

# Corporation of the Town of Newmarket

## By-law 2020-63

A By-law to amend By-law Number 2010-40, as amended, being the Town of Newmarket Zoning By-law.

Whereas it is deemed advisable to amend By-law Number 2010-40, as amended;

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

1. That Exception 119 enacted by By-law 2013-30 is hereby repealed.
2. That By-law Number 2010-40, as amended, is hereby further amended as follows:
  - i. **Section 1: Interpretation and Administration** is amended by adding **Section 1.10 Transition** and the following:

This section applies to:

- i. Site-Specific Zoning By-law Amendments  
All site-specific zoning by-law amendments approved and came into full force and effect pursuant to Section 34 of the *Planning Act* prior to the passing of By-law 2020-63 shall remain in force.
- ii. Minor Variances  
All minor variances applied for prior to the passing of By-law 2020-63 and approved pursuant to Section 45 of the *Planning Act* continue to apply and remain in force as if they are variances to this By-law for lawfully **existing lots, buildings or structures**.

Nothing in this By-law shall prevent the erection or use of a **building or structure**, for which:

- a. a complete application for a minor variance under Section 45 of the Planning Act was filed on or prior to the date of passing By-law 2020-63 and approved prior to or after the passing of By-law 2020-63; or
- b. a complete application for a minor variance under Section 45 of the Planning Act was filed and approved after to the date of passing By-law 2020-63 based on a building permit application filed on or prior to the date of passing By-law 2020-63 .

For the purposes of this section, a "complete application for a minor variance" means an application which satisfies the requirements of Section 2 of Ontario Regulation 200/96

(Minor Variance Applications) under the *Planning Act*.

iii. Building Permit Applications

Nothing in this By-law shall prevent the erection or use of a **building or structure** for which an application for a building permit was filed on or prior to the date of passing By-law 2020-63, if the project in question complies, or the building permit application for the project is amended to comply, with the provisions of the zoning by-law as amended as it existed on the date of passing By-law 2020-63.

An “application for a building permit” means an application for a building permit that satisfies the requirements set out in Building By-law 2015-58 or its successor by-law.

iv. Site Plan Approval Applications

Nothing in this By-law shall prevent the erection or use of a **building or structure** for a project for which a complete application for site plan approval was filed on or prior to the date of passing By-law 2020-63, if the project in question complies with the provisions of the applicable zoning by-law on that date, or obtains necessary relief from the zoning by-law through a minor variance under Section 45 of the *Planning Act*.

Where a project qualifies under this Section:

- a. site plan approval may be granted if the project complies with the provisions of the applicable zoning by-law as it read on the date it was amended by By-law 2020-63 and all requirements of the *Planning Act*.
- b. after final site plan approval is received for a project that qualifies under Section 1.10 (iii), a building permit for that project may be issued if the project in question complies, or the building permit application for the project is amended to comply, with the provisions of the applicable zoning by-law as it read on the date it was amended by By-law 2020-63, the site plan approval, and all finally approved minor variances.

For the purposes of this section, a "complete application for site plan approval" means an application which satisfies the requirements set out in the Town of Newmarket Official Plan.

v. Transition Clause Duration

Nothing in this By-law applies so as to continue the application of Section 1.10 beyond the issuance of the building permit upon which the exemptions are founded.

ii. **Section 3: Definitions** is amended as follows:

- a. Delete the definition of **Basement** and replace it with the following:

Means a portion of a building that is underground, which has more than one third of its height above finished grade but where the height above finished grade does not exceed:

- 1.2 metres for lots Zoned R1, R2 or R3; or,
- 1.8 metres for lots in all other Zones.

- b. Add the term **Dormer** and the following definition:

Means a roof structure, often containing a window, which projects both vertically and horizontally beyond the plane of a pitched roof, occupying an area equal to or less than 30% of the total horizontal roof area on each side of the roof.

