

THE CORPORATION OF THE CITY OF NANAIMO, B. C.

BY-LAW, NO. 328.

LICENSE BY-LAW.

A By-Law respecting the licensing of persons selling beverages made from malts or hops and containing alcohol.

THE MAYOR AND COUNCIL of the City of Nanaimo in open meeting assembled enact as follows:-

I N T E R P R E T A T I O N.

1. In the construction and for the purpose of this By-Law the following words and terms shall have the meaning hereby assigned to them unless repugnant to the context hereof:-

(1) "INSPECTOR" shall mean the person employed by the Council as License Collector for the purpose of enforcing and carrying out the provisions of this By-Law or any person so employed as Assistant Inspector.

(2) The word "COUNCIL" shall mean the Mayor and Council of the City of Nanaimo;

(3) "CITY" shall mean the City of Nanaimo;

(4) The word "PERSON" shall, when necessary, be held and construed to mean and include natural persons of either sex, corporations, associations, co-partnerships, whether acting by themselves, or by a servant, agent, employee, and the heirs, executors, administrators, successors, and assigns or other representatives of such person to whom the context shall apply according to law; the singular shall, when necessary, be held to mean and include the plural; and the masculine the feminine, and the converse;

(5) "APPLICANT" shall mean any person who makes out and signs an application for any license under the provisions of this By-Law;

(6) The term "RETAILER OF BEVERAGES" shall mean and include any person who sells by retail any beverages made from malts or hops or containing any alcohol;

(7) The word "DISPENSER" shall mean and include any person who serves or dispenses any beverages in any premises licensed under this By-Law;

(8) The words "LICENSED PREMISES" shall mean and include the premises in or upon which any licensee is licensed to sell beverages under the provisions of this By-Law;

(9) The word "BEVERAGES" shall mean and include any and every combination of drinks made from malt or hops or any drink containing alcohol;

(10) The words "STANDARD HOTEL" shall mean any building occupied and carrying on the business of a hotel, and which contains not less than Thirty Bedrooms in the same building of the dimensions, requirements, and regulations hereinafter set out; that is to say:-

(11) Every bed-room hereinbefore referred to shall contain at all times at least eight hundred (800) cubic feet of space, and shall have a wall window to open at least two feet square for the admission of fresh air, and shall be properly furnished, and have a proper complement of bedding and furniture for same;

Provided, however, that nothing herein contained shall be deemed to include any article lawfully permitted to be sold by any licensed or certificated chemist in the ordinary course of business.

2. No person shall carry on, maintain, own or operate any trade, occupation, or business set forth in section 4 and Schedule "A" of this By-Law, and more particularly described therein unless and until he has procured a license to do so, for each place of business, and paid therefor such sums as are speci-

fied in said Schedule "A", which sum shall in all cases be paid in advance.

3. Every person so licensed shall be subject to the provisions of this By-Law, and non-compliance with any of the provisions shall be deemed to be an infraction of the same, and shall render any person infringing any of the said provisions liable to the penalties contained in this By-Law.

4. A license shall be taken out by the following persons:

- (1) Every person carrying on the business of a retailer of beverages.
- (2) Every person retailing beverages under shop licenses.

GRANT OR REFUSAL OF LICENSES.

5. (1) All applications for a license under this By-Law shall be made to the Council on an application form to be provided for that purpose.

(2) Upon receipt of such application, and before granting any license thereon, the Council shall ascertain as to whether the applicant is a fit and proper person to hold such license and shall give the applicant an opportunity of being heard, and said Council may grant such license, or refuse the same and in case of refusal, the Council shall state reasons for same.

(3) All applications for licenses shall set forth the premises in or upon which the applicant desires and intends to carry on the occupation, trade, or business for which he is licensed, and no person to whom a license is granted shall carry on such occupation, trade, or business in or upon any other premises than those set forth in such application and license without first making an application under this section for a new license or under the next-succeeding section for a transfer of such license.

(4) All premises in or upon which the applicant proposes to carry on or conduct any trade or business subject to the provisions of this By-Law shall first be approved of by the Council before any license is granted to any person to carry on or conduct any such trade or business therein.

TRANSFER OF LICENSES.

6. (1) Any person desiring to obtain a transfer of any license or part interest in any license held under this By-Law by him or by any other person shall make an application in every respect the same as that required to obtain a license as set forth in the preceding section, and the powers, conditions, requirements, and procedure hereinbefore contained relating to the granting and refusal of licenses and appeals thereon shall apply to such applications.

