require Modo to redeem the fifty (50) Subject Shares held by the Strata Corporation for the benefit of such Owner or to receive any amount that may be payable upon the redemption thereof;
  - (e) on a Record Date the Strata Corporation will be entitled to receive any dividend on the fifty (50) Subject Shares held by the Strata Corporation for the benefit of each Owner of a Participating Strata Lot, such dividends which may be declared by Modo as being payable to the owners of its shares on such Record Date; and

- (f) each Owner of a Participating Strata Lot will be responsible for and will save the Strata Corporation harmless from any and all Membership Obligations incurred by such Owner and any and all actions, causes of action, costs or claims of whatsoever type or nature levied or made by Modo or by any other person as a result of or in connection with such Owner's participation in the activities of Modo, use of Modo vehicles or otherwise associated with the fifty (50) Subject Shares of Modo held by the Strata Corporation for the benefit of such Owner.
11. Once the Strata Corporation becomes a party to this Agreement, the Strata Corporation covenants and agrees with Modo that the Strata Corporation will cause the Owners of the Strata Corporation, including their tenants, heirs, administrators and assigns, to comply with Modo Co-operative Subject Shares Bylaw, attached hereto as Schedule A and to be incorporated into the Bylaws of the Strata Corporation.
12. Every three (3) calendar months from Occupancy Date, Modo will provide the Strata Corporation with a written list of the names of all Owners and Tenants who exercise the benefits of Modo membership. Upon receipt of this information, the Strata Corporation will immediately inform Modo in writing which Owners and Tenants have ceased to be Owners and Tenants respectively, and unless otherwise advised, Modo will cancel the outgoing Owners and Tenants' beneficial ownership in the Subject Shares.

#### **IV. OBLIGATIONS OF MODO CO-OPERATIVE**

13. Modo will provide the Developer with marketing materials to promote active carshare membership to potential Owners and Tenants. Modo personnel will also be available for promotions to realtors and other interested parties.
14. Modo will provide orientation and membership activation services to all Owners and Tenants wishing to use Modo vehicles.
15. Modo will indemnify and save harmless the Developer, its subsidiaries, successors and assigns from any and all liability arising out of Modo's authorized use, operation or maintenance of its vehicles.

#### **V. TERMINATION AND MODIFICATION**

16. The Developer and Modo agree that, if after execution of this Agreement, through no fault of their own, the Developer does not receive the Occupancy Permit from the City of Victoria and/or appropriate public body then this Agreement shall be terminated and both parties will be relieved of their obligations hereunder.
17. Modo reserves the right to modify its rules governing membership and the usage and deployment of its vehicles, as set out in the bylaws of Schedule A. Upon any modification, Modo shall immediately notify the Strata Corporation in writing.

18. If the Development is destroyed and not rebuilt in a form substantially similar to the original buildings, then Modo may cancel all membership shares held by the Strata Corporation for the benefit of the Owners of the Participating Strata Lots in the Development, and neither the Developer nor the Strata Corporation will be entitled to a refund of the share purchase price.
19. Either party shall have the right to terminate this Agreement forthwith on the dissolution, winding up or bankruptcy of the other party.
20. Neither party shall transfer or assign this Agreement to any other party without the prior written consent of the parties to this Agreement, which consent shall not be unreasonably withheld.

#### **VI. DEFAULT**

21. A party claiming default under the terms of this Agreement must provide defaulting party with thirty (30) days written notice of the default. If the defaulting party fails to correct the default within 30 days of receipt of the written notice, the party claiming default may proceed with the dispute resolution procedures provided for herein.

