

Corporation of the Town of Newmarket

By-law 2023-19

A By-law respecting the permitting, licensing, regulating of Filming within the Town of Newmarket.

Whereas Section 10(2) of the Municipal Act 2001, S.O. 2001, c25, as amended, establishes that a municipality may pass by-laws for the economic and social well-being of the municipality, the health, safety and well-being of Persons, and the protection of Persons and property, including consumer protection;

And 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 “Film By-law 2023-19”.

2. Definitions

In this By-law:

“**BIA**” means any Business Improvement Area located in the **Town**.

“**Director**” means the **Director** of any department for the **Town** or their designate.

“**Fees and Charges By-law**” means the **Town’s Fees and Charges By-law 2019-52**, as amended.

“**Film**” or “**Filming**” means **Filming**, videotaping, or any other form of visual recording for a feature **Film**, television **Film** or series, television program, documentary, commercial, music video, educational **Film**, or other purpose outside of a studio or **Film** laboratory, but does not include street interviews, newscasts, press conferences, or visual recordings for Personal purposes only.

“**Film Permit**” means a permit issued under this By-law for **Filming** purposes.

“**Film Permit Applicant**” means any **Person** who does not hold a valid **Local Film Licence** and intends to conduct **Filming** in **Town**.

“Film Permit Application” means a formal application to conduct **Filming**, and prepared on the application forms provided by the **Town**.

“Film Permit Hotline” means a contact number that is operated by the **Town** that is designed to address any concerns related to **Filming**.

“General Film Zone” or **“GFZ”** means any area in Town that has not been identified as a **“Special Film Zone”** identified in Schedule “A” of this By-law;

“Licensing Officer” means a **Town** municipal enforcement officer duly appointed to carry out the terms of this By-law.

“Local Film Licence” means an annual business licence issued under this By-law to any **Film** production company located and registered in the **Town**.

“Location Supervisor” means the **Person** identified through the application process to have care, control, and responsibility of **Filming** throughout the duration of the issued **Film Permit**.

“Major Special Effects” means effects such as fireworks, explosions and pyrotechnics that are used in the production of **Filming** and may impact the **Filming** location and surrounding areas.

“Manager” means the **Manager** of Regulatory Services for the **Town** or their designate;

“Minor Special Effects” means effects such as water, snow and other materials that are used in the production of **Filming** and may impact the **Filming** location and surrounding areas.

“Notice of Intent” means a written notice provided to the **Town** outlining specific requests for proposed **Filming** in **Town**. For clarity, a **Notice of Intent** should include dates, times, locations, size and scope of **Filming**, any parking needs, and any other pertinent details

“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.

“Public Notice” means a letter that is to be circulated by the applicant to notify residents and businesses of **Filming**.

“Public Notice Template” means a template letter that is prepared by the **Town** and circulated by the applicant to provide **Public Notice** to the community.

“Special Film Zone” or **“SFZ”** means the geographical area identified in Schedule “A” and forming part of this By-law;

“Town” means the Corporation of the **Town** of Newmarket in the Regional Municipality of York.

3. Fees

3(1) **Film Permits** and **Local Film Licences** are subject to all applicable fees, as outlined in this By-law and the **Town’s Fees and Charges By-law**.

3(2) **Filming** requests that do not meet the timelines established in this By-law shall:

- (a) incur an additional 20% surcharge added to total fees imposed if the application is approved; and
 - (b) be at the discretion of the **Manager** to consider.
- 3(3) Any intention to use **Minor Special Effects** or **Major Special Effects** requires a security deposit, as outlined in the **Town's Fees and Charges By-law**.

