



BY-LAW 2022-

A BY-LAW TO ESTABLISH CITY-WIDE HARD SERVICES DEVELOPMENT CHARGES FOR THE CORPORATION OF THE CITY OF MARKHAM

WHEREAS subsection 2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (hereinafter called the “Act”) provides that the Council of a municipality may pass by-laws for the imposition of development charges against land to pay for increased capital costs because of increased need for services arising from the development of the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the City of Markham (hereinafter the “City”) held a public meeting on April 12, 2022 to consider the enactment of a municipal-wide hard services development charge by-law, in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has given notice in accordance with section 12 of the Act, of its intention to pass a by-law under section 2 of the said Act;

AND WHEREAS a development charges background study has been prepared by Hemson Consulting Ltd. dated May 2022 (“the background study”), wherein the background study indicated that the development of all land within the City of Markham will increase the need for services as defined herein;

AND WHEREAS copies of the background study and the proposed development charges by-law were made available to the public in accordance with section 12 of the Act;

AND WHEREAS the Council of the City 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 a public meeting held on April 12, 2022;

AND WHEREAS on May 31, 2022, Council approved the Report titled “2022 Development Charges Background Study and Community Benefits Charges”, thereby updating its capital forecast where appropriate and indicated that it intends to ensure that the increase in the need for services to service the anticipated development will be met.

AND WHEREAS at its meeting held on May 31, 2022, Council expressed its intention that infrastructure related to post 2031 development shall be paid for by development charges;

AND WHEREAS Council has indicated its intent that the future excess capacity identified in the Development Charges Background Study, dated May 2022, shall be paid for by development charges;

AND WHEREAS at its meeting held on May 31, 2022, Council approved the background study and determined that no further public meetings were required under section 12 of the Act.

**NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM
ENACTS AS FOLLOWS:**

DEFINITIONS

1. In this by-law,

- (1) “**Act**” means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended or any successor thereto;
- (2) “**Accessory Use**” means that the use, **Building** is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, **Building**;
- (3) “**Agreement**” means a contract between the **Municipality** and an **Owner** and any amendment thereto;
- (4) “**Agricultural Use**” means lands or buildings, excluding any portion thereof used as a dwelling unit, used or designed or intended for use for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping, equestrian facilities and any other activities customarily carried on in the field of agriculture;
- (5) “**Apartment Building**” means:
 - (a) a **Residential Building**, or the **Residential** portion of a **Mixed-Use Building**, other than a **Townhouse**, **Back-to-Back Townhouse** or **Stacked Townhouse**, containing more than three **Dwelling Units** where the **Residential** units are connected by an interior corridor or have a common entrance to **Grade**;
- (6) “**Back-to-Back Townhouse**” means a **Residential Building** other than a **Plex**, **Stacked Townhouse** or **Apartment Building**, that is vertically divided and contains a minimum of six **Dwelling Units**, each of which has an independent entrance to **Grade**, and each of which shares a common wall, including a rear wall, with adjoining **Dwelling Units** above **Grade**;
- (7) “**Bank of Canada Rate**” means the interest rate established by the Bank of Canada in effect on the date of the enactment of this by-law, as adjusted in accordance with this by-law;
- (8) “**Building**” means a building, or part thereof, occupying an area greater than ten square metres (10m²) consisting of a wall, roof and floor or a structural system serving the function thereof, and includes an above-**Grade** storage tank and an **Industrial** tent;
- (9) “**Building Code Act**” means the *Building Code Act*, S.O. 1992, c. 23, as amended, or any successor thereto;
- (10) “**Building Permit**” means a permit issued under the *Building Code Act, 1992*, which permits the construction or change in use of a **Building** or, which permits the construction of the foundation of a **Building**;
- (11) “**Capital Cost**” means costs incurred or proposed to be incurred by the **Municipality** or a **Local Board** thereof directly or under an **Agreement**, required for the provision of services designated in the by-law within or outside of the **Municipality**;

