

Corporation of the Town of Newmarket

By-law 2021-XX

A By-law to amend By-law 2020-31 being a By-law to regulate and licence businesses 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. That Section 2 “Definitions” to the By-law 2020-31 be amended to add the following:

“Commercial Rooftop Patio” means any portion of a rooftop dedicated as a serving area that is an accessory use to a restaurant or to a commercial use.”

“Licensee” means a Person licensed under this By-law;

“Live Music” means any live performance utilizing an instrument, ones’ voice, a device or electronic equipment to amplify music, or any other form of live performance.

“Outdoor Serving Area” means any area on private or public property which is licensed to serve alcohol and is used by a business for the serving or consumption of food, beverages or refreshments which is not enclosed within a building structure or is exposed to the outdoors;

“Opaque Barrier” means a barrier which does not permit the transmission of light through its structure;

2. That Section 8 to the By-law 2020-31 be amended to add the following sections:

8.4 Outdoor Serving Areas

- (1) Prior to the submission of their business licence application, every **Owner** or **Operator** shall ensure that they are in compliance with all federal, provincial, and municipal requirements, including but not limited to the:

- (a) Alcohol and Gaming Commission of Ontario;
- (b) Central York Fire Services;

- (c) Town's Planning Department;
- (d) Town's Building Department; and
- (e) York Region Public Health.

- (2) Every **Owner** or **Operator** who proposes to sell or offer for sale alcohol from the **Outdoor Serving Area** shall provide to the Manager, at the time of their application, a copy of the Liquor Licence issued by the Alcohol and Gaming Commission of Ontario.
- (3) Every **Owner** or **Operator** shall ensure the **Outdoor Serving Area** operates at all times in accordance with the Alcohol and Gaming Commission of Ontario.

(4) No **Owner** or **Operator** shall operate or permit the occupancy of any **Outdoor Serving Area** between the hours of 1:00 a.m. and 11:00 a.m.

~~Every **Owner** or **Operator** shall only operate or permit the occupancy of any **Outdoor Serving Area** between the hours established by, and in accordance with, the Alcohol and Gaming Commission of Ontario.~~

- (5) Every **Outdoor Serving Area** that is located within 40m of the property line of an adjacent residential property shall be required to install a solid, translucent, or Opaque Barrier that is a minimum of 1.8m in height along its perimeter for the purpose of noise reduction and security.
- (6) Every **Outdoor Serving Area** which is illuminated in an area adjacent to a residential use shall ensure all lighting fixtures and illumination are arranged, designed, and installed to deflect the light down and away from residential buildings, lots, and streets.
- (7) Any Person that proposes to operate an **Outdoor Serving Area** on public property along Main Street and between Millard Avenue and Water Street must first obtain approval from the Town's Planning Department.
- (8) Notwithstanding Section 6(1) of this By-law, every **Outdoor Serving Area** located on public property shall only be permitted between April 1st and October 30th within the same calendar year.

8.5 Commercial Rooftop Patios

- (1) Prior to the submission of their business licence application, every **Owner** or **Operator** shall ensure that they are in compliance with all federal, provincial, and municipal requirements, including but not limited to the:
 - (a) Alcohol and Gaming Commission of Ontario;
 - (b) Central York Fire Services;
 - (c) Town's Planning Department;
 - (d) Town's Building Department; and
 - (e) York Region Public Health.
- (2) Every **Owner** or **Operator** shall only operate or permit the

occupancy of any **Commercial Rooftop Patio** between the hours of 9:00 a.m. and 11:00 p.m. within the same calendar day.

- (3) No **Live Music** shall be permitted on any **Commercial Rooftop Patio** at any time.
- (4) Notwithstanding Section 8.5(3) above, an **Owner** or **Operator** of a **Commercial Rooftop Patio** can apply for a noise exemption permit to allow **Live Music** for special event purposes.
- (5) Any other form of music permitted on a **Commercial Rooftop Patio** shall comply with the Town of Newmarket Noise Bylaw 2017-76, as amended.
- (6) Every **Commercial Rooftop Patio** ~~that is located within 40m of the property line of an adjacent residential property~~ shall be required to install a solid, translucent, or Opaque Barrier that is a minimum of 1.8m in height along its perimeter for the purpose of noise reduction and security, unless otherwise authorized by the Town.
- (7) Every **Commercial Rooftop Patio** which is illuminated in an area adjacent to a residential use shall ensure all lighting fixtures and illumination are arranged, designed, and installed to be dark sky compliant and to deflect the light down and away from residential buildings, lots, and streets.

3. That the following Section 11 be added to By-law 2020-31:

11. Repeal

- (1) Outdoor Serving Areas By-law 2016-29 is hereby repealed.

Enacted this 1st day of March, 2021.

John Taylor, Mayor

Lisa Lyons, Town Clerk