4. Application

- 4(1) Any **Person** who intends to undertake any **Filming** shall first complete and submit a **Notice of Intent** to the **Manager**:
- (a) 21 days prior to **Filming** in the **SFZ**;
 - (b) 14 days prior to **Filming** in the **GFZ**;
- 4(2) A **Notice of Intent** shall be accompanied by a non-refundable administrative fee, as outlined in the **Town's Fees and Charges By-law**.
- 4(3) Notwithstanding Section 4(2) above, **Local Film Licence** holders are not required to submit a non-refundable administrative fee with any **Notice of Intent**.
- 4(4) Upon receipt of a **Notice of Intent** the **Manager** will circulate the request to and receive comments from:
- (a) the **Town's** Strategic Leadership Team;
 - (b) the **Director** of any potentially impacted department within the **Town**;
 - (c) the Mayor, Deputy Mayor and Regional Councillor and applicable Ward Councillor;
 - (d) the Business Improvement Area Board of Management for any **Filming** in the **BIA**;
 - (e) the Economic Development Office;
 - (f) the Regional Municipality of York for any **Filming** on **Town** roads that intersect regional roads, or that has the potential to impact regional roads; and,
 - (g) any external agencies, **Person**, or Business that the **Manager** deems necessary;
- 4(5) After comments have been received following the circulation of a **Notice of Intent**, the **Manager** shall provide the applicant with:
- (a) a summary of the feedback received from the circulation process, as outlined in Section 4(4);
 - (b) a list of conditions to be met and applied to the **Film Permit**; and,
 - (c) a breakdown of the fees associated with the **Film Permit Application** which may include any fees identified in this By-law and the **Town's Fees and Charges By-law**.

- 4(6) Following the **Notice of Intent** period, the applicant must complete and submit a **Film Permit Application** at least 72 hours prior to **Filming**.
- 4(7) The following items may be required by the **Manager** as part of the **Film Permit Application**:
- (a) a certificate of comprehensive general liability insurance, with the **Town** listed as an additional insured, in the amount of \$3 million dollars per occurrence, or such higher limits as the **Town** of Newmarket reasonably requires depending on the nature of **Filming**;
 - (b) proof of **Public Notice** to all affected residents or businesses within a 200 metre radius of any locations proposed for **Filming** and using the provided **Public Notice Template**;
 - (c) a signed release, satisfactory to the **Manager**, releasing the **Town** from responsibility or liability in conjunction with death or personal injury of any **Person** or any damage or loss of property caused in relation to **Filming** or the **Film Permit** or **Local Film Licence**;
 - (d) a signed indemnity, satisfactory to the **Manager** indemnifying and saving harmless the **Town** from all claims of any type which may be brought against the **Town** as a result of or in connection with the use of **Town** premises or a **Town** road by the applicant and the individual or organization undertaking the **Filming** event specifically acknowledging that the **Town** will not be responsible for any liability arising from the use with respect to advertising or any copyright or trademark infringements;
 - (e) any licence, permit, approval, agreement, or other type of permission required in relation to the **Film Permit**; and,
 - (f) any other documents required at the discretion of the **Manager**.

Local Film Licences

- 4(8) Any **Person** wishing to obtain a **Local Film Licence** shall first submit to the **Town**:
- (a) a **Local Film Licence** application;
 - (b) a list of known or upcoming projects proposed to occur throughout **Town** in the calendar year;
 - (c) a certificate of comprehensive general liability insurance for the business in the amount of \$1 million dollars; vehicle registration and insurance for all vehicles identified as part of the **Local Film Licence**; and,
 - (d) any other documentation or information the **Manager** deems necessary.
- 4(9) The terms of a **Local Film Licence** issued under this By-law are for a period commencing January 1st and ending December 31st of the year for which the Licence is issued

5. General Regulations

5(1) No **Person** shall:

- (a) **Film** or participate in **Filming** without a valid **Film Permit**;
- (b) **Film** or participate in **Filming** without a valid **Local Film Licence**;
- (c) represent to the public that there is a valid **Film Permit** or **Local Film Licence** issued under this By-law where no such permit or licence has been issued;
- (d) alter, damage, or remove any signage or materials placed by the **Town** or other authority unless authorized to do so by the **Film Permit** or **Local Film Licence**; or
- (e) contravene or fail to comply with any term or condition imposed on the **Film Permit** or **Local Film Licence**, where each term or condition constitutes one offence.

5(2) Every **Person** shall comply with all federal, provincial, and municipal laws and regulations enacted.

5(3) No materials intended for production are permitted on any roadway, sidewalk, and public or private properties unless authorized to do so by the **Film Permit**, **Local Film Licence** or through a private property agreement.

5(4) No **Person** shall interfere with any pedestrian or vehicular traffic unless granted as a condition of the **Film Permit** or **Local Film Licence**.