- c. Delete the definition of **Grade, Established or Finished** and replace it with the following:

“Means

For single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, and fourplex dwellings, the average elevation of the ground, measured at the two points where the front yard meets adjacent side lot lines;

For all other structures, the average of the levels of the finished ground surface at every location of change of grade along the exterior walls of a building or structure.”

- d. Revise the term **Height** to **Height, Building** and replace the definition with the following:

“Means the vertical distance measured between the established or finished grade and any of the following:

- On a flat roof or mansard roof, the highest point of the roof surface or the parapet, whichever is greater;
- On a gable, hip or gambrel roof, or any other type of pitched roof, the mean distance between the eaves and ridges of the roof; or,
- The highest point of a structure without a roof.”

- e. Add the term **Height, Finished First Floor** and the following definition:

“Means the finished height of the first floor of a building, inclusive of the entryway or landing, occupying an area greater than or equal to 50% of the total horizontal first floor area, and measured relative to the elevation of established or finished grade.”

- f. Add the term **Roof, Flat** and the following definition:

“Means a roof with a slope of less than 1.0 vertical units for every 4.0 horizontal units, occupying an area greater than or equal to 50% of the total horizontal roof area.”

- g. Add the term **Roof, Pitched** and the following definition:

“Means a roof with a slope of greater than 1.0 vertical units for every 4.0 horizontal units, occupying an area greater than or equal to 50% of the total horizontal roof area.”

- h. Revise the term **Garage, Residential** by adding “accessed via a driveway” after “Means an enclosed building or part thereof”, as follows:

“Means an enclosed building or part thereof, accessed via a driveway, located within a Residential Zone that is used for the storage of private motor vehicles, recreational vehicles and trailers.”

- i. Delete the definition of **Storey** and replace it with the following:

“Means

For single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, and fourplex dwellings a level of a building located between the surface of a floor and the ceiling or roof immediately above it, and includes a mezzanine but does not include a basement or cellar. Any portion of a building partly below grade shall be deemed a storey where its ceiling is more than 1.2m above established grade.

For all other structures, a level of a building located between the surface of a floor and the ceiling or roof immediately above it, and includes a mezzanine but does not include a basement or cellar. Any portion of a building partly below grade shall be deemed a storey where its ceiling is more than 1.8m above established grade. Any portion of a storey exceeding 3.6 metres in height shall be deemed to be an additional storey.”

iii. **Section 4: General Provisions** is amended as follows:

a. Add the following to the table in **Section 4.2 Encroachments into Required Yards**:

Permitted Structure or Feature	Applicable Required Yard(s)	Required Setback or Permitted Encroachment
<b>STRUCTURAL AND ORNAMENTAL FEATURES:</b>		
<i>Driveway</i>	Permitted in any yard of a residential zone	Subject to: i. Limits of Section 6.2 ii. Limits of Section 5.5

b. Add the following provision as **Section 4.9.2 Exception** and renumber Valid Building Permit in Effect as Section 4.9.3:

**Section 4.9.2 Exception**

Notwithstanding Section 4.9.1 (iii), a building or structure having a non-complying maximum finished first floor height may be enlarged, repaired or renovated, but the reconstruction of such building or structure shall comply with the maximum finished first floor height in accordance with Section 6.2.2.

c. Delete **Section 4.13 Conformity with an Established Building Line**.

d. Add **Section 4.24 0.3m Reserve** and the following provisions:

**Section 4.24 0.3m Reserve**

For the purposes of this By-law, a 0.3 m reserve shall:

- i. be considered to be part of the abutting road for the purposes of determining lot lines, and
- ii. be considered part of the adjacent lot for the purposes of determining setbacks and coverage.

This regulation does not deem the lot to abut a street from which it is separated by a 0.3 metre reserve.

iv. **Section 6.2.2 Zone Standards** is amended as follows:

a. Delete column **Ex. 119** from the table.