- (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, lease, construct or improve facilities including,
 - (i) rolling stock with an estimated life of seven (7) or more years,
 - (ii) furniture and equipment, other than computer equipment; and
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c. P.44; and
 - (e) to undertake studies in connection with any matter under the **Act** and any of the matters in clauses (a) to (d);
 - (f) to prepare the **Development Charge** background study required before the enactment of this by-law; and
 - (g) to recoup interest paid on money borrowed to pay for the costs described in clauses (a) to (d).
- (12) “**Commercial Parking Structure**” means that part of a **Parking Structure**, above, at, or below **Grade**, used for the cleaning, repair and/or maintenance of motor vehicles;
 - (13) “**Community Use**” means a facility traditionally provided by a municipality which serves a municipal purpose and shall include a community centre, recreation facility and a **Shelter**;
 - (14) “**Council**” means the council of the City;
 - (15) “**Development**” means the construction, erection or placing of one or more **Buildings** on land or the making of an addition or alteration to a **Building** that has the effect of increasing the size or usability thereof, and includes **Redevelopment**;
 - (16) “**Development Charge**” means a charge imposed under this by-law;
 - (17) “**Dwelling Unit**” means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which cooking and sanitary facilities are provided for the exclusive use of such person or persons, excluding a hotel;
 - (18) “**Duplex**” means a **Building** that is divided horizontally into two **Dwelling Units**, each of which has an entrance either directly to the outside or through a common vestibule;
 - (19) “**Floor Area**” means the amount of floor space within a **Dwelling Unit**, including the space occupied by its interior partitions, measured between the exterior faces of the exterior walls of the **Building** or from the centre line of a common wall separating the **Dwelling Unit** from the remainder of the **Building**;
 - (20) “**Fourplex**” means a **Building** that is divided horizontally or a combination of horizontally and vertically into four **Dwelling Units**, each of which has an independent entrance to the outside or through a common vestibule;

- (21) “**Funeral Home**” means a **Building** with facilities that provide services to the bereaved, including viewing, burial or cremation and funeral services;
- (22) “**Grade**” means the average level of finished ground adjoining a **Building**;
- (23) “**Gross Floor Area**” means in the case of a **Non-Residential Building** or the **Non-Residential** portion of a **Mixed-Use Building**, the aggregate of the areas of each floor, whether above or below **Grade**, measured between the exterior faces of the exterior walls of the **Building** or from the centre line of a common wall separating a **Non-Residential** and a **Residential** use, and:
- (a) excludes, in the case of a **Building** containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and
 - (b) excludes, **Parking Structures**, but includes any part of a **Parking Structure** used as a **Commercial Parking Structure**, and
 - (c) for the purposes of this definition, the **Non-Residential** portion of a **Mixed-Use Building** is deemed to include one-half of any area common to the **Residential** and **Non-Residential** portions of such **Mixed-Use Building**;
- (24) “**Heritage Building**” means a **Building** designated under Part IV of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, or any successor legislation, or a **Building** designated under Part V of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, or any successor legislation, which has been identified as a significant heritage resource in a conservation district plan and any **Building** listed in the Markham Register of Property of Cultural Heritage Value of Interest;
- (25) “**High-Rise Residential**” means an **Apartment Building** that is four or more storeys above **Grade**, consisting of four or more **Dwelling Units** and shall not include a **Townhouse**, a **Back-to-Back Townhouse** or a **Stacked Townhouse**;
- (26) “**Industrial**” means lands, **Buildings** 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;
- (27) “**Institutional**” means lands, **Buildings** 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, without limiting the generality of the foregoing, places of worship, medical clinics and **Special Care Facilities**;
- (28) “**Large Apartment**” means a **Dwelling Unit** in an **Apartment Building**, **Stacked Townhouse**, or **Plex** which has a **Floor Area** of 700 square feet (65 square metres) or larger, including the **Non-Residential** portion in the case of **Live-Work Units** where the **Non-Residential** portion is less than 1,076 square feet (100 square metres);
- (29) “**Live-Work Unit**” means a unit which contains separate areas intended for **Residential** and **Non-Residential** uses, that share a common wall with direct access between the **Residential** and **Non-Residential** areas;

