



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2016-67

A BY-LAW TO ADOPT A STORMWATER MANAGEMENT SERVICES CHARGE BY THE TOWN OF NEWMARKET.

WHEREAS the *Municipal Act, 2001*, S.O. 2001 (the "Act"), authorizes a municipality to pass by-laws imposing fees and charges pertaining to a stormwater system pursuant to sections 9, 10, 11 and 391 of the Act;

AND WHEREAS Council deems it necessary and desirable to create a separate stormwater fee and charge to fund the operation, maintenance and capital projects pertaining to stormwater management;

AND WHEREAS the creation of a separate stormwater charge to fund stormwater management (the "Stormwater Charge") will bring greater transparency to the cost of providing and maintaining the stormwater management service with the Town;

AND WHEREAS it is deemed just that the cost of operating, maintaining and upgrading the stormwater management service is paid for by those who benefit from this service;

AND WHEREAS the Council desires to implement a credit program as an incentive for certain property owners to provide on-site stormwater management measures and to recognize existing properties with stormwater management measures already in place;

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

#### 1. DEFINITIONS

1.1 In this by-law,

**"Act"** mean the *Municipal Act, 2001*, S.O. 2001

**"Appeal"** means a process by which a person challenges information that has been associated with the Stormwater Charge account.

**"Applicant"** means a property owner that submits a Stormwater Management Credit application on the Town approved form.

**"Average Impervious Area Percentage"** means the observed average Impervious Area Percentage within a Runoff Level Group.

**"Billing Error"** means an error in the preparation of the Stormwater Charge Account, resulting in an undercharge or overcharge caused by a gross or manifest error in the preparation of the Stormwater Charge account that is clerical or factual in error, including transposition of figures, a typographical error or similar errors.

**"By-law"** means this Stormwater Management Fees and Charges By-law

**"Council"** means the Council for the Corporation of the Town of Newmarket

**“Credit Program”** mean’s the Town’s credit program which reduces the Stormwater Charges as an incentive to certain property owners that provide on-site stormwater management measures and as recognition of property owners that have existing properties with stormwater management measures already in place.

**“Engineering Services”** means the Town’s Engineering Services Department of the Development and Infrastructure Services Commission.

**“Impervious Area Percentage”** means the percent of a property’s area that is covered by impervious features. Rooftops and paved surfaces are impervious features.

**“Material Change”** means any change in the property’s runoff characteristics since the Applicant’s in the original Stormwater Management Credit application, any fact that was not expressly disclosed by the Applicant in the Stormwater Management Credit application process, or that the Applicant was not aware of at the time of the Stormwater Management Credit application, and which results in the subject property no longer being in substantial compliance with the objectives of the Credit Program, or no longer eligible for the current level of the Stormwater Management Credit approved by the Town.

**“Person”** includes an individual, sole proprietorship, partnership, corporation, municipal corporation, unincorporated association or organization, trust and a natural person in his or her capacity as a trustee, executor, administrator, or other legal representative.

**“Runoff Level Group”** means the grouping of properties that have a similar Impervious Area Percentages.

**“Stormwater Funding Requirement”** means the annual amount of funding required to for the Town to provide the Stormwater Management Service.

**“Stormwater Management Service”** means the work performed and the infrastructure used, controlled, maintained or operated by the Town to manage stormwater flow and drainage and all appurtenances thereto owned, and includes, but is not limited to, storm sewers, catch basins, storm service connections, drains, pipes, overland conveyance systems including road corridors, culverts, channels, ditches, rivers, streams, creeks, ravines and watercourses, stormwater management facilities including landscaping features, storage ponds or tanks, and oil and grease interceptors that control quantity or quality of stormwater runoff, pumping stations, outfalls, swales and all equipment laid within any highway or road allowance, Town right-of-way or easement or Town property used for the collection, transmission, detention and treatment of stormwater or uncontaminated water.

**“Town”** means the Corporation of the Town of Newmarket in the Regional Municipality of York or where the context requires the geographical jurisdiction of the Corporation of the Town of Newmarket in the Regional Municipality of York.

