

Corporation of the Town of Newmarket

By-law 2020-XX

A By-law to regulate and licence businesses to operate in the Town of Newmarket.

Whereas Section 151 of the Municipal Act 2001, S.O. 2001, c25, as amended, establishes that a municipality may provide for a system of licences with respect to a business;

And whereas the Council of the Town of Newmarket deems it advisable to pass such by-law;

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. Title

This By-law may be known and cited for all purposes as the “Business Licence By-law 2020-XX”.

2. Definitions

In this By-law:

“**Animal**” means any member of the animal kingdom other than a human;

“**Appeals Committee**” means the **Appeals Committee** established by the **Town**;

“**Applicant**” means a **Person** applying for a **Business Licence** to carry on a **Business**, activity, or undertaking pursuant to this By-law;

“**Attendant**” means any **Person** other than a licensed **Owner** or **Operator** who provides Services designed to appeal to the needs of a particular **Business**;

“**Bird**” means a warm-blooded egg-laying vertebrate distinguished by the possession of feathers, wings, and a beak and (typically) by being able to fly;

“**Bed and Breakfast**” means a dwelling or part of a dwelling in which not more than three (3) bedrooms are used or maintained for the accommodation of the travelling public, in which the **Owner**-occupant supplies lodgings with or without meals for hire or pay;

“**Business**” means the carrying on of a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal, or other services as identified within this By-law, but does not include any activity carried on by the government, its agencies, or government owned corporations;

“**Business Licence**” or “**Licence**” means a **Licence** to operate a **Business** pursuant to this By-law;

“**Council**” means **Council** for the Corporation of the **Town** of Newmarket;

“Fees and Charges By-law” means the **Town** of Newmarket **Fees and Charges By-law** 2019-52, as amended;

“Licensing Officer” means an individual appointed by the **Town** as a **Municipal Enforcement Officer** or any other individual designated by the **Town** to enforce this By-Law;

“Lot” means a parcel of land which is legally capable of being conveyed in accordance with the Planning Act R.S.O. 1990, Chapter 13 as amended, or is described in accordance with a registered Plan of Condominium.

“Market” means sell, offer for sale, promote, canvass, solicit, rent, advertise, book, arrange or facilitate sale or rental, and includes placing, posting, or erecting advertisements physically or online;

“Municipal Enforcement Officer” means an individual appointed by the **Town** as a Municipal Law Enforcement Officer or any other individual designated by the **Town** to enforce this By-law;

“Operator” or **“Owner”** means any **Person** that operates or owns a **Business** as identified in this By-law;

“Permanent Resident” in respect of any dwelling or **Lot** means a **Person** who normally resides in a dwelling on the **Lot** and for these purposes a **Person** cannot normally reside at more than one location;

“Person” includes a natural **Person**, corporation, partnership or party, and the **Personal** or other legal representatives or a **Person** to whom the context can apply according to law;

“Pet Store” means a **Premises** in which animals or **Birds** for use as pets, or goods and merchandise associated with such animals or **Birds**, are offered or kept for **Retail** sale or rental to the public;

“Premises” means the area of a building and/or **Lot** occupied or used by a **Business** or enterprise. In a multiple tenancy buildings occupied by more than one **Business**, each **Business** shall be considered a separate **Premises**;

“Prohibited Animals” means an animal identified as a "prohibited animal" as listed in the **Town’s** Animal Control By-law Schedule 'A', as amended;

“Retail” means the sale of products or goods to the ultimate consumer, usually in small quantities, in the ordinary course of **Business**;

“Short Term Rental” means all or part of a dwelling unit used to provide temporary sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment. This includes a **Bed and Breakfast** but excludes hotels, motels and accommodations where there is no exchange for remuneration;

“Short Term Rental Company” means any **Person** who facilitates or brokers **Short Term Rental** reservations via the internet and who:

- (a) receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a **Person** making or completing reservations of those **Short Term Rentals**; or
- (b) collects, accesses, or holds information on the number of nights that reservations of those **Short Term Rentals** are made or completed.