- (30) “**Local Board**” means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of an area municipality or the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg. 168/03 under the *Municipal Act, 2001*, S.O. 2001, c. 25 and any corporation created under the *Electricity Act, 1998*, S.O. 1998, c. 15 , or successor legislation;
- (31) “**Local Services**” means those services, facilities or things which are intended to be under the jurisdiction of the **Municipality** and are within the boundaries of or related to or are necessary to connect lands to services and an application has been made in respect of the lands under sections 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, or any successor legislation;
- (32) “**Mixed-Use Development**” means a **Building** used, designed or intended for **Residential** and **Non-Residential** uses, where:
- (a) the **Non-Residential** uses comprise not more than 50 percent (50%) of the **Gross Floor Area**; and
 - (b) a minimum of 100 square metres of **Gross Floor Area** is used for **Non-Residential** uses;
- (33) “**Multiple Dwelling Unit**” includes **Townhouses**, and **Back-to-Back Townhouse**, and all other **Residential** uses that are not included in the definition of **Apartment Building**, **Small Apartment**, **Large Apartment**, **Single Detached Dwelling** or **Semi-Detached Dwelling**;
- (34) “**Municipality**” means The Corporation of the City of Markham;
- (35) “**Net Hectare**” means the area of land in hectares excluding all lands conveyed or to be conveyed into public ownership pursuant to sections 42, 51 and 53 of the *Planning Act* and all lands conveyed or to be conveyed to the **Municipality** or any **Local Board** thereof, a board of education as defined under subsection 1(1) of the *Education Act*, or the Ministry of Transportation for the construction of provincial highways;
- (36) “**Non-Profit Corporation**” means a corporation without share capital that has objects of a charitable nature;
- (37) “**Non-Residential**” means lands or **Buildings** or portions thereof used, or designed or intended for other than **Residential** use, including the **Non-Residential** portion of a **Live-Work Unit**;
- (38) “**Office**” means a **Building** used for conducting the affairs of businesses, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing and/or storage of information rather than the production and distribution of goods. For the purposes of this definition, offices shall include but not be limited to, research establishments, data processing facilities, office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, veterinarian, surveyor, appraiser, financial institution, contractor, builder, and land developer;
- (39) “**Official Plan**” means the **Official Plan** of the City and any amendments thereto;

- (40) “**Owner**” means the owner(s) of land or a person(s) who has made application for an approval for the **Development** of land upon which a **Development Charge** is imposed with the express authority of the owner(s) of the land;
- (41) “**Parking Structure**” means a **Building**, or any part thereof, principally used for the parking of motor vehicles;
- (42) “**Place Of Worship**” means a **Building** that is used primarily for worship;
- (43) “**Planning Act**” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;“
- (44) “**Plex**” means a **Duplex**, a **Semi-Detached Duplex**, a **Triplex**, a **Fourplex**, or a **Semi-Detached Triplex**;
- (45) “**Public Hospital**” means that **Building** or part thereof that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;
- (46) “**Redevelopment**” means the construction, erection or placing of one or more **Buildings** on land where all or part of a **Building** has previously been demolished on such land, or the intensification of a site, or changing the use of a **Building** from **Residential** to **Non-Residential**, from **Non-Residential** to **Residential** or **Industrial/Office/Institutional** to **Retail** and vice versa;
- (47) “**Region** ” means the Regional Municipality of York;
- (48) “**Regulation**” means any regulation made pursuant to the **Act**;
- (49) “**Residential**” means lands or **Buildings** used, designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to a **Single Detached Dwelling**, a **Semi-Detached Dwelling**, a **Plex**, a **Small or Large Apartment**, a **Multiple Dwelling Unit**, a **Residential Dwelling Unit** accessory to a **Non-Residential** use, and the **Residential** portion of a **Live-Work Unit**, but shall not include a lodging house licensed by a municipality or a hotel;
- (50) “**Retail**” means lands or **Buildings** used or designed or intended for use for the sale or rental or offer for sale or rental of goods or services to the general public for consumption or use and shall include, but not be limited to, a banquet hall, a **Commercial Parking Structure** and a **Funeral Home**, but shall exclude **Offices**;
- (51) “**Self Storage Building**” means a **Building** or part of a **Building** consisting of individual storage units, that are used to provide storage space to the public;
- (52) “**Semi-Detached Duplex**” means one of a pair of attached **Duplexes**, each **Duplex** divided vertically from the other by a party wall;
- (53) “**Semi-Detached Dwelling**” means a **Residential Building** divided vertically into and comprising two **Dwelling Units**, each of which has a separate entrance and access to **Grade**;
- (54) “**Semi-Detached Triplex**” means one of a pair of **Triplexes** divided vertically one from the other by a party wall;
- (55) “**Service Standards**” means the prescribed level of services on which the schedule of charges in Schedule “B-1” are based;

