

Corporation of the Town of Newmarket

By-law 2024-XX

BEING A BY-LAW TO AUTHORIZE COST RECOVERY (FEES) WITH RESPECT TO FIRE DEPARTMENT SPECIFIC RESPONSE

WHEREAS pursuant to section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time (the “Municipal Act”), the powers of a municipality are to be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considered appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS pursuant to section 391 of the Municipal Act, a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS pursuant to section 398 of the Municipal Act, fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS Council of the Town of Newmarket deems it expedient to pass a by-law to impose fees on persons to recover the costs of fire department responses;

NOW THEREFORE the Council of the Town of Newmarket hereby enacts as follows:

1. In this By-Law:
 - a. “Council” means Council of the Municipality;
 - b. “Fees and Charges By-law” means (a) by-law 2023-76 of the Municipality which establishes fees and charges for services or activities provided by the Municipality, as may be amended from time to time, and (b) if by-law 2023-76 is repealed, any future by-law of the Municipality that establishes fees and charges for services or activities provided by the Municipality.
 - c. “Fire Department” means a fire department established by the Municipality in accordance with the provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended from time to time;
 - d. “Fire Department Specific Response Fees” means cost recovery fees for Fire Department attendance at a Property for which the Owner has Fire Department insurance coverage and which are set out in the Fees and Charges By-law;
 - e. “Municipality” means the Corporation of the Town of Newmarket;
 - f. “Owner” means the registered owner of property or any person, firm, corporation, partnership or society and their heirs, executors, administrators or other legal representatives, including a property manager, tenant, occupant, mortgagee in possession, receiver, manager, trustee or trustee in bankruptcy having control over or possession of the property or any portion thereof;

- g. "Property" means any real property located within the geographical boundaries of the Municipality, and any real property to which the Fire Department is under a service agreement to provide Fire Department Response services, Automatic Aid or Mutual Aid. Real property includes buildings, contents and structures of any nature and kind in or upon such lands to which service is provided;
2. The Municipality hereby authorizes the imposition of fees from time to time in accordance with the provisions of this By-Law.
3. The Owner of Property shall be responsible for the payment of Fire Department Specific Response Fees imposed by this By-Law.
4. The Municipality may use any available technology to assess applicable insurance coverage for Fire Department Specific Response Fees or utilize a third party service provider to invoice Fire Department Specific Response Fees on behalf of the Municipality.

Fees imposed pursuant to this By-Law constitute a debt of the Owner to the Municipality.

5. Where the Owner does not have, in part or in full, insurance coverage for fire department charges for the Property, the Municipality may adjust the Fire Department Specific Response Fees to the extent of insurance coverage upon provision by the Owner of evidence, to the satisfaction of the Municipality, that no such insurance coverage exists or to demonstrate the limits of such coverage.
6. In this By-Law, words importing the singular shall include the plural where the context requires.
7. If any term or provision of this By-Law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-Law or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby, it being the intention of the Council that each term and provision of this By-Law shall be separately valid and enforceable to the fullest extent permitted by law.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS DAY OF XXXX, 2024

Enacted this day of XXXX , 2024.

John Taylor, Mayor

Lisa Lyons, Town Clerk