This definition does not apply to a **Person** who facilitates or brokers reservations for a **Short Term Rental** that is the principal residence of that person or their immediate family. In this definition, **“Person”** includes multiple

Persons who, acting together, carry on the **Business** of a **Short Term Rental Company**, despite the fact that no single one of those **Persons** carries on the activity in its entirety, and such may be held jointly and severally responsible for each other's actions;

"Sign By-law" means the **Town** of Newmarket **Sign By-law** 2017-73, as amended;

"Town" means the Corporation of the **Town** of Newmarket in the Regional Municipality of York;

"Veterinarian" means a **Person** qualified and authorized to practice veterinary medicine;

"Zoning By-law" means the **Town** of Newmarket **Zoning By-law** 2010-40, as amended.

3. General Regulations

- (1) A **Person** must not carry on any **Business** unless that **Person** holds a valid and subsisting **Business Licence** issued to that **Person** for that **Business** within the **Town**.
- (2) Every **Business** shall comply with all federal, provincial, and municipal by-laws and regulations applicable to the **Business** and the **Business Premises**.
- (3) If a **Person** operates a **Business** at more than one **Premises**, that **Person** shall apply for and maintain a separate **Business Licence** for each **Premises**.
- (4) If a **Person** operates more than one type of **Business** at the same **Premises**, that **Person** shall apply for and maintain a separate **Business Licence** for each **Business**.
- (5) Every holder of a **Business Licence** shall post or display the **Business Licence** at the place of **Business** in a location visible to customers and suppliers attending the **Business**.
- (6) Every **Business Licence** issued shall be deemed to be a personal **Business Licence** to the licensee therein named.
- (7) A valid **Licence** will permit a **Business** to conduct the specific activities to the stated extent described in the **Licence** application. If a **Business** entity makes any changes to the information contained in its **Business Licence** application or information, undertakes new **Business** activities or expands those activities, it is required to obtain a new **Business Licence** or a **Business Licence** amendment for those activities.
- (8) No **Person** operating a **Business** within the **Town** shall **Market** that **Business** or its products and services through any means of promotion unless:
 - (a) the **Person** operating that **Business** is the holder of a valid **Business Licence** issued pursuant to this By-law;
 - (b) the **Business** name being promoted or marketed matches the named endorsed on the **Business Licence**; and
 - (c) the marketing offers products and services that comply with **Town** by-laws and related enactments.
- (9) No **Person** shall carry on a **Business** of any kind, in any way or manner on **Town** owned property, parks, boulevards, highways or

other public property unless specifically authorized to do so by a permit under this Bylaw or another enactment.

4. Administration and Enforcement

- (1) Through delegated authority, the Manager may:
 - (a) grant, issue, or amend a **Business Licence** if the **Licensing Officer** is satisfied that the **Applicant** has complied with all of the by-laws of the **Town** and related enactments that apply to the **Applicant's Business**;
 - (b) suspend, cancel, or refuse to issue a **Business Licence** in accordance with Section 7 of this By-law;
 - (c) impose conditions on a **Licence** at the time of issuance, renewal, or suspension for the purposes of ensuring compliance with all applicable enactments pertaining to the **Business**;
 - (d) conduct inspections and investigations to ensure that all regulations and provisions prescribed in this By-law are carried out; and
 - (e) prepare, from time to time, forms to be used for the purpose of making applications under this By-law.
- (2) No **Person** shall Obstruct or attempt to Obstruct a **Licensing Officer** or other **Person** who is exercising a power or performing a duty under this By-law.

