

Corporation of the Town of Newmarket

(Draft) By-law 2022-XX

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

To adopt a Community Benefits Charge for the Town of Newmarket

Whereas authority is given to Council under section 37 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to adopt a community benefits charge by-law; and

Whereas the Town of Newmarket has prepared a community benefits charges strategy pursuant to subsection 37(9) of the *Planning Act*; and

Whereas the Town of Newmarket has consulted with appropriate persons and public bodies in the preparation of this by-law;

The Council of the Town of Newmarket enacts:

1. As used in this by-law the following terms shall have the meaning indicated:
 - (a) "basement" – the portion of a building between the first floor and any floor below the level of the first floor.
 - (b) "Building Code Act" – the *Building Code Act, 1992*, S.O.1992, c. 23.
 - (c) "building permit" – a permit issued pursuant to the Building Code Act that permits the construction, alteration or change in use of a building or structure which is described in its respective building permit application.
 - (d) "building permit application" – an application submitted to and accepted by the Chief Building Official for a building permit which complies with the applicable zoning by-law and with all technical requirement of the Building Code Act and includes payment of all applicable fees.
 - (e) "Chief Building Official" – the Chief Building Official for the Town appointed or constituted under section 3 of the Building Code Act or their designate.
 - (f) "community benefits charge" – the charge that is authorized under this by-law pursuant to section 37 of the Planning Act.
 - (g) "community benefits strategy" means the community benefits strategy prepared in accordance with subsection 37(9) of the Planning Act and O. Reg. 507/20;
 - (h) "Condominium Act" – the *Condominium Act, 1998*, S.O. 1998, c. 19.
 - (i) "Council" means the municipal council for the Town.

- (j) "development" or "redevelopment" – any activity or proposed activity in respect of any land, building or structure that requires:
 - (i) the passing of a zoning by-law or of an amendment to a zoning by-law,
 - (ii) the approval of a minor variance,
 - (iii) a conveyance of land to which a part lot control exemption by-law applies,
 - (iv) the approval of a plan of subdivision,
 - (v) a consent to sever,
 - (vi) the approval of a description of a plan of condominium pursuant to the Condominium Act, or
 - (vii) the issuing of a building permit under the Building Code Act, in relation to a building or structure.
- (k) "gross floor area" – the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level.
- (l) "in-kind contribution" - facilities, services or matters identified in a community benefits strategy and required because of development or redevelopment provided by an owner of land, in lieu of payment of the community benefits charge otherwise applicable, in whole or in part.
- (m) "Planning Act" – the *Planning Act*, R.S.O. 1990, c. P.13.
- (n) "residential unit" – a unit that:
 - (i) consists of a self-contained set of rooms located in a building or structure,
 - (ii) is used or intended for use as residential premises, and
 - (iii) contains kitchen and bathroom facilities that are intended for the use of the unit only.
- (o) "storey" – a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it.
- (p) "Town" means the Corporation of the Town of Newmarket.
- (q) "value of the land" – for the purposes of determining the community benefits charge payable, appraisals of land value shall be carried out under the direction of the Director, Planning and Building Services and shall be determined in accordance with generally accepted appraisal principles.

2. Subject to section 3, this by-law applies to all lands in the geographic area of the Town of Newmarket.

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.
4. A community benefits charge shall be payable for the capital costs of facilities, services and matters required for development and redevelopment . The Town intends to recover the capital costs of the following facilities, services or matters, as identified in the community benefits charges strategy, under this by-law.:
 - (a) Civic Administration;
 - (b) Library;
 - (c) Affordable Housing;
 - (d) Parks & Recreation;
 - (e) Municipal Parking; and
 - (f) Public Realm.
5. The community benefits charge shall be imposed on all development or redevelopment of a building or structure with five (5) or more storeys and that adds ten (10) or more residential units, except for the types of excluded development or redevelopment set out in section 1 of Ontario Regulation 509/20.
6. The amount of the community benefits charge payable is four percent (4%) of the value of the land that is the subject of the development or redevelopment on the day before the first building permit is issued in respect of the development or redevelopment.
7. The community benefits charge is payable prior to the issuance of the first building permit authorizing the development or redevelopment.
8. If a development or redevelopment is to be constructed in phases, each phase of the development is deemed to be a separate development or redevelopment for the purposes of this by-law and the amount of the community benefits charge for each phase will be four percent (4%) of the value of the land of that phase on the day before the first building permit for development or redevelopment of that phase is issued.
9. The value of the gross floor area for the types of development or redevelopment set out in section 1 of Ontario Regulation 509/20 to the Planning Act shall be deducted from the community benefits charges otherwise payable.
10. The onus is on the owner of land or building permit applicant to produce evidence to the satisfaction of the Town establishing that the owner of land or building permit applicant is entitled to an exemption under the provisions of this by-law.
11. In the event that Council has allowed an owner of land to provide an in-kind contribution in-lieu of payment of the community benefits charge otherwise payable and arrangements for its provision that are satisfactory to Council have been made, the community benefits charge otherwise payable for the development or redevelopment will be reduced by the value that the Town has attributed to the in-kind contribution.

12. Within five (5) years after this by-law is passed Council shall ensure that a review of this by-law is undertaken and shall pass a resolution declaring whether a revision to the by-law is needed and thereafter shall further review and pass a resolution every five (5) years after the previous resolution was passed.
13. Should any part of this by-law be determined by a court of competent jurisdiction to be invalid or of no force, It is the stated intention of Council that such invalid part of this by-law shall be severable from this by-law, and that the remainder of this by-law, including the remainder of any schedule hereto, as applicable, shall continue to operate and be in full force an effect.
14. A reference to a statute, regulation, or by-law, is deemed to be a reference to the statute, regulation, or by-law, as amended, revised, consolidated or replaced from time to time.
15. The short title of this is the “Community Benefits Charge By-law.”
16. This by-law shall come into force and take effect on June 13, 2022.

Enacted this 6th day of June, 2022.

John Taylor, Mayor

Lisa Lyons, Town Clerk