(2) Any person who shall sell his interest, or part of his interest, in, or any person who shall purchase the interest of, or any part of the interest of any person licensed under this By-Law in any occupation, trade, or business in respect of which a license has been issued under the provisions of this By-Law, and shall carry on or continue such occupation, trade or business without first having obtained a transfer shall be guilty of an infraction of this By-Law, and be liable to the penalties thereof.

(3) The amount payable in respect of any transfer shall be as set forth in Schedule "A" of this By-Law.

LICENSES, PERIOD OF PAYMENT OF SUCH.

7. (1) All licenses granted under this By-Law, and unless the same become sooner forfeited, shall be for the year current at the time of issuing thereof, and shall expire on the fifteenth day of July next succeeding the date of issue of same; and no

proportionate reduction shall be made on account of any person commencing business at any particular time.

(2) Every license issued under this By-Law shall be made out in duplicate, one copy shall be delivered to the person licensed (who shall post the same and keep the same posted in a conspicuous place in the premises and anyone failing to post up and keep posted as aforesaid, shall be guilty of an infraction of this By-Law and liable to the penalties thereof), and the Collector shall retain the other copy.

REVOCATION AND SUSPENSION OF LICENSES.

8. (1) Whenever the Council deems it desirable that any license granted under this By-Law should be revoked or suspended, the Council may, subject to the provisions of this By-Law, revoke or suspend (for any such time as they think proper) such license, but the Council shall state their reasons for revoking or suspending such license, but in the case of the revocation of any license hereunder the Treasurer of the City shall refund to the Licensee such proportionate part of the license fee as will represent the unexpired portion of the term for which such license was granted, unless such revocation is occasioned by a breach of the law having been made by such Licensee; provided, however; that no such license shall be revoked by the Council unless and before the party to whom such license is granted shall have been given an opportunity of appearing before the Council and showing cause why such license should not be revoked.

(2) In the event of any person licensed under this By-Law being convicted of any violation of any statute of the Dominion of Canada or of the Province of British Columbia, or of any By-Law of the City, the Chief Constable of the City is hereby authorized to suspend the license held by such person pending the action of the Council, and shall report to the Council within twenty-

four (24) hours of any such suspension, provided that such suspension shall only be deemed to be in force and effect pending action by the Council at its next regular meeting.

INSPECTION OF LICENSED PREMISES.

9. Every person to whom a license has been granted under this By-Law for the purpose of carrying on any occupation, trade, or business shall, at all reasonable times, permit the Chief of Police, or any Police Officer, or any person duly authorized in that behalf, to so inspect such house, place, premises, or thing in respect of which such license has been granted, and any person who shall refuse to allow the Chief of Police, or any Police Officer or any person duly authorized in that behalf, to so inspect such house, place, premises, or thing shall be guilty of an infraction of this By-Law, and shall be liable to the penalties hereof.

RETAILERS OF BEVERAGES.

10. (1) No license shall be granted to any person for the retailing of beverages in or upon any premises unless such premises are adapted to such business, and are well lighted and ventilated, and suitably provided with sanitary conveniences, to the satisfaction of the Sanitary Inspector, who shall report to the Council every three months on the Sanitary condition of such premises,

(2) No license shall be granted to any person for the retailing of beverages in or upon any premises, in which are contained any boxes, sub-divisions, partitions, curtains, compartments, or obstructions exceeding four feet in height, or where the windows or outer or inner doors are curtained or obscured in any manner over four and a half ($4\frac{1}{2}$) feet in height.

(3) No license shall be granted to any woman unless she be the owner or tenant in her own right of the premises for which the license is sought, and she shall satisfy the Council that the business to be carried on is for her own use and benefit.

(4) No license shall be granted to any person under the age of twenty-one years.

(5) No person licensed under this By-Law shall allow or permit any person under the age of Twenty-one (21) years to enter or remain upon his premises.

(6) No license shall be granted to any person unless he be the owner or bona fide tenant of the premises for which he is applying for a license.

(7) No person licensed under this By-Law shall rent or sub-lease any part of his premises without the consent of the Council.

(8) No dancing, singing, concerts or other musical entertainments or performances or other attractions of any kind whatsoever, shall be allowed in or upon any licensed premises hereunder. Provided that nothing herein contained shall prohibit the playing of music in such premises.

(9) No person licensed under this By-Law shall allow any intoxicated person to enter or remain upon his premises, and he shall at all times keep good order in or upon his premises.

(10) The entrance for customers to all licensed premises shall lead direct from the street or highway upon which such premises are situated, and no other entrance for customers shall be allowed to such premises (excepting in the case of a hotel and then only when the licensee is the licensee of the hotel premises.)