5. Licence Fees

- (1) **Business Licence** fees shall be in accordance with those specified in the **Town of Newmarket Fees and Charges By-law**.
- (2) An administrative penalty of 25% of the renewal fee shall be added to each unpaid **Business Licence** after 31 days from the renewal date. If unpaid by this time, the **Licence** shall be revoked and a new **Business Licence** application shall be required.
- (3) If an application for a **Licence** is withdrawn, in writing, prior to the issuance of the **Licence**, the **Licence** Fee shall be refunded to the **Applicant** if a **Licence** was pre-paid.
- (4) No **Licence** Fee shall be refunded after the issuance of a **Licence**.

6. Application and Renewal

- (1) The terms of a **Business Licence** issued under this By-law are for a period commencing January 1st and ending December 31st of the year for while the **Licence** is issued.
- (2) All new **Business Licence** applications shall be accompanied by a non-refundable \$50.00 application processing fee. If a **Business Licence** application is approved, the application processing fee shall be applied to the **Business Licence** fee identified under the Fees and Charges Bylaw.
- (3) Every **Applicant** for a new **Business Licence** or for the renewal of a **Business Licence** issued under this By-law shall:
 - (a) submit a completed application on the forms provided;

- (b) file proof satisfactory to the **Licensing Officer** that they are eighteen (18) years of age or older, a citizen of Canada, or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of the **Licence** type that they are applying for;
 - (c) provide a copy of the:
 - (i) incorporating document and a copy of the last annual information return which has been filed with the appropriate government department, if the **Applicant** is a corporation; or
 - (ii) registered declaration of partnership, if the **Applicant** is a registered partnership;
 - (d) provide any other document relating to the operation of the **Business** requested by the **Licensing Officer**, including but not limited to:
 - (i) a provincial driver's **Licence**;
 - (ii) Vulnerable Sector Screening Search or Criminal Conviction Background Search issued by the Police Service in which the **Applicant** resides;
 - (iii) Harmonized Sales Tax (HST) number;
 - (iv) York Regional Health Department Inspection Certificate;
 - (v) Insurance Certificates;
 - (e) pay any required fees pursuant to the **Town's Fees and Charges By-law**; and
 - (f) pay any outstanding fine(s) owed to the **Town** prior to the issuance of a **Business Licence**.
- (4) If a **Person** submits a **Business Licence** application for which additional information or documentation is required by the **Licensing Officer**, the **Person** shall supply all required information and documentation within 30 days of the request made by the **Licensing Officer**, after which time the application may be refused and a new application for a **Business Licence** is required.

7. Suspension, Cancellation, and Refusal

- (1) The Manager may revoke, suspend, cancel or refuse to renew or issue a **Licence**:
 - (a) where the past conduct of the **Applicant** or licensee affords reasonable grounds for belief that the **Applicant** or licensee will not carry on the activity for which the **Applicant** is applying for or the licensee is licensed for, in accordance with law and with integrity and honesty;
 - (b) where the **Applicant** of licensee has been found by the Manager or **Licensing Officer** to fail to comply with any provision of this By-law; or
 - (c) where the **Applicant** has been found by the Manager to provide false information in order to obtain a **Business Licence**.
- (2) Upon such revocation, suspension, cancellation, or refusal to issue or renew a **Business Licence**, the Manager shall provide a formal letter

outlining the reason(s) for the refusal and shall be delivered to the **Applicant** or licensee within seven (7) business days. Such notice shall set out and give reasonable particulars of the ground(s) for the decision and options for an Appeal Hearing.

