

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2415

Being a By-law for licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a license to an applicant who is not of good character or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on and for ascertaining by such means as this By-law provides whether an applicant is not of good character or his premises are not suitable for the business and for determining the time the license shall be in force; and for revoking any such license.

WHEREAS the Municipal Act R.S.O. 1960 Chapter 249, Section 399(1), Paragraph 7 authorizes the Council to pass By-laws for the purposes therein stated;

AND WHEREAS the Council of the Corporation of the City of North Bay deems it advisable to enact the within By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY HEREBY ENACTS AS FOLLOWS:

1. The provisions of this By-law shall be applicable to and have full force and effect within the territorial limits of The Corporation of the City of North Bay.
2. For the purposes of this By-law:
  - (a) "Building Inspector" shall mean the Building Inspector for the time being of The Corporation of the City of North Bay.
  - (b) "City" shall mean The Corporation of the City of North Bay.
  - (c) "Chief Constable" shall mean the Chief Constable for the time being of The Corporation of the City of North Bay.
  - (d) "Council" shall mean the Council of The Corporation of the City of North Bay.
  - (e) "Deputy Chief Constable" shall mean the Deputy Chief Constable for the time being of The Corporation of the City of North Bay.
  - (f) "Deputy Fire Chief" shall mean the Deputy Fire Chief for the time being of The Corporation of the City of North Bay.
  - (g) "Enforcement Officer" shall include the License Inspector and any member of the City Police Department or City Fire Department.
  - (h) "Fire Chief" shall mean the Fire Chief for the time being of The Corporation of the City of North Bay.
  - (i) "License Inspector" shall mean the License Inspector for the time being of The Corporation of the City of North Bay.
  - (j) "Person" shall include firm, partnership, company, corporation, club or organization.

3. Subject as hereinafter provided, in the City of North Bay no auctioneer or other person shall sell or put up for sale goods, wares, merchandise or effects by public auction without being licensed so to do under the provisions of this By-law.
4. (a) No license shall be issued under the provisions of this By-law unless the application therefor is approved by Council.  
(b) No license shall be granted under the provisions of this By-law to an applicant who is not of good character or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on.  
(c) The Council may revoke any license granted under this By-law.
5. (a) The application for a license under this By-law shall be in writing on forms to be provided by the City and shall be fully completed and signed by the applicant.  
(b) Theaforementioned application shall contain the following information:
  - (i) The full name, residence address, business address and telephone number of the applicant and each partner if any;
  - (ii) If the applicant is a company, corporation, club or organization, the Head Office address, business address and telephone numbers as well as the full names, addresses and telephone numbers of the principal officers thereof;
  - (iii) The names, addresses and telephone numbers of three character references and three business references;
  - (iv) The location or street address of the premises where the applicant intends to carry on the business of auctioneer.
6. The Chief Constable or the Deputy Chief Constable and the License Inspector shall make all proper investigations pertaining to the applicant for a license as aforesaid in order to ascertain if the applicant is of good character and they shall report thereon to Council.
7. The Building Inspector and the Fire Chief or Deputy Fire Chief shall examine the premises proposed to be used by an applicant for a license under this By-law to ascertain whether the said premises are suitable for the business of an auctioneer or are upon a residential or other highway in which it is deemed not desirable that the said business should be carried on and they shall report thereon to Council.
8. The applicant for a license under this By-law shall pay the prescribed license fee prior to the issue thereof.
9. The license fee payable pursuant to the provisions of this By-law is hereby fixed and set at the sum of \$100.00 and shall expire on the 31st day of December of the year in which such license is issued.