**“Treasurer”** means the Town Treasurer or his/her designate.

## **2. SCOPE**

- 2.1 A stormwater charge (the “Stormwater Charge”) is to be imposed upon all real property in the Town with the exception of real property owned by the Town and real properties that are legally exempt from municipal user fees and charges.

See Appendix C for the list real properties that are exempt from municipal user fees and charges.

### **3. DETERMINING STORMWATER CHARGE**

- 3.1 The following equation shall be used to determine the Stormwater Charge:

$$\text{Stormwater Charge} = \text{Property Size} \times \text{Runoff Level Group Rate}$$

Property Size for non-condominium properties is determined by the Municipal Property Assessment Corporation and is the area identified on the tax roll for the subject property.

Property Size for condominium properties is the size of the condominium corporation's parcel divided by the number of condominium properties on the parcel.

Runoff Level Group rate is determined by the Runoff Level Group's Average Impervious Percentage and the Stormwater Funding Requirement. See Appendix B for the Average Impervious Percentages of the Runoff Level Groups.

- 3.2 The Runoff Level Group Rate shall be set out by Council in the Fees and Charges By-law.

### **4. STORMWATER CHARGE ADJUSTMENT**

- 4.1 The Stormwater Charge may be revised in either of the following instances:

- a) An adjustment may arise whereby the Municipal Property Assessment Corporation updates the subject property's assessment resulting from an Appeal.
- b) An internal adjustment may arise whereby the Town revises, modifies, or amends the Stormwater Charge due to various factors, including:
  - i. updates to the Municipal Property Assessment Corporation's assessment data for the subject property;
  - ii. updates to the Town's open space zoning by-law;
  - iii. updates to Runoff Level Groups' Average Impervious Percentage;
  - iv. updates to the procedure determining a properties' Runoff Level Group;
  - v. change in Stormwater Funding Requirement as approved by Council.

### **5. INVOICING**

- 5.1 The Stormwater Charge shall be invoiced (the "Stormwater Charge Invoice") under the property's property tax bill and identified separately thereunder as a special charge.
- 5.2 The Stormwater Charge shall be payable upon receipt of the invoice included in the property's tax bill, and every owner in receipt of such invoice shall ensure payment thereof before the due date thereon.
- 5.3 The Treasurer shall have delegated authority and is authorized to adjust the Stormwater Charge with respect to any property, to the extent that it is deemed appropriate due a Billing Error. In this instance, the Stormwater Charge Invoice may be retroactively recalculated for a period not exceeding one (1) year from the date of detection of the Billing Error with

resulting credits or charges to the property owner's stormwater account, and the decision of the Treasurer shall be final and binding.

## **6. STORMWATER CHARGE ADDED TO TAX ROLL**

- 6.1 Pursuant to subsection 398(2) of the Act and in accordance with the Town's Fee and Charges By-law, the Stormwater Charge may be added to the tax roll of the property to which the Stormwater Charge applies and shall then be collected in the same manner as municipal taxes.

## **7. CREDIT PROGRAM**

- 7.1 Property owners may be eligible to qualify for a Stormwater Charge credit (the "Stormwater Management Credit") where such users can clearly demonstrate to the Town that owner's stormwater facilities or best management practices provide the Town with cost savings that the Town would otherwise incur as part of its effort to manage stormwater.
- 7.2 Engineering Services shall be responsible for the administration of the Credit Program, and may prescribe all forms necessary to implement the Credit Program, and may amend such forms from time to time as it deems necessary with the approval of the Treasurer.