- (3) An **Applicant** or licensee of a **Business Licence** may request a hearing before the **Appeals Committee** for reconsideration of the Manager's decisions to revoke, suspend, cancel, or refuse to issue or renew a **Business Licence** by delivering a written request to the Manager within fourteen (14) days of the Manager's decision being sent.
- (4) The **Applicant** or licensee of a **Business Licence** must pay a non refundable Appeal Fee in accordance with the Fees and Charges Bylaw.
- (5) Before the **Appeals Committee** makes any decision, a written notice to advise the **Applicant** or licensee of the recommendations being made by the Manager with respect to the **Licence** shall be provided to the **Applicant** or licensee.
- (6) The **Applicant** or licensee shall have the right to make a submission in support of an application or renewal or retention of a **Licence** before the **Appeals Committee**.
- (7) Failure for the **Applicant** or licensee to attend the scheduled hearing before the **Appeals Committee** shall result in the proceeding of the hearing.
- (8) The decision of the **Appeals Committee** is final and binding.
- (9) No **Person** shall conduct any **Business** pursuant to their **Business Licence** during a period of suspension of that **Business Licence**.
- (10) No **Person** shall **Market** a **Business** during a period of suspension of that **Business' Licence**.
- (11) If the Manager suspends, cancels or refuses to issue, amend or renew the **Business Licence** for a **Business**, the **Town** may post a notice of suspension, cancellation, or refusal on the **Premises** of the **Business**.
- (12) A posted notice of suspension, cancellation, or refusal of a **Business Licence** shall not be removed until the Manager has approved the issuance of a valid **Business Licence**.
- (13) If a **Business** is operating without a **Licence** required under this By-law, the **Town** may post a notice describing the failure to hold a valid **Business Licence** on the **Premises** of the **Business**.
- (14) A posted notice of operating without a **Business Licence** shall not be removed until the Manager has approved the issuance of a valid **Business Licence**.

8. Specific Regulations

8.1 Pet Retail Stores

- (1) Every **Pet Store** shall be maintained at all times in a sanitary, well-ventilated, clean condition, and free from offensive odours.
- (2) Every animal or **Bird** shall be kept in sanitary, well-bedded, well-lighted, clean quarters, kept at a temperature appropriate for the

health requirements of the type or species of animal or **Bird** housed therein.

- (3) Every cage or other container used for the keeping or housing of any animal or **Bird** shall:
 - (a) be of adequate size to permit any such animal or **Bird** to stand normally to its full height, to turn around, and to lie down in a fully extended position;
 - (b) in the case of a cage or other container used to keep or house only **Birds**, have a removable metal or other impermeable bottom which shall be cleaned daily;
 - (c) in the case of all other cages or contained, have a floor of either solid or wire mesh construction or any combination thereof, provided that:
 - (i) all spaces in wire mesh shall be smaller than the pads of the foot of any animal confined therein;
 - (ii) any such wire mesh shall be of a thickness and design adequate to prevent injury to any such animal; and
 - (iii) such floor shall be of sufficient strength to support the weight of any such animal;
 - (d) be equipped with receptacles for food and for water, so mounted or situation that they cannot be easily overturned or contaminated; and
 - (e) be located and enclosed in a manner as to prevent undue physical contact with the public.
- (4) Water shall be provided daily to every animal or **Bird** in sufficient quantity to maintain at all times a potable supply available to such **Bird** or animal.
- (5) Animals and **Birds** shall be fed periodically each day in accordance with the particular food requirements of each type or species of animal or **Bird** kept within the **Pet Store**.
- (6) Every **Applicant** licensed or required to be licensed with the **Town** under this By-law shall:
 - (a) provide to every purchaser of a cat or dog a health assessment from a licensed **Veterinarian** to verify the animal has received veterinary care;
 - (b) only permit a cat or dog within the **Pet Store** for the purpose of sale for which the cat or dog has been obtained from one (1) of the following sources:
 - (i) municipal animal shelters;
 - (ii) registered humane societies;
 - (iii) registered shelters; or
 - (iv) a recognized animal rescue group;
 - (c) provide all enclosed dogs or cats reasonable exercise;
 - (d) not keep or sell any sick, injured, or diseased animals;

