



Corporation of the Town of Newmarket

By-law 2019-47

A By-Law To Establish Development Charges For Discounted Services For The Town Of Newmarket. (Town-Wide)

WHEREAS subsection 2(1) of the Development Charges Act (the “Act”) provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the by-law applies;

AND WHEREAS Council has before it a report entitled “Development Charges Background Study”, Town of Newmarket, dated April 24, 2019 (the “Study”), prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the Town of Newmarket will increase the need for services as defined herein in accordance with the Act;

AND WHEREAS the Study was made available to the public and Council gave notice to the public and held a public meeting pursuant to section 12 of the Act on the 21st day of May, 2019, prior to which the Study and the proposed development charge by-law were made available to the public and Council, heard comments and representations from all persons who applied to be heard (the “Public Meeting”);

AND WHEREAS the Council of the Town of Newmarket has heard all persons who applied to be heard and received written submissions whether in objection to, or in support of, the development charges proposal at the public meeting held on the 21st day of May, 2019;

AND WHEREAS following the Public Meeting, Council afforded the public an additional period of time for the submission of further written representations;

AND WHEREAS by resolution adopted by Council of the Town of Newmarket on 18th day of July, 2019, Council has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development, including any capital costs, will be met, by updating its capital budget and forecast where appropriate recognizing that projects and timing of same may be revised from time to time at the discretion of Council;

AND WHEREAS by resolution adopted by Council on the 18th day of July, 2019, Council has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development will be met;

AND WHEREAS by resolution adopted by Council on the 18th day of July, 2019, Council has indicated its intent that the future excess capacity identified in the Study shall be paid for by the development charges or other similar charges;

AND WHEREAS by resolution adopted by Council on the 21st day of May, 2019, Council determined that no further public meetings were required under section 12 of the Act;

AND WHEREAS by resolution adopted by Council of The Corporation of the Town of Newmarket on 18th day of July, 2019, Council determined that the future excess capacity identified in the Development Charges Background Study dated April 24, 2019, shall be paid for by the development charges contemplated in the said Development Charges Background Study, or other similar charges;

AND WHEREAS the Council of the Town of Newmarket has given consideration of the use of more than one development charge by-law to reflect different needs for services in different areas, also known as area rating or area specific DCs, and has determined that for the services, and associated infrastructure proposed to be funded by DCs under this by-law, that it is fair and reasonable that the charges be calculated on a municipal-wide and area-specific basis;

AND WHEREAS the Development Charges Background Study dated April 24, 2019 includes an Asset Management Plan that deals with all assets whose capital costs are intended to be funded under the development charge by-law and that such assets are considered to be financially sustainable over their full life-cycle;

AND WHEREAS the Council of the Town of Newmarket will give consideration to incorporate the asset management plan outlined in the Development Charges Background Study within the Town of Newmarket's ongoing practices and corporate asset management strategy;

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

1.0 DEFINITIONS

1.1 In this by-law,

- 1) "Act" means the *Development Charges Act*, 1997, as amended, or any successor thereto;
- 2) "accessory use" means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both and exclusively devoted to a principal use, building or structure;
- 3) "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit, used or designed or intended for use for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit

farming, horticulture, market gardening, pasturage, poultry keeping, equestrian facilities and any other activities customarily carried on in the field of agriculture;

- 4) "apartment unit" means a residential building or the residential portion of a mixed use building, other than a townhouse or a stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade;
- 5) "bedroom" means a habitable room larger than seven square metres, including a den, study or other similar area, but does not include a living room, dining room or kitchen;
- 6) "benefiting area" means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;
- 7) "board of education" has the same meaning as that specified in the *Education Act* or any successor thereto;
- 8) "Building Code Act" means the *Building Code Act*, 1992, as amended; or any successor thereto;
- 9) "capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of and as authorized by the municipality or local board,
 - (a) to acquire land or an interest in land, including a leasehold interest,
 - (b) to improve land,
 - (c) to acquire, lease, construct or improve buildings and structures,
 - (d) to acquire, construct or improve facilities including,
 - i. furniture and equipment other than computer equipment, and
 - ii. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, and
 - iii. rolling stock with an estimated useful life of seven years or more, and
 - (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d), including the development charge background study required for the provision of services designated in this by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth related;
- 10) "commercial" means any non-residential development not defined under "institutional" or "industrial";