#### **VII. DISPUTE RESOLUTION**

22. Dispute resolution and claims of default under this Agreement may be mediated by agreement between the parties and under rules imposed by a mutually agreed upon mediator.
23. Unless there is a mutual agreement to the contrary, the parties covenant and agree that all disputes and claims of default between parties to the Agreement herein arising under or from the terms of this Agreement must be submitted to an accredited British Columbia arbitration facilitator or centre for arbitration for resolution.
24. Unless there is a mutual agreement to the contrary, the provisions of the *British Columbia Commercial Arbitration Act*, R.S.B.C. 1996 c. 55 and amendments thereto shall be followed with regard to all arbitration procedures commenced under this section.
25. All arbitrations under this section shall be before a single arbitrator chosen by mutual agreement of the parties. If the parties are not able to agree to the arbitrator, then the arbitrator will be chosen at random by the arbitration facilitator or centre from a roster of arbitrators kept by the arbitration facilitator or centre.
26. The parties covenant and agree that an arbitrator appointed hereunder has the power, among other things, to specifically declare that a party to this Agreement is in default of the terms of the Agreement and, in appropriate circumstances,



declare that the Agreement is terminated and award damages for breach of contract or otherwise.

### **VIII. NOTICES**

27. Notices under this Agreement shall be provided in writing to the following the addresses or electronic mail addresses set out below:

**Brian and Beverley Canfield**  
**420 – 6880 Wallace Drive**  
**Brentwood Bay, B.C., V8M 1N8**

**Email: Brian\_Canfield@telus.net**

**MODO CO-OPERATIVE**  
200 – 470 Granville Street  
Vancouver, BC, V6C 1V5

Email: info@Modo.coop

28. All notices are deemed to have been delivered on the next business day following its posting or emailing.
29. Addresses for notice may be amended by written notice from one party to the other.

### **IX. ASSIGNMENT**

30. Modo may not assign its interest in this Agreement without the prior written consent of Developer.

### **X. SEVERABILITY**

31. If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

### **XI. INDEMNITY**

32. Modo agrees to indemnify and save harmless Developer from and against all losses, costs, damages, suits, actions, causes of action, claims or demands in any way resulting from, connected with or arising out of this Agreement.

### **XII. ENTIRE AGREEMENT**

33. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior



understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein.

**XIII. AMENDMENT**

34. No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the parties hereto.

**XIV. BINDING EFFECT**

35. This Agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, legal and personal representatives, successors and permitted assigns of the parties, as applicable.

**XV. NO WAIVER**

36. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

**XVI. EXECUTION BY COUNTERPARTS**

37. This Agreement and any amendment, supplement or termination of any provision herein, may be executed and delivered in counterparts by facsimile or other electronic means, each of which so executed and delivered counterpart is an original, and such counterparts together, will constitute one and the same agreement.

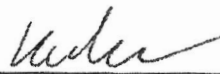
**IN WITNESS WHEREOF:**

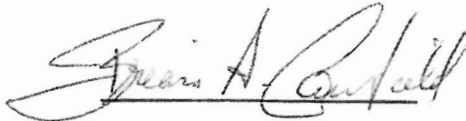
The parties have executed this Agreement on the 8<sup>th</sup> day of June/2018.

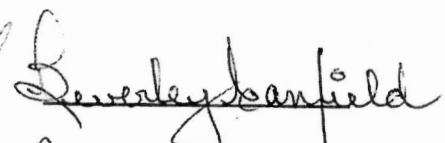
**MODO CO-OPERATIVE**  
doing business as Modo  
by its authorized signatory