- (e) not display any animal in an exterior display window;
 - (f) not permit to be sold, offer for sale, or give away any animal before it has reached the normal weaning age, based on known requirements of that particular species; and
 - (g) give the purchaser on any sale or disposition of any dog or cat, a receipt showing the name and address of the vendor and the purchaser, the date of sale, the sale price, the breed or crossbreed, sex, age, and description.
- (7) Every **Pet Store** shall maintain a registry of each dog or cat purchased or otherwise obtained. Each entry shall be made at the time each dog or cat comes into the possession of any **Owner**, employee, or **Person** associated with the **Pet Store** and shall include:
- (a) the date of purchase;
 - (b) a full description of the dog or cat;
 - (c) the name, address, and contact information of the **Person** from whom the dog or cat was purchased or otherwise obtained; and
- the **Pet Store** shall retain the register in respect of each transaction for the period of twelve (12) months thereafter.
- (8) Every **Pet Store** shall ensure that an **Attendant** in charge of and responsible for the care and safe keeping of animals within the **Pet Store** remains on site at all times during the **Business** hours of operation.
- (9) **Prohibited Animals**, as identified within the **Town's** Animal Control By-law Schedule A, shall not be permitted to be sold in any **Pet Store**.
- (10) Every **Person** licensed under this By-law shall make every reasonable effort to obtain the name, address and description of anyone offering to sell or give to the licensee any animal which the licensee has cause or reason to suspect has been stolen or otherwise unlawfully obtained and the licensee shall report the facts promptly to the nearest Police Division of the Region of York Police Services.
- (11) Where the **Licensing Officer** or **Municipal Enforcement Officer** determines that an animal appears to require medical attention, they may require the licensee to take the animal to a qualified **Veterinarian** forthwith.

8.2 Short Term Rental Operators

- (1) No more than one (1) **Short Term Rental** is permitted on a **Lot**.
- (2) **Short Term Rentals** shall only be operated within one (1) dwelling unit on a **Lot**.
- (3) **Short Term Rentals** shall provide one (1) off-street parking space for each bedroom identified as in use by the **Business**. In addition to this requirement, one (1) off-street parking space shall be provided for the **Permanent Resident** of the property.
- (4) Each bedroom intended to be operated as part of a **Short Term Rental** shall be clearly identified at the time of a new or renewal **Business Licence** application process through the provision of a floor plan showing the location of each bedroom.
- (5) Any changes to the number or location of bedrooms shall be provided to the **Municipal Enforcement Officer** through a **Licence**

amendment application, prior to those bedrooms being used by the **Business**.

- (6) An **Operator** of a **Short Term Rental** shall not:
- (a) rent out or provide any sleeping accommodations within any vehicle, tent, or any accessory building;
 - (b) permit more than three (3) bedrooms to be made available for use;
 - (c) permit more than (6) overnight guests at one time; or
 - (d) permit beds or bedrooms to be used that are not identified on the **Business Licence** application for that **Premises**.
- (7) An **Operator** of a **Short Term Rental** shall post or display the **Business Licence** number on any **Marketing**, advertisements, or promotions for that **Business**.
- (8) An **Applicant** for a **Short Term Rental** shall provide:
- (a) proof that they are a **Permanent Resident** on the property; or
 - (b) the name of the **Permanent Resident(s)** on the property and a copy of a tenancy agreement, or other proof satisfactory to the **Licensing Officer**, of an existing and ongoing principal residential use, at the time of a new or renewal application.
- (9) An **Operator** of a **Short Term Rental** shall ensure that a **Permanent Resident** on the property is present and available within the **Town** at all times while guests are staying on the **Premises**, and is able to respond to concerns raised by guests, neighbours, or the **Licensing Officer** within two (2) hours.
- (10) An **Operator** of a **Short Term Rental** shall provide to each guest and the **Licensing Officer** the telephone number of the **Person** who is present or available to respond to concerns pursuant to **Town** by-laws or provincial regulations.
- (11) No **Person** shall **Market**, operate, or make available any dwelling unit or part of a dwelling unit for paid accommodation of less than 28 days unless that dwelling unit has a current **Short Term Rental Licence**.
- (12) Upon approval of a **Short Term Rental Business Licence**, the **Applicant** shall post a Sign in conformity with the **Town's Sign By-law**, to identify the **Premises** as a licensed **Short Term Rental** within the **Town** of Newmarket.
- (13) Every **Short Term Rental** shall comply with Schedule A of this By-law as a condition of their **Business Licence** and shall comply with the demerit point system licensing requirements imposed.
- (14) Every **Short Term Rental Operator** shall only **Market**, list, or advertise their **Business** on a licensed **Short Term Rental Company** platform.