5(5) Every **Film Permit** or **Local Film Licence** holder shall ensure a **Location Supervisor** is assigned and available at all times throughout the duration of the **Film Permit**.

5(6) Every **Person** shall comply with the Town's Idling Control By-law 2005-157, as amended from time to time.

5(7) Any applicant for a **Film Permit** or **Local Film Licence** shall ensure the film location is cleaned at the conclusion of the filming.

Large Production Requirements

5(8) Any **Film Permit** issued involving 100 or more crew, talent, staff, or contractors retained for **Filming** purposes shall:

- (a) require a dedicated **Licensing Officer** be assigned as, and paid for by the applicant as outlined in the **Town's Fees and Charges By-law**, the point of contact on behalf of the **Town** and available throughout the duration of actual **Filming**;
- (b) identify to the **Town** the name and contact information of the **Location Supervisor** responsible for any matters arising as a result of **Filming**; and
- (c) activate the **Town's Film Permit Hotline** throughout the duration of the **Film Permit**.

5(9) The **Location Supervisor** shall:

- (a) be present and available at all times throughout the duration of the **Film Permit**;

- (b) immediately respond to any concerns raised by the **Town**, members of the **BIA**, or general public; and
- (c) produce the **Film Permit** upon request to any **Town** employee or other authority.

6. Filming Zones

Special Film Zone (SFZ): Main Street Business Improvement Area (Schedule "A")

- 6(1) Every **Person** who intends to **Film** in the **SFZ** shall submit to the **Manager**:
 - (a) a **Notice of Intent** at least 21 days in advance of the proposed **Filming** dates; and
 - (b) a **Film Permit Application** at least 72 hours in advance of the proposed **Filming** dates.
- 6(2) Every **Local Film Licence** holder who intends to **Film** in the **SFZ** shall submit a **Notice of Intent** to the **Licensing Officer** at least 10 days in advance of the proposed **Filming** dates.
- 6(3) No **Person** shall park on-street in the **SFZ** at anytime unless authorized to do so as a condition of the **Film Permit** or **Local Film Licence**.
- 6(4) No crew or personal vehicles are permitted to park in the **SFZ** at any time, unless granted as a condition of the **Film Permit** or **Local Film Licence**.
- 6(5) No large vehicles or trucks shall be parked on-street or in front of any merchant or business within the **SFZ** unless proof of consultation with the business owner has been provided.
- 6(6) Unless special authorization is granted as a condition of the **Film Permit** or **Local Film Licence**, **Filming** in the **SFZ** shall only occur:
 - (a) between Sunday and Thursday; and
 - (b) from 9:00am to 11:00pm.
- 6(7) No **Filming** shall occur in the **SFZ** on any statutory holiday as defined by the Province of Ontario, unless granted as a condition of the **Film Permit** or **Local Film Licence**.
- 6(8) The **Manager** shall make the final decision with respect to any conditions placed on a **Film Permit** or **Local Film Licence** issued under this By-law.

General Film Zone (GFZ)

- 6(9) Every **Person** who intends to **Film** in the **GFZ** shall provide to the **Manager**:
 - (a) a **Notice of Intent** at least 14 days in advance of the proposed **Filming** dates; and
 - (b) a **Film Permit Application** at least 72 hours in advance of the proposed **Filming** dates.

- 6(10) Every **Local Film Licence** holder who intends to **Film** in the **GFZ** shall provide a **Notice of Intent** to the **Licensing Officer** at least 10 days in advance of the proposed **Filming** dates.
- 6(11) Any **Film Permit Applicant** wishing to **Film** in the **GFZ** shall submit a **Film Permit Application** to the **Town** at least 3 business days in advance of the proposed **Filming** dates.
- 6(12) No crew or Personal vehicles are permitted to park on-street in the **GFZ** at any time, unless granted as a condition of the **Film Permit** or **Local Film Licence**.
- 6(13) Unless granted as a condition of the **Film Permit** or **Local Film Licence**, **Filming** in the **GFZ** shall only occur from 9:00am to 11:00pm.
- 6(14) No **Filming** shall occur in the **GFZ** on any **Statutory Holiday**, unless granted as a condition of the **Film Permit** or **Local Film Licence**.

