



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2009-73

A BY-LAW TO REPEAL BY-LAW 2004-147 AND ENACT A BY-LAW FOR THE IMPOSITION OF DEVELOPMENT CHARGES.

(Town-wide)

WHEREAS the *Development Charges Act, 1997* (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;

AND WHEREAS a Development Charge Background Study, dated June 2009, was prepared by Hemson Consulting Ltd. in accordance with the Act;

AND WHEREAS the Council of the Town of Newmarket has given notice and held a public meeting on the 15th day of June, 2009 in accordance with the Act and the regulations thereto;

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 15th day of June, 2009;

AND WHEREAS staff had an additional meeting on the 11th day of August, 2009 with those who prepared written submissions in an attempt to bring resolution to their concerns;

AND WHEREAS by resolution adopted by Council of the Town of Newmarket on August 31, 2009, 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;

AND WHEREAS by resolution, adopted by Council of the Town of Newmarket on August 31, 2009, Council determined that no further public meetings were required under Section 12 of the Act;

AND WHEREAS by resolution, adopted by Council of the Town of Newmarket on August 31, 2009, Council approved the Report titled "Joint Legal & Development Services (Legal) And Corporate & Financial Services – Finance Report 2009-29 dated August 19, 2009 regarding Development Charges By-laws", thereby adopting the development charge rates as set out in Schedule "B";

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) "apartment unit" means any residential dwelling unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

- 4) "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;
- 5) "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;
- 6) "board of education" has the same meaning as that specified in the *Education Act* or any successor thereto;
- 7) "Building Code Act" means the *Building Code Act, 1992*, as amended; or any successor thereto;
- 8) "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;
- 9) "commercial" means any non-residential development not defined under "institutional" or "industrial"
- 10) "council" means the Council of the municipality;
- 11) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;
- 12) "development charge" means a charge imposed with respect to this by-law;
- 13) "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;
- 14) "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;
- 15) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

- 16) "gross floor area" means that the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from other dwelling unit or other portion of a building;

In the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

- a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- loading facilities above or below grade; and
- a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

- 17) "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;
- 18) "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;
- 19) "local board" has the same definition as defined in the *Development Charges Act*;
- 20) "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;
- 21) "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;
- 22) "multiple dwellings" means all dwellings other than single-detached, semi-detached and apartment house dwellings;
- 23) "municipality" means the Corporation of the Town of Newmarket;
- 24) "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;
- 25) "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;

- 26) "place of worship" means that a part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, as amended or any successor thereto;
- 27) "regulation" means any regulation made pursuant to the Act;
- 28) "residential use" means land or buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodation for one or more individuals;
- 29) "semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;
- 30) "services" (or "service") means those services designated in Schedule "A" to this by-law;
- 31) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;
- 32) "single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes.

2.0 DESIGNATION OF SERVICES

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

- a) General Government;
- b) Library;
- c) Fire Services;
- d) Recreation;
- e) Parks;
- f) Yards & Fleet;
- g) Parking; and
- h) Engineered Services.

2.2 The components of the services designated in subsection 2.1 are described in Schedule A.

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 save and except the lands illustrated on Schedule "C" to this By-law.

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*;
 - iii. A conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - iv. The approval of a plan of subdivision under section 5 of the *Planning Act*;
 - v. A consent under section 53 of the *Planning Act*;
 - vi. The approval of a description under section 50 of the *Condominium Act*; or
 - vii. 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 with respect to:
- a) An enlargement of the gross floor area of an existing industrial building in accordance with Section 4 of the Act; or
 - b) The issuance of a building permit in accordance with Section 2(3) of the Act.
 - c) Lands, buildings or structures used or to be used for a place of worship or the purposes of a churchyard or cemetery exempt from taxation under the *Assessment Act*;
 - d) The development of non-residential farm buildings constructed for bona fide farm uses;
 - e) Indian lands.

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.

Reduction of Development Charges Where Redevelopment

- 3.8 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

- 3.9 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, fire, recreation facilities, outdoor recreation and yards and fleet services. Development charges for town-wide engineered services shall be payable upon registration of subdivision agreement.

- 3.10 Despite subsection 3.9, 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.

4.0 PAYMENT BY SERVICES

- 4.1 Despite the payments required under subsection 3.9, 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, commencing on the first anniversary date of this by-law and each anniversary date 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 – Components of Services Designated in subsection 2.1

Schedule B – Residential and Non-Residential Development Charges

Schedule C – Land within Town of Newmarket to which this By-law does not apply

7.0 DATE BY-LAW IN FORCE

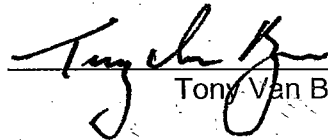
7.1 This by-law shall come into force on the date of passage of the by-law.

8.0 DATE BY-LAW EXPIRES

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

THAT By-law 2004-147 be hereby repealed.

ENACTED THIS 31ST DAY OF AUGUST, 2009.