8.3 Short Term Rental Companies

- (1) No **Person** shall carry on the **Business** of a **Short Term Rental Company** unless they have obtained a **Licence** to do so from the **Town**.

- (2) No **Person** shall, **Market**, advertise, facilitate the advertising or rental of, or broker a **Short Term Rental** if its **Operator** is not licensed as such with the **Town**.
- (3) Every **Person** shall take down or remove a listing or advertisement related to an unlicensed **Operator** within 24 hours of being requested to do so by the **Town**.
- (4) An application for a **Short Term Rental** Company **Licence** shall be in a form approved by the Manager and require the **Applicant** to provide:
 - (a) The **Short Term Rental** Company's registered **Business** address in Ontario;
 - (b) The name, phone number and e-mail address of a **Person** responsible for responding to all communications from the **Town**;
 - (c) Details of the process by which the **Short Term Rental** Company will remove advertisements for a **Short Term Rental** if its **Operator** has not obtained a **Licence** with the **Town**;
 - (d) Details of the **Short Term Rental** Company's procedure for dealing with problem **Operators** and responding to complaints; and
 - (e) Any other information or documentation required by the Manager.
- (5) A **Short Term Rental** Company shall comply with all applicable fees as identified within the **Town's Fees and Charges By-law**.
- (6) An **Applicant** for a **Short Term Rental** Company **Licence** shall, prior to being issued a **Licence**, execute an agreement with the **Town** governing the use, retention, and disclosure of **Operator** and guest information on terms satisfactory to the Manager.
- (7) Every **Short Term Rental** Company shall keep a record of each concluded transaction in relation to a **Short Term Rental** listed or advertised on its platform for three (3) years following the last day of the rental period. A transaction is concluded on the last day of the rental period. The records retained shall include the following:
 - (a) The name, address, and **Licence** number of the **Operator**;
 - (b) The number of nights the **Short Term Rental** was rented;
 - (c) The nightly and total price charged for the **Short Term Rental**;
 - (d) Whether the rental was an entire-unit rental or room rental; and
 - (e) Any other information required by the Manager.
- (8) Every **Short Term Rental** Company shall keep a record of the number of **Short Term Rental** listings or advertisement it removed from its platform in accordance with Sections 8.3(1) and 8.3(2) of this By-law.
- (9) Every **Short Term Rental** Company shall provide the records referred to in this section to the **Town** upon the request of the Manager.
- (10) Every **Short Term Rental** Company shall create **Operator** and guest accounts on its platforms as requested by the Manager, to be used to investigate compliance with this By-law.

- (11) No **Short Term Rental** Company shall obstruct, in any manner, access to any accounts established for use by the Manager or **Licensing Officer** to investigate compliance with this By-law.

9. Offences

- (1) Every **Person** who contravenes any provision of this By-law are liable to the fines and administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62.
- (2) Every **Person** who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law-2019- 62.
- (3) Any **Person** who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

10. Severability

- (1) Where a court of competent jurisdiction declares any section of this By-law to be invalid, or to be not in force, or without effect, it is the intention of **Council** in enacting this By-law that the remainder of this By-law shall continue in force and applied and enforced in accordance with its terms to the fullest extent possible according to law.

Enacted this xxx day of xxx, 201x.

John Taylor, Mayor

Lisa Lyons, Town Clerk