- b. In the row **Maximum Lot Coverage**, add “Refer to Schedule D. If there is a conflict between this section and Schedule D, Schedule D takes precedence” in the columns for Zones A, B, C, D, E, F, G, H, J and K.
  - c. Replace the term **Max. Height** with **Max. Building Height**.
  - d. Delete the **Max. Building Height** provisions for Zones A, B, C, D, E, F, G, H, J and K and replace them with “8.5m (\*19)”.
  - e. Add a row to the table for **Max. Finished First Floor Height** and insert “1.2m” in the columns for Zones A, B, C, D, E, F, G, H, J and K.
  - f. Delete “Each Side 1 Storey”; “Each Side 1.5 Storeys”, and “Each Side 2 Storeys” in the table under **From Interior Side Lot Line** and replace them with “Up to 4.2m Building Height”; “Up to 5.7 Building Height” and “Beyond 5.7m Building Height” respectively.
  - g. Delete the **Min. Yard Setback from Front Lot Line** provisions for Zones C, D, E, F, G, H, J, and K and replace them with (\*16).
  - h. In the row **From Interior Side Lot Line**, add (\*17) for Zones for Zones H, J and K.
  - i. In the row **Exterior Side Lot Line**, add (\*18) for Zones C, D, E, F, G, H, J and K.
- v. **Section 6.2.3 Additional Requirements for Residential Zones** is amended as follows:
- a. Delete the first paragraph and replace it with the following:
    - i. The following additional requirements apply to the regulatory sets for the Residential Zones as shown throughout Section 6.2.2. Where marked by an asterisk and number, that number refers to the standard that is varied by the clause. Where indicated as a regulation (i) (ii) (iii) that regulation describes its effect and application.
  - b. Add the following provision after the first paragraph:
    - ii. For residential lots, the minimum amount of soft landscaping in a yard is the area of the yard less any permitted encroachments.
  - c. Add the following additional requirements after (\*15):
 

(\*16) The minimum front yard setback shall be one metre less than the average of the front yard setback of adjacent dwellings located within 60 metres on the same road, but shall not be closer to the street line than 3m.

In addition to the above, the proposed front yard setback shall not be further from the street line than one metre greater than the average of the front yard setback of adjacent dwellings located within 60 metres on the same road.

(\*17) For a semi-detached dwelling, the setback shall not apply where a side lot line extends from a common wall dividing attached dwelling units.

(\*18) The minimum exterior side yard setback requirement shall be one metre less than the average of the front yard or exterior side yard setbacks of the adjacent dwelling(s) located within 60 metres on the same side of the road as the exterior side lot line, but it shall not be less than the minimum prescribed in Section 6.2.2.

In addition to the above, the proposed exterior side yard setback shall not be further from the exterior side lot line than one metre greater than the average of the front yard or exterior side yard setbacks of the adjacent dwelling(s) located within 60 metres on the same side of the road as the exterior side lot line.

(\*19) Notwithstanding the maximum building height as stated in Section 6.2.2, the maximum building height for dwellings located within the area as shown on Schedule E: Maximum Building Height Special Provision Area shall be 8.0 metres.

vi. **Schedules (Maps)**

- a. Add the attached Schedule 1 as Schedule D: Lot Coverage to By-law 2010-40, as amended.
- b. Delete Schedule A Maps 10 and 13 and replacing them with Schedules 2 and 3 attached as new Schedule A Maps 10 and 13.
- c. Add the attached Schedule 4 as Schedule E: Maximum Building Height Special Provision Area to By-law 2010-40, as amended.

3. That Schedules 1, 2, 3 and 4 attached to this by-law are declared to form part of this by-law.

Enacted this 14th day of December, 2020.