Tony Van Bynen, Mayor


Anita Moore, Town Clerk

The Town of Newmarket
Town-wide Development Charge Services

- 1.0 General Government
- 2.0 Library
- 3.0 Fire Services
- 4.0 Recreation
- 5.0 Parks
- 6.0 Yards & Fleet
- 7.0 Parking
- 8.0 Engineered Services

Schedule "B"
The Town of Newmarket
Development Charge Summary

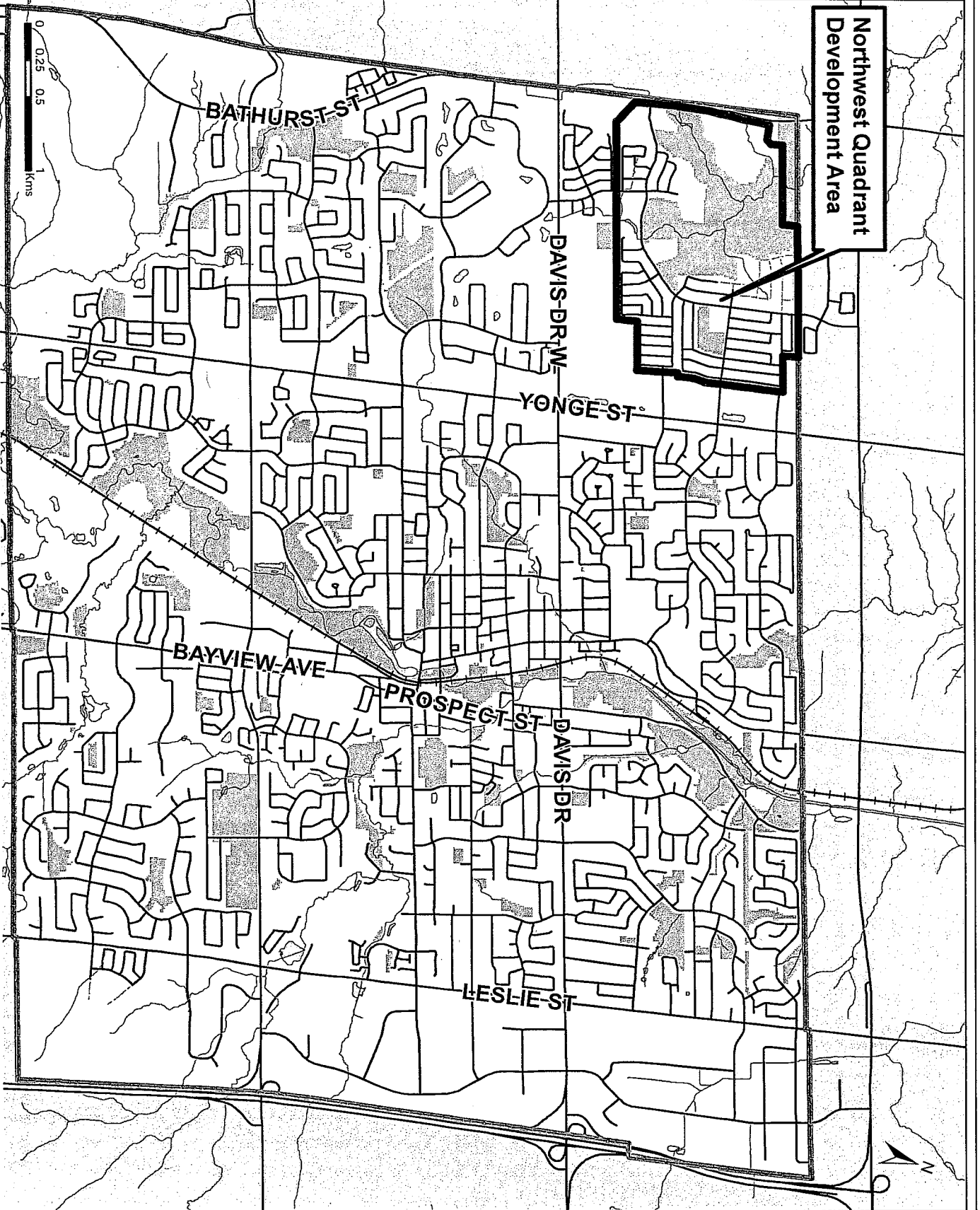
RESIDENTIAL CHARGES

SERVICE	Singles	Semis	Rows and Other Multiples	Apartments	
				Two bedrooms and greater	Bachelor and One Bedroom
GENERAL GOVERNMENT	\$286	\$227	\$207	\$159	\$97
LIBRARY	\$1,105	\$876	\$798	\$613	\$376
FIRE SERVICES	\$364	\$288	\$263	\$202	\$124
RECREATION	\$5,015	\$3,979	\$3,623	\$2,785	\$1,705
PARKS	\$4,391	\$3,483	\$3,172	\$2,438	\$1,493
YARDS & FLEET	\$392	\$311	\$283	\$218	\$133
PARKING	\$321	\$255	\$232	\$178	\$109
SUB-TOTAL GENERAL SERVICES	\$11,874	\$9,419	\$8,578	\$6,593	\$4,037
SUB-TOTAL ENGINEERED SERVICES	\$1,003	\$795	\$724	\$557	\$341
TOTAL CHARGE PER UNIT	\$12,877	\$10,214	\$9,302	\$7,150	\$4,378


NON-RESIDENTIAL CHARGES

SERVICE	Non-Residential Charge per Square Metre
GENERAL GOVERNMENT	\$2.05
LIBRARY	\$0.00
FIRE SERVICES	\$2.59
RECREATION	\$0.00
PARKS	\$0.00
YARDS & FLEET	\$2.79
PARKING	\$2.29
SUB-TOTAL GENERAL SERVICES	\$9.72
SUB-TOTAL ENGINEERED SERVICES	\$7.23
TOTAL CHARGE PER SQUARE METRE	\$16.95

Northwest Quadrant
Development Area



Legend

 Land within the Town of Newmarket to which this by-law does not apply

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Town of Newmarket

LAND WITHIN THE TOWN OF NEWMARKET TO WHICH
THIS BY-LAW DOES NOT APPLY



Schedule 'C'
to
BY-LAW 2009-73