**Brian Canfield**

**Beverley Canfield**







Karen New  
**Print Name**

BRIAN CANFIELD  
**Print Name**

BEVERLEY CANFIELD  
**Print Name**



## **SCHEDULE A**

### **MODO CO-OPERATIVE SUBJECT SHARES BYLAW TO BE INCORPORATED INTO THE BYLAWS OF THE STRATA CORPORATION**

1. The Strata Corporation has entered into an Agreement with Modo Co-operative ("Modo") whereby Modo has issued fifty (50) shares for the benefit of the current Owner of each Participating Strata Lot in the Strata Corporation (the "Agreement").
2. Each Owner of a Participating Strata Lot is entitled to the benefit of fifty (50) shares of Modo without payment, the legal ownership of which vests with the Strata Corporation. If there is more than one Owner of a strata lot, the shares will be beneficially held jointly.
3. In order for an Owner to make use of Modo vehicles, the Owner must apply to use them, such application including but not limited to the following:
  - (a) The Owner must prove current ownership of a Participating Strata Lot by providing Modo with a copy of an official land title document indicating the Owner is the owner of the Participating Strata Lot; and
  - (b) The Owner must provide contact information and any other information required by Modo regarding the Owner that would allow Modo to determine if the Owner qualifies to exercise the rights and benefits of membership as provided herein and by the Rules and policies of Modo as posted on its website and updated from time-to-time.
4. Tenant of an Owner of a Participating Strata Lot may make use of Modo vehicles as if the Tenant was a member of Modo, pursuant to the Policies and Rules of membership in Modo and subject to the limitations set out herein.
5. In order for a Tenant to make use of Modo vehicles, the Tenant must apply to use them, such application including but not limited to the following:
  - a) The Owner of a Participating Strata Lot or Strata Corporation must provide written notice to Modo of the name of the Tenant or Tenants that are to exercise the benefits of Modo membership; and
  - b) The Tenant must prove current residency at a Participating Strata Lot by providing Modo with a copy of its tenancy agreement or a copy of its driver's records indicating the address of the Participating Strata Lot; and
  - c) The Tenant must provide contact information and any other information required by Modo regarding the Tenant that would allow Modo to determine if the Tenant qualifies to exercise the rights and benefits of

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membership as provided herein and by the Rules and policies of Modo as posted on its website and updated from time-to-time.

6. The Owner of a Participating Strata Lot shall not enjoy benefits of the shares where a Tenant of the Owner has successfully applied to make use of Modo vehicles as defined by Bylaw 5 herein.
7. Each Owner and Tenant entitled to a beneficial interest in the shares may only exercise the rights and benefits of shareholding if the person or persons would otherwise qualify and /or meet the requirements for those rights and benefits as posted on Modo's website and updated from time-to-time.
8. If at any time an Owner or Tenant does not meet the criteria for the rights and benefits of membership, then the Owner or Tenant may not exercise any Modo membership rights and benefits until such time that the Owner or Tenant may again qualify for the rights and benefits of membership according to the rules for such membership as set out herein and in the Rules and policies of Modo.
9. Each Owner and Tenant entitled to a beneficial interest in the shares may exercise all rights and remedies available to shareholders of Modo, excluding voting rights, subject to the Rules of Modo.
10. Except as provided under this bylaw, the benefits of Modo membership may only be exercised by the Owners of Strata Lots, and the beneficial interest in such shares and may not under any circumstances be assigned, transferred or sold by the shareholder or shareholders except as provided herein.
11. Subject Shares in Modo attach to the Participating Strata Lot and are legally owned by the Strata Corporation, the benefit of which is enjoyed by the current Owner of the Participating Strata Lot. Any sale of a Participating Strata Lot by an Owner will also include, as a benefit of that sale, a transfer of the beneficial interest in the Subject Shares in Modo to the new Owner.
12. Every three (3) calendar months, Modo will provide the Strata Corporation with the names of all Owners and Tenants who exercise the benefits of Modo membership. Upon receipt of this information, the Strata Corporation will immediately inform Modo in writing which Owners and Tenants have respectively ceased to be Owners and Tenants, and unless otherwise advised, Modo will cancel the outgoing Owners' and Tenants' beneficial ownership in the Subject Shares.
13. No Owner or Tenant is entitled to compensation or a refund of shares purchase price upon the transfer of any shares or benefit as provided herein, and no Owner or Tenant may demand or otherwise require Modo to refund or redeem the shares issued by Modo.



14. Owners and Tenants may decide to cease exercise the benefits of Modo membership, but the shares remain in the name of the Strata Corporation and attach to the Participating Strata Lot.
15. Upon the destruction of a Participating Strata Lot, and if there is a decision not to rebuild the Participating Strata Lot, then the share and share purchase price of the Strata Corporation and the Owners is absolutely forfeited to Modo without right of compensation of any kind.
16. If this bylaw is repealed or replaced, then the share and share purchase price of each of the shares of the Strata Corporation and any beneficial interest accruing to the Owner is absolutely forfeited to Modo without right of compensation of any kind.