- 11) "community use" means a facility traditionally provided by a municipality which serves a municipal purpose and shall include a community centre, library/research facility, recreation facility and a shelter;
- 12) "council" means the Council of the municipality;
- 13) "development" includes redevelopment;
- 14) "development charge" means a charge imposed with respect to this by-law;
- 15) "duplex" means a building comprising, by horizontal division, two dwelling units, each of which has a separate entrance to grade;
- 16) "dwelling unit" means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;
- 17) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
- 18) "funeral home" means a building with facilities for the preparation of dead persons for burial or cremation, for the viewing of the body and for funeral services;
- 19) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- 20) "gross floor area" means, in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and excluding, in the case of a building containing parking spaces, the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the building or structure is a parking structure, and, for the purposes of this definition, notwithstanding any other section of this by-law, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure. Notwithstanding any other section of this by-law, gross floor area shall not include the surface area of swimming pools or the playing surfaces of indoor sport fields including hockey arenas, and basketball courts;
- 21) "group home" means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a 24 hour a day basis

on site by agency staff on a shift rotation basis, funded wholly or in part by any government and licensed, approved or supervised by the Province of Ontario under any general or special act, for the accommodation of not less than 3 and not more than 8 residents, exclusive of staff;

- 22) "heritage property" means a building or structure which, in the opinion of the local architectural conservation advisory committee is of historic or architectural value or interest, or which has been so designated under the *Ontario Heritage Act*;
- 23) "hotel" means a commercial establishment offering lodging to travelers and sometimes to permanent residents, and may include other services such as restaurants, meeting rooms and stores, that are available to the general public;
- 24) "industrial" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;
- 25) "institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship, and special care facilities;
- 26) "large apartment" means a dwelling unit in an apartment building or a plex that is 700 square feet or larger in size;
- 27) "local board" has the same definition as defined in the *Development Charges Act*;
- 28) "local services" means those services, facilities or things which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act* as amended or any successor thereto;
- 29) "mixed-use" means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- 30) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;
- 31) "multiple dwellings" includes townhouses, stacked and back-to-back townhouses, mobile homes, group homes and all other residential uses that are not included in

the definition of “apartment building”, “small apartment”, “large apartment”, “single detached dwelling” or “semi-detached dwelling”;

- 32) "municipality" means the Corporation of the Town of Newmarket;
- 33) “non-residential use” means, a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use and includes all commercial, industrial and institutional uses;
- 34) “non-profit” means a corporation without share capital that has objects of a charitable nature;
- 35) "owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;
- 36) “place of worship” means a building or structure that is used primarily for worship;
- 37) “plex” means a duplex, a semi-detached duplex, a triplex or a semi-detached triplex;
- 38) “parking structure” means a building or structure principally used for the parking of motor vehicles and shall include a building or structure, or any part thereof, where motor vehicles are stored prior to being sold or rented to the general public;
- 39) “private school” means an educational institution operated on a non-profit basis, excluding any dormitory or residence accessory to such private school, that is used primarily for the instruction of students in courses of study approved or authorized by the Minister of Education and Training;
- 40) "regulation" means any regulation made pursuant to the Act;
- 41) “residential use” means lands, buildings or structures used, or designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a townhouse, a stacked townhouse, a plex, an apartment building, a group home, a mobile home and a residential dwelling unit accessory to a non-residential use but shall not include a lodging house licensed by a municipality;
- 42) “semi-detached duplex” means one of a pair of attached duplexes, each duplex divided vertically from the other by a party wall;
- 43) “semi-detached dwelling” means a building divided vertically into and comprising 2 dwelling units;
- 44) “semi-detached triplex” means one of a pair of triplexes divided vertically one from the other by a party wall;

- 45) "services" (or "service") means those services designated in Schedule "A" to this by-law;
- 46) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;
- 47) "shelter" means a building in which supervised short-term emergency shelter and associated support services are provided to individuals who are fleeing situations of physical, financial, emotional or psychological abuse;
- 48) "single detached dwelling" and "single detached" means a residential building consisting of one dwelling unit that is not attached to another structure above grade. For greater certainty, a residential building consisting of one dwelling unit that is attached to another structure by footings only shall be considered a single family dwelling for purposes of this by-law;
- 49) "small apartment" means a dwelling unit in an apartment building or a plex that is less than 700 square feet in size;
- 50) "stacked townhouse" means a building, other than a plex, townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit being separated from the other vertically and/or horizontally and each dwelling unit having an entrance to grade shared with no more than 3 other units;
- 51) "townhouse" means a building, other than a plex, stacked townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit separated vertically from the other by a party wall and each dwelling unit having a separate entrance to grade;
- 52) "triplex" means a building comprising 3 dwelling units, each of which has a separate entrance to grade.