John Taylor, Mayor



Lisa Lyons, Town Clerk

**Schedule "D"**  
to By-Law  
No.2010-40

Town of Newmarket

**Maximum Lot  
Coverage**

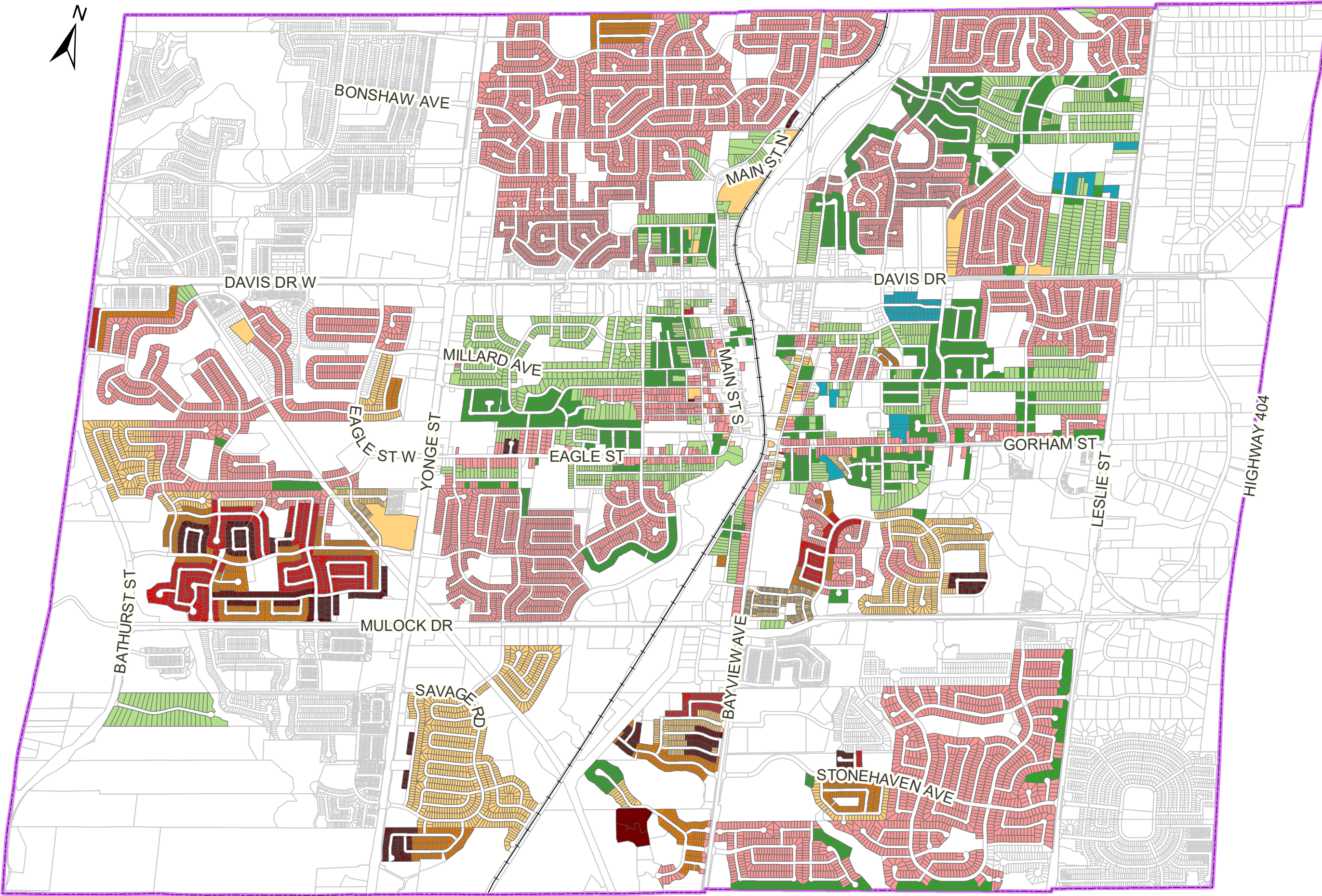
-  20%
-  25%
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-  35%
-  40%
-  45%
-  47%
-  50%

-  Railway
-  Municipal Boundary



December, 2020

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




# Schedule "E" to By-Law No.2010-40

Town of Newmarket

## Maximum Building Height Special Provision Area

-  Maximum Building Height of 8.0 m
-  Road
-  Future Road
-  Railway
-  Municipal Boundary



December, 2020

Designed & Produced by Information Technology - GIS  
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All other data - © Town of Newmarket, 2020.  
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