7. Issuance, refusal, or revocation of any Film Permit or Local Film Licence

- 7(1) The **Manager** is authorized on behalf of the **Town** to receive and consider applications for **Film Permits** or **Local Film Licences**, and to conduct all investigations necessary to ensure that a **Film Permit** or **Local Film Licence** is issued in accordance with this By-law and **Town** policies, and to issue the **Film Permit** or **Local Film Licence** in accordance with this By-law.
- 7(2) In evaluating the issuance, refusal, or any imposed condition(s) of a **Film Permit** or **Local Film Licence**, the **Manager** has the delegated authority to consider:
- (a) whether or not, considering past **Filming** by the applicant, the proposed **Filming** is likely to be carried out in compliance with this By-law or any conditions imposed;
 - (b) whether or not a scheduling or location conflict exists with any activity which the **Town** has issued a licence, permit, approval, or other type of permission for;
 - (c) the level of disruption to:
 - (i) the community as a whole;
 - (ii) the use by the public of Town assets, amenities or public spaces;
 - (iii) traffic or transit services;
 - (iv) emergency services; and/or
 - (v) residents or businesses located within a 200 metre radius of the proposed location(s);
 - (d) whether or not any proposed **Filming** may result in physical damage to the **Town's** assets;
 - (e) the availability of the **Town** to accommodate any requests made;
 - (f) the availability of York Regional Police to support the **Film Permit**, if deemed necessary;

- (g) whether or not the **Filming** event involves anything that:
 - (i) is derogatory to or exploitative, directly or indirectly, of any **person** or groups of **persons**;
 - (ii) may, in light of prevailing community standards, cause offence;
 - (iii) has violent or sexual content;
 - (h) whether or not the proposed **Filming** is likely to cause a threat to public safety or conflict with **Town** by-laws or policies; and
 - (i) any other factors that provides the **Manager** reasonable grounds to not issue, refuse, or impose any condition a **Film Permit** or **Local Film Licence**.
- 7(3) The **Manager** shall provide notice, in-writing, for their decision to not issue, revoke, refuse, or impose any conditions on a **Film Permit**. For clarity, electronic mail is deemed as an acceptable form of notice delivery.
- 7(4) The **Manager** may impose reasonable conditions on any **Film Permit** or **Local Film Licence**.
- 7(5) All fees are required to be paid prior to the issuance of any **Film Permit** or **Local Film Licence**.
- 7(6) At any time following the issuance of any **Film Permit** or **Local Film Licence**, the **Manager** may revoke or impose a condition on the **Film Permit** or **Local Film Licence** with reasonable grounds. Such notice shall be by provided verbally or in-writing by electronic mail to the applicant or **Location Supervisor**.
- 7(7) Any **Person** whose **Film Permit** Application **Local Film Licence** is denied or revoked may appeal the decision within 14 days as provided for by the **Town's** Business Licence By-law 2020-31, as amended.

8. Exemptions

- 8(1) This By-law does not apply to street interviews, newscasts, sportscasts, press conferences, visual recordings for personal purposes only, or any other **Filming** as determined by the **Town**.
- 8(2) The **Town** is exempt from any provisions of this By-law.
- 8(3) Students **Filming** may be exempt from provisions of this By-law at the discretion of the **Manager**.
- 8(4) Emergency services, municipalities, and provincial or federal government agencies are exempt from any provision of this By-law where **Filming** occurs for their Corporation's purposes.
- 8(5) Notwithstanding Section 8(1) above, the **Town** retains the final authority to prohibit any form of **Filming** in **Town** in the interest of public safety, trespassing, freedom of information and privacy concerns, or any other purposes the **Town** deems necessary.

9. Offences

- 9(1) Every **Person** who contravenes any provision of this By-law is liable to the fines and administrative fees set out under the **Town's** Administrative Monetary Penalty System By-law 2019-62, as amended.
- 9(2) Every **Person** who contravenes any provision of this By-law may request a review of the matter in accordance with the **Town's** Administrative Monetary Penalty System By-law-2019- 62, as amended.
- 9(3) Any **Person** who contravenes any 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

- 10(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 24th day of April, 2023.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Schedule “A” of Film By-law 2023-XX
“Special Film Zone”