### **Credit Program Application**

- 7.3 Participation in the Credit Program is by application only. Property owners must submit a Stormwater Management Credit application in a form approved by the Town and associated fees, if applicable, for consideration and qualification of the Stormwater Management Credit. The Stormwater Credit application will be reviewed and determined by Engineering Services.
- 7.4 Reductions to the Stormwater Charge made as a result of the approval of a Stormwater Management Credit application shall take effect in accordance with the following schedule:
- a) Stormwater Management Credit applications received within the first year of the applicable Stormwater Charge: Reductions that result from applications that are received on or before December 31, 2017 will be retroactive up to the later of (i) the date of the first billing of the Stormwater Charge, and (ii) the date on which the qualified stormwater management practices or measures were implemented into service, as determined by Engineering Services.
  - b) Stormwater Management Credit applications received after the first year of the applicable Stormwater Charge: Reductions that result from applications that were received on or after January 1, 2018 will be retroactive up to the later of (i) the date of receipt of the application by Engineering Services, and (ii) the date on which the qualified stormwater management practices or measures were implemented into service, as determined by Engineering Services.

### **Credit Program Expiration and Renewal**

- 7.5 Stormwater Management Credits shall be in effect for a period of up to five (5) years from the date of approval by the Town, or as otherwise specified at the time of the said credit approval. Credits will expire if not renewed prior to the expiration date of the said credit approval.
- 7.6 A Credit Program application must be resubmitted to the Town no later than three (3) months after any Material Change to the originally submitted Credit Program application which did not contain the Material Change information. Any late resubmission of the application may result in the

discontinuance of the Credit Program amount. The Town may adjust (increase or decrease) the current credit amount.

- 7.7 A Stormwater Management Credit may be renewed by a renewal application which must be submitted to the Town no later than three (3) months prior to the expiration date of the credit approval. Any late submission of the application may result in the discontinuance of the Stormwater Management Credit. The Town may adjust (increase or decrease) the current Stormwater Management Credit

#### **Credit Program Inspections**

- 7.8 The Town reserves the right to conduct site inspections, and may, at any reasonable time, enter and inspect any property benefitting from a Stormwater Management Credit to review eligibility and the Town may suspend, reduce or cancel the Stormwater Management Credit as a result of such site inspections.

#### **Credit Program Suspensions, Reductions and Cancellations**

- 7.9 A Stormwater Management Credit may be suspended, reduced or cancelled by the Town under the following circumstances:
- a) failure of an Applicant to meet the terms and conditions of the Stormwater Management Credit approval;
  - b) failure of the applicant to maintain a stormwater management practice or measure as required by the terms and conditions of the Stormwater Management Credit approval;
  - c) submission of inaccurate or false information by the Applicant;
  - d) failure to submit a complete Stormwater Management Credit renewal application.
- 7.10 A reduction or cancellation of a Stormwater Management Credit may be appealed by the Applicant in writing to the Treasurer. The decision by the Treasurer shall be final and binding.
- 7.11 Where the Town has granted a Stormwater Management Credit and subsequently determines that a stormwater management practice or measure does not function as approved, the Applicant shall reimburse the Town the entire amount of the Stormwater Management Credit received in respect of the subject property from the later of (i) the date that the Credit Program application was approved, updated or renewed, and (ii) from the date of the last inspection of the subject property by the Town.
- 7.12 If the Stormwater Management Credit is cancelled by the Town, the Applicant may not re-apply for such a credit for a period of twelve (12) months.

### **8. APPEALS**

- 8.1 A person who requests an Appeal will not be required to pay a service fee for any of the appeals outlined in Appendix A which outlines the Appeal processes
- 8.2 The filing of an Appeal does not negate the requirement for the appellant (the "Appellant") to pay the Stormwater Charge.
- 8.3 Adjustments made as a result of an Appeal shall take effect in accordance with the following schedule:
- a) Appeals received by the Town within the first year of the Stormwater Charge: adjustments that result from Appeals which

were received before December 31, 2017 will be retroactive up to the date of the receipt of the Appeal by the Treasurer; and

- b) Appeals received by the Town after the first year of the Stormwater Charge: adjustments that result from Appeals which were received on or after January 1, 2018 will be retroactive up to the date of the receipt of the Appeal by the Treasurer.

**9. FORCE AND EFFECT**

9.1 This By-law shall come into force and have effect on January 1, 2017.

ENACTED THIS 5TH DAY OF DECEMBER, 2016.

\_\_\_\_\_  
Tony Van Bynen, Mayor

\_\_\_\_\_  
Esther Armchuk, Acting Town Clerk