(11) There shall be a window in all licensed premises where beverages are sold that will permit a full view of such premises from the outside at all times during prohibited hours as hereinafter defined, and such premises shall be sufficiently lighted during such prohibited hours to give a full view of said premises from the outside.

(12) No licensee shall sub-rent or sub-lease or permit or allow any person to use any part of his premises for a taxi-cab office and for taxi-cab purposes.

(13) It shall be unlawful for any person to peddle beverages.

(14) No license shall be granted to any person for any premises, (other than shop licenses) under this By-Law, except for premises situate upon the following Streets, namely:- Commercial Street, Bastion Street, Victoria Crescent, Comox Road, Haliburton Street, Front Street, Church Street, Chapel Street and Fitzwilliam Street. And not more than one license shall be granted to any person in respect to any premises situated on any street above mentioned, provided, however, that this prohibition shall not apply to cases of persons applying for licenses for standard hotels, as defined in this By-Law, or to persons applying for licenses in respect to licensed restaurants, in which case licenses may be granted for as many standard hotels and restaurants as are situated in the said block, and no license shall be granted to any person for any premises, except such premises have been previously licensed as a hotel, situate on the above described streets and roads where said premises are situated within a radius of three hundred (300) feet measured along any travelled road, street, or way from any building occupied exclusively as a church, or as a high school, or as a public school, or university or college or any public education institution; the mode of measurement to be from the main entrance of any such buildings as aforesaid following the centre line of any street, road, or highway and across the same at right angles between the aforesaid premises (sought to be licensed) and any of the above described buildings affected or alleged to be affected by the granting of the license applied for, provided that the erection of any religious or educational building or institution shall not operate as a ground for cancellation of any license heretofore in existence.

(15) No person licensed under this By-Law shall allow or permit any person to enter or remain in said premises, nor shall he supply any beverage to any person between the hour of eleven (11) o'clock on Saturday night and the hour of seven (7) o'clock on Monday morning nor upon the other days of the week between the hour of twelve (12) o'clock in the evening and the hour of seven (7) o'clock in the following morning.

SHOP LICENSES.

12. Notwithstanding anything in this By-Law contained, a license may be granted to any person for the purpose of retailing beverages where such beverages are not to be consumed in or upon such premises or appurtenant to such or over which he has control; and no dispenser's license shall be required to be taken out by any person selling such beverages under such license.

PENAL CLAIMS.

13. Any person guilty of an infraction of this By-Law shall, upon conviction thereof before the Mayor, Police Magistrate, or any two Justices of the Peace, or other Magistrate or Magistrates having jurisdiction in the City of Nanaimo, on the oath or affirmation of any credible witness, forfeit and pay at the discretion of the Mayor or Magistrates convicting a fine or penalty of not less than Fifty Dollars (\$50.00) and not exceeding the sum of One Hundred Dollars (\$100.00) and costs for a first offence, and for a second offence not less than one hundred dollars (\$100.) and not exceeding Two Hundred dollars (\$200.) and costs, and for a third offence a like fine shall be imposed and the license shall be cancelled forthwith; and in the default of payment thereof, forthwith it shall be lawful for such Mayor, Police Magistrate, Justices, or other Magistrate or Magistrates convicting as aforesaid to issue a warrant under his or their hand and seal to levy the said

fine or penalty and costs or costs only by distress and sale of the offender's goods and chattels, and in case of no distress found to satisfy the said fine or penalty, it shall and may be lawful for the Mayor, Police Magistrate, Justices or other Magistrate or Magistrates conviction as aforesaid to commit the offender to the common gaol or any lock-up house for any period not exceeding two months (with or without hard labor) unless the said fine or penalty be sooner paid.

14. This By-Law shall come into force and take effect on and after the 15th day of July, A. D., 1920.

Passed by the Municipal Council of the Corporation of the City of Nanaimo, on the Ninth day of July, 1920.

Reconsidered and finally adopted by the Municipal Council of the Corporation of the City of Nanaimo on the Twelfth day of July, 1920.

H. Hackwood
City Clerk.

E. J. Purdy
Mayor



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E. J. Purdy

SCHEDULE "A".

1. Every Retailer of Beverages ----- \$200.00 per annum.
\$100.00 on the 15th July, and
\$100.00 on the 15th January.
2. Retailer of Beverages under ----- 50.00 " "
Shop License within the meaning
of the Law.
\$25.00 on the 15th July and
\$25.00 on the 15th January.
3. Transfer fee, 20% of original
amount of fee.