



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2009-78

A BY-LAW FOR THE LICENSING, REGULATING AND GOVERNING OF CARNIVALS.
(Carnival By-law)

WHEREAS Section 151 of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, provides that a local municipality may provide for a system of licenses with respect to a business;

AND WHEREAS the Council of the Town of Newmarket enacted By-law Number 2002-151 being a by-law to license regulate and govern any business carried on within the Town of Newmarket;

AND WHEREAS the Council of the Town of Newmarket considers it desirable and necessary to repeal Schedule 9 of By-law Number 2002-151;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

SECTION 1 – DEFINITIONS

1.1 In this By-law

- (1) "Amusement Device" means a machine, contrivance, structure or vehicle used in an amusement park to entertain members of the public by moving them or causing them to be moved;
- (2) "Applicant" means a person applying for a license to carry on a business, activity or undertaking pursuant to this by-law;
- (3) "Carnival" means an exhibition, display, event or amusement show which may include the operation of one or more Amusement Devices;
- (4) "Clerk" means the Town Clerk of the Town of Newmarket or his/her designate;
- (5) "Council" means the Council of the Corporation of the Town of Newmarket;
- (6) "License" means the authorization obtained or granted or issued pursuant to this by-law to carry on a business, activity or undertaking;
- (7) "Licensed" means to have in one's possession a valid and current license issued pursuant to this by-law;
- (8) "Licensee" means any person who is licensed pursuant to this by-law or a licensee applying for renewal of a license as the context requires;
- (9) "Licensing Officer" means the Licensing Officer of the Town of Newmarket;
- (10) "Municipality" means the Corporation of the Town of Newmarket or the geographic area of the Town of Newmarket as the context requires;
- (11) "Operator" means the person, persons or limited company, which owns and/or operates a carnival;
- (12) "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;

- (13) "Provincial Offences Officer" means a police officer or person designated under the *Provincial Offences Act*;
- (14) "Town" means the Town of Newmarket in the Regional Municipality of York.

SECTION 2 - GENERAL PROVISIONS

- 2.1 No license shall be issued pursuant to this By-law unless authorized by Council.
- 2.2 A Carnival license shall only be issued to a person/operator/licensee once in a calendar year unless the carnival is operated in conjunction with a Town event as approved by the Commissioner of Community Services or the Director of Recreation and Culture or his/her designate.
- 2.3 Every operator shall post the license in a conspicuous place for viewing.
- 2.4 Every applicant for a Carnival license shall submit an application with the following documentation to the Clerk or Licensing Officer:
- (1) Written approval from the property owner of the lands being used;
 - (2) A certificate of insurance providing proof of insurance of commercial general liability coverage subject to limits of not less \$5,000,000.00 inclusion per occurrence for bodily injury, death and damage to property;
 - (3) A map detailing the location of the Carnival on the property;
 - (4) A valid and current license to carry on business in Ontario issued by the Technical Standards and Safety Authority;
 - (5) A valid and current Ontario Amusement Device Permit issued by the Technical Standards and Safety Authority for each ride;
 - (6) A sponsorship letter from a recognized charitable organization or service club in Newmarket;
 - (7) Pay the prescribed fee as set by Council from time to time.
- 2.5 Every applicant for a Carnival license shall submit an application no later than ninety (90) days prior to the event.
- 2.6 When a Carnival is being held on municipally owned lands, the operator shall, in addition to paying the prescribed license fee, post with the Town Clerk, a deposit in the amount of one thousand dollars (\$1000.00) by certified cheque. In the event that the site and surrounding grounds are left in a clean condition the said one thousand dollars (\$1000.00) shall be returned to the applicant. In the event that the said site and surrounding grounds are not left in a clean condition, the said one thousand dollars (\$1000.00) shall be forfeited and the proceeds thereof shall be used to clean up the said site and put the same in good order. Any balance out of the said proceeds shall be paid into the general funds of the Corporation of the Town of Newmarket.
- 2.7 A Carnival license shall only be issued for a period of seven (7) consecutive days which shall include the setting up and the dismantling of the amusement devices and the operation of the carnival shall not exceed five (5) consecutive days.
- 2.8 A Carnival license shall expire on the date of termination of the event or activity to which the license relates unless it is sooner forfeited or revoked.
- 2.9 A licensee must ensure that the carnival site is vacated within twenty-four (24) hours of conclusion of the carnival and left in a clean and tidy manner which includes debris or unwanted equipment.

SECTION 3 – LICENSING PROHIBITIONS

- 3.1 No person shall operate or maintain the business of a carnival within the Town without first obtaining a license to do so.
- 3.2 No person shall be licensed unless all documentation stated in Section 2.5 has been received by the Licensing Officer.
- 3.3 No person shall operate a carnival from any Town owned property, parks or recreation facility without a signed lease agreement as approved by the Director of Recreation and Culture or his/her designate.
- 3.3 No person shall operate a carnival within 100 metres of the lot line of any residential property.
- 3.4 No person shall operate a carnival between the following:
 - (1) Sunday to Thursday – 10:00 p.m. through to 11:00 a.m. the next day; and
 - (2) Friday and Saturday – 11:00 p.m. through to 11:00 a.m. the next day.
- 3.5 No person licensed under this by-law shall:
 - (1) Operate or allow to be operated, rides or like contrivances for use by public in an improper or dangerous manner;
 - (2) Emit, or permit the emission of sound from the operation of an electronic device or group of connected devices incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound if the sound is clearly audible at a point of reception in a residential area.

SECTION 4 - PENALTY

- 4.1 Every person who contravenes a provision of this by-law, including an Order issued under this by-law, is guilty of an offence.
- 4.2 If a person is in contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 4.3 If an Order has been issued under this by-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- 4.4 Every person who is guilty of an offence under this By-law shall be subject to the following penalties:
 - (1) Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;
 - (2) Upon a second or subsequent conviction for the same offence, a fine shall be a minimum of \$500.00 and the maximum fine shall be \$100,000.00;
 - (3) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues;
 - (4) Upon conviction of a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.

- 4.5 For the purposes of this By-law, 'multiple offences' means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of a provision of this By-law.
- 4.6 For the purposes of this By-law, an 'offence' is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- 4.7 Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for under *the Provincial Offences Act*.

SECTION 5 - SEVERABILITY

- 5.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.
- 5.2 Where the provisions of this By-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

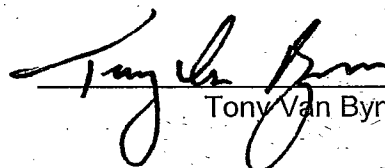
SECTION 6 - SHORT TITLE

- 6.1 This By-law may be referred to as the "Carnival By-law".

SECTION 7 - REPEAL/EFFECTIVE DATE

- 7.1 Schedule 9 of By-law Number 2002-151 is hereby repealed and this By-law shall come into force and effect upon its adoption.

ENACTED THIS 21ST DAY OF SEPTEMBER, 2009.



Tony Van Bynen, Mayor



Anita Moore, Town Clerk