10. A license issued pursuant to the provisions of this By-law shall not be transferable.
11. A licensee under this By-law shall, at all times, keep conspicuously posted in the premises where he carries on the business of auctioneer the license issued pursuant to the provisions of this By-law.
12. A licensee under this By-law who conducts an auction at a location or in premises other than his own place of business shall keep conspicuously posted for the duration of such auction at such location or premises his name, business address, telephone number and license number under this By-law.
13.
  - (a) A licensee under this By-law shall keep proper books of account of the business transacted by him as an auctioneer which books shall contain the names and addresses of the owners or persons depositing the goods, wares, merchandise or effects to be sold, the description of same, the prices for which the same may be sold, the names and addresses of the persons purchasing such goods, wares, merchandise or effects or any portion thereof, the sale prices thereof and shall forthwith after the sale of same or any portion thereof, prepare and deliver to such owners or persons proper statements of account setting forth the particulars of the sales and shall pay to such respective owners or persons the proceeds of such sales less the licensee's proper and legal commissions and charges. Where no sale is made of goods, wares, merchandise or effects, such goods, wares, merchandise or effects shall, upon demand, be forthwith returned to the owners or other persons entitled to receive same upon payment of the licensee's proper costs and charges.
  - (b) A licensee under this By-law, at all times, shall keep the premises where he carries on the business of auctioneer in a neat and orderly condition and in a manner satisfactory to the Fire Chief or the Deputy Fire Chief.
  - (c) A licensee under this By-law shall promptly obey all lawful orders of the Chief Constable, Deputy Chief Constable, the Fire Chief or Deputy Fire Chief and the Building Inspector.
14.
  - (a) All books of account required to be kept by a licensee under the provisions of this By-law shall be open for inspection by any Enforcement Officer at any time during business hours.
  - (b) It shall be the duty of the Enforcement Officer to enforce the provisions of this By-law and he shall have the right to be present at any auction being conducted by the licensee and he shall not be hindered or obstructed in any way whatsoever.
15. A licensee under this By-law shall not:
  - (a) Conduct any mock auction;
  - (b) Permit to be conducted on his premises any mock auction;

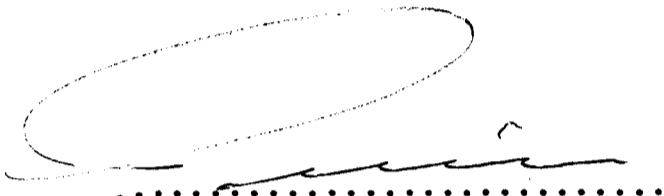
- (c) Make, authorize or allow any misrepresentation as to the type, quality, quantity, value or price of any goods, wares, merchandise or effects which may be offered for sale or sold by auction;
  - (d) Commit or allow any unlawful act on the premises where he carries on the business of an auctioneer or in connection with any auction being conducted by him;
  - (e) Engage, authorize or permit any person known in the auction trade as a "beater", "booster" or "shill" or other person to take part in any auction for the purpose of raising or stimulating bids;
  - (f) Conduct an auction sale on the streets of the City.
16. The following provisions of The Sale of Goods Act, R.S.O. 1960 Chapter 358, Section 56 shall be deemed to be incorporated in and form part of this By-law:
- Section 56      In case of a sale by auction,
- (a) where goods are put up for sale in lots, each lot is prima facie deemed to be the subject of a separate contract of sale;
  - (b) a sale is complete when the auctioneer announces its completion by the fall of a hammer or in any other customary manner, and until such announcement is made any bidder may retract his bid;
  - (c) where a sale is not notified to be subject to a right to bid on behalf of the seller, it is not lawful for the seller to bid himself or to employ a person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer;
  - (d) a sale may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller;
  - (e) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction.
17. No person shall sell or put up for sale by public auction goods, wares, merchandise or effects which have been brought into the City for such purpose.
18. Any person convicted of a breach of any of the provisions of this By-law shall forfeit and pay, at the discretion of the convicting Magistrate, a fine or penalty not exceeding the sum of \$300.00 for each offence, exclusive of costs, to be recoverable under the Summary Convictions Act.
19. This By-law shall take effect immediately upon the final passing thereof.

20. All previous By-laws or sections of By-laws of The Corporation of the City of North Bay relating to the licensing, regulating and governing of auctioneers and other persons as referred to in this By-law shall be deemed to be and they are hereby repealed.

READ A FIRST TIME IN OPEN COUNCIL THIS 2ND DAY OF OCTOBER 1967.

READ A SECOND TIME IN OPEN COUNCIL THIS 16TH DAY OF OCTOBER 1967.

READ A THIRD TIME IN OPEN COUNCIL THIS 16TH DAY OF OCTOBER 1967.  
/AND FINALLY ENACTED AND PASSED



.....  
MAYOR



.....  
CITY CLERK