2.0 DESIGNATION OF SERVICES

- 2.1 The categories of services for which development charges are imposed under this by-law are as follows:

Discounted Services

- a) General Government
- b) Library
- c) Parks & Recreation
- e) Municipal Parking

2.2 The components of the services designated in subsection 2.1 are described in Schedule A-1 and Schedule A-2.

3.0 APPLICATION OF BY-LAW RULES

3.1. Development charges shall be payable in the amounts set out in this by-law where:

- a) the lands are located in the area described in subsection 3.2; and
- b) the development of the lands requires any of the approvals set out in subsection 3.4(a).

Area to Which By-law Applies

3.2 Subject to subsection 3.3, this by-law applies to all lands in the geographic area of the Town of Newmarket.

3.3 This by-law shall not apply to lands that are owned by and used for the purposes of:

- a) The Town of Newmarket or a local board thereof;
- b) A board as defined in section 1(1) of the *Education Act*;
- c) The Region of York or a local board thereof.

Approvals for Development

3.4 a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires,

- i. The passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- ii. The approval of a minor variance under section 45 of the *Planning Act*;
- ii. A conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- iii. The approval of a plan of subdivision under section 51 of the *Planning Act* or any successor thereto;
- iv. A consent under section 53 of the *Planning Act*;

- v. The approval of a description under section 50 of the *Condominium Act*; or
 - vi. The issuing of a permit under the *Building Code Act*, 1992 in relation to a building or structure.
- b) No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings or structures to which this by-law applies even though two or more of the actions described in subsection 3.4(a) are required before the lands, building or structures can be developed.
 - c) Despite subsections 3.4(b), if two or more of the actions described in subsection 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

- 3.5 Notwithstanding the provisions of this by-law, development charges shall not be imposed or may be deferred, on terms and conditions, satisfactory to the Town, with respect to:
- a) the relocation of a heritage house;
 - b) a building or structure used for a community use owned by a nonprofit corporation;
 - c) land owned by and used for the purposes of a private school that is exempt from taxation under the *Assessment Act* or any successor thereto;
 - d) lands, buildings or structures used or to be used for the purposes of a cemetery or burial ground exempt from taxation under the *Assessment Act* or any successor thereto;
 - e) non-residential uses permitted pursuant to section 39 of the *Planning Act* or any successor thereto;
 - f) the issuance of a building permit not resulting in the creation of additional non-residential gross floor area;
 - g) agricultural uses;
 - h) development creating or adding an accessory use or structure not exceeding 100 square metres of gross floor area save and except for any live work units with a retail component; for such units development charges will be payable pursuant to subsection 3.10 on the retail component;

- i) a public hospital receiving aid under the *Public Hospitals Act* or any successor thereto;
- j) such other matters as may be determined by the Town.

Amount of Charges

Residential

3.6 The development charges described in Schedule B to this by-law shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

Non-Residential Uses

3.7 The development charges described in Schedule B to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed-use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the gross floor area of the non-residential use.

Place of Worship

3.8 Despite subsection 3.7, development charges shall not be imposed in respect of the gross floor area of a place of worship to a maximum of 5,000 square feet (or 464.5 square metres) or in respect of that portion of the gross floor area of a place of worship which is used as an area for worship, whichever is greater.

Reduction of Development Charges Where Redevelopment Occurs

3.9 Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 60 months prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- a) In the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsections 3.6 of this by-law by the number, according to

type, of dwelling units that have been or will be demolished or converted to another principal use; and

- b) In the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.7 of this by-law by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Time of Payment of Development Charges

- 3.10 Development charges imposed under this section are payable upon issuance of a building permit with respect to each dwelling unit, building or structure for General Government, Library, Parks & Recreation and Municipal Parking.
- 3.11 Despite subsection 3.10, Council, from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.
- 3.12 Despite subsection 3.10 and 3.11, the development charges imposed pursuant to this by-law are being phased-in pursuant to Schedules “B-1” and “B-2”, subject to the exemptions and indexing provision herein, from the effective date of this by-law.

4.0 PAYMENT BY SERVICES

- 4.1 Despite the payments required under subsection 3.10, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service for which a development charge is imposed under this by-law.

5.0 INDEXING

- 5.1 Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, on July 1st, commencing in 2020 and each year thereafter, in accordance with the Statistics Canada Quarterly Construction Price Statistics.

6.0 SCHEDULES

- 6.1 The following schedules to this by-law form an integral part thereof:

Schedule A-1: Town-wide Development Charge Services Discounted Services Effective July 21, 2019 to August 31, 2019, Inclusive Residential and Non-Residential Charge Components as designated in subsection 2.1

Schedule A-2: Town-wide Development Charge Services Discounted Services Effective September 1 2019 - By-law Expiry, Inclusive Residential and Non-Residential Charge Components as designated in subsection 2.1

Schedule B-1: Discounted Residential and Non-Residential Development Charges Effective July 21, 2019 to August 31, 2019, Inclusive

Schedule B-2: Discounted Residential and Non-Residential Development Charges Effective September 1, 2019 to By-law Expiry, Inclusive

7.0 DATE BY-LAW IN FORCE

7.1 This by-law shall come into force on July 21, 2019.

8.0 DATE BY-LAW EXPIRES

8.1 This by-law will expire five years from the day the by-law is in force, unless it is repealed at an earlier date.

8.2 By-law 2014-41 and By-law 2014-42 are hereby repealed on the date this by-law comes into force

Enacted this 18th Day Of July, 2019.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Schedule "A-1"
The Town of Newmarket
Town-wide Development Charge Services
Discounted Services
Effective from July 21, 2019 to August 31, 2019, Inclusive
Residential Charge Components

Service	Percentage of Charge (%)
1.0 General Government	1.9%
2.0 Library	6.8%
3.0 Parks & Recreation	88.5%
4.0 Municipal Parking	2.8%
Total	100%

Non-Residential Charge Components

Service	Percentage of Charge (%)
1.0 General Government	36.6%
2.0 Library	0.0%
3.0 Parks & Recreation	0.0%
4.0 Municipal Parking	63.4%
Total	100%

Schedule "A-2"
The Town of Newmarket
Town-wide Development Charge Services
Discounted Services
Effective September 1 2019 to By-law Expiry, Inclusive
Residential Charges Components

Service	Percentage of Charge (%)
1.0 General Government	1.6%
2.0 Library	6.2%
3.0 Parks & Recreation	89.4%
4.0 Parking	2.8%
Total	100%

Non-Residential Charges Components

Service	Percentage of Charge (%)
1.0 General Government	36.4%
2.0 Library	0.0%
3.0 Parks & Recreation	0.0%
4.0 Parking	63.6%
Total	100%

**Schedule "B-1"
TO BY-LAW 2019-47**

DISCOUNTED DEVELOPMENT CHARGES EFFECTIVE FROM JULY 21, 2019 TO AUGUST 31, 2019, INCLUSIVE

DISCOUNTED Service	Residential Charge By Unit Type				Non-Residential Charge per Square Metre
	Singles & Semis	Rows & Other Multiples	Apartments		
			700 sq. ft. or Greater	Under 700 sq. ft.	
Discounted Services					
General Government	\$261	\$205	\$155	\$111	\$1.35
Library	\$934	\$733	\$554	\$396	\$0.00
Parks & Recreation	\$12,198	\$9,765	\$7,810	\$6,921	\$0.00
Municipal Parking	\$378	\$297	\$224	\$160	\$2.34
TOTAL CHARGE	\$13,771	\$10,999	\$8,744	\$7,588	\$3.69

**Schedule "B-2"
TO BY-LAW 2019-47**

DISCOUNTED DEVELOPMENT CHARGES EFFECTIVE FROM SEPTEMBER 1, 2019 TO BY-LAW EXPIRY, INCLUSIVE

DISCOUNTED Service	Residential Charge By Unit Type				Non-Residential Charge per Square Metre
	Singles & Semis	Rows & Other Multiples	Apartments		
			700 sq. ft. or Greater	Under 700 sq. ft.	
Discounted Services					
General Government	\$261	\$205	\$155	\$111	\$1.35
Library	\$995	\$781	\$591	\$422	\$0.00
Parks & Recreation	\$14,398	\$11,294	\$8,547	\$6,105	\$0.00
Municipal Parking	\$455	\$357	\$270	\$193	\$2.36
TOTAL CHARGE	\$16,109	\$12,637	\$9,563	\$6,831	\$3.71