- (56) “**Services**” means services designated in Schedule A of this by-law;
- (57) “**Shelter**” means a **Building** in which supervised short-term emergency shelter and associated support services are provided to individuals who are fleeing situations of physical, financial, emotional or psychological abuse;
- (58) “**Single Detached Dwelling**” means a completely detached **Residential Building** consisting of one **Dwelling Unit**, except in the case of a second suite. For greater certainty, a **Residential Building** consisting of one **Dwelling Unit** that is attached to another structure by footings only shall be considered a **Single Detached Dwelling** for purposes of this by-law;
- (59) “**Small Apartment**” means a **Dwelling Unit** in an **Apartment Building**, **Stacked Townhouse**, or a **Plex** which has a **Floor Area** of less than 700 square feet (65 square metres), including the **Non-Residential** portion in the case of **Live-Work Units** where the **Non-Residential** portion is less than 1,076 square feet (100 square metres);
- (60) “**Special Care Facilities**” means lands, **Buildings** used or designed or intended for use for the purpose of providing **Residential** accommodation, supervision, nursing care or medical treatment, which do not comprise **Dwelling Units**, that are licensed, approved or supervised under any special or general Act;
- (61) “**Stacked Townhouse**” means a **Residential Building**, other than a **Plex**, **Townhouse**, **Back-to-Back Townhouse** or **Apartment Building**, containing at least 3 **Dwelling Units**, each **Dwelling Unit** being separated from the other vertically and/or horizontally and each **Dwelling Unit** having an entrance to **Grade** that may be shared with no more than 3 other units;
- (62) “**Temporary Building**” means a **Building** designed or constructed, erected or placed on land and which is demolished or removed from the lands within twelve months of **Building Permit** issuance;
- (63) “**Temporary Sales Centre**” means a **Building**, including a trailer, that is designed or intended to be temporary, or intended to be removed from the land or demolished after use and which is used exclusively as an **Office** or presentation centre, or both, for new **Building** sales;
- (64) “**Townhouse**” means a **Residential Building** other than a **Plex**, **Stacked Townhouse**, **Back-to-Back Townhouse** or an **Apartment Building**, that is vertically divided into a minimum of three **Dwelling Units**, each of which has an independent entrance to **Grade**, and each of which shares a common wall with adjoining **Dwelling Units** above **Grade**;
- (65) “**Triplex**” means a **Building** that is divided horizontally or a combination of horizontally and vertically into three **Dwelling Units**, each of which has an independent entrance to the outside or through a common vestibule.

SCHEDULE OF DEVELOPMENT CHARGES

2.

- (1) Subject to the provisions of this by-law, a **Development Charge** payable in accordance with this by-law shall be calculated and collected in accordance with the rates set out in Schedule “B”, which relate to the **Services** set out in Schedule “A”.
- (2) The **Development Charge** shall be calculated as follows:

- (a) In the case of **Residential Development**, including a **Dwelling Unit** accessory to a **Non-Residential Development**, or the **Residential** portion of a **Live-Work Unit** or, the **Residential** portion of a **Mixed-Use Development**, based upon the number and type of **Dwelling Units**;
 - (b) In the case of **Non-Residential Development**, based upon the **Gross Floor Area** of the **Building** or part thereof used or to be used for the **Non-Residential Development**;
- (3) **Council** hereby determines that the **Development** of land or **Buildings** for **Residential** and **Non-Residential** uses will require the provision, enlargement, expansion or improvement of the **Services** referenced in Schedule “A”.

APPLICABLE LANDS

3.

- (1) This by-law applies to all lands within the City of Markham as shown on Schedule “C” whether or not the land or use is exempt from taxation under s. 3 of the *Assessment Act*, R.S.O. 1990, c. A.31, as amended, or any successor thereto.
- (2) The **Development** of land within the City may be subject to one or more **Development Charges** by-laws of the City.
- (3) This by-law shall not apply to land or **Buildings** within the **Municipality** that are owned by or used by:
 - (a) a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereto;
 - (b) the **Municipality** or any **Local Board** thereof;
 - (c) the **Region** or any **Local Board** thereof;
 - (d) any municipality within the **Region**.
- (4) This by-law shall not apply to land or **Buildings** within the **Municipality** that are used for the purposes of:
 - (a) the relocation of a **Heritage Building**;
 - (b) a **Public Hospital** receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. M.19, as amended, or any successor thereto;
 - (c) a **Temporary Sales Centre**;
 - (d) **Agricultural Uses**;
 - (e) a cemetery or burial ground exempt from taxation under the *Assessment Act* or any successor thereto; and
 - (f) a **Temporary Building** provided that:
 - (i) the status of the **Building** as a **Temporary Building** is maintained in accordance with the provisions of this by-law;

- (ii) On or before twelve (12) months from the date of issuance of a **Building Permit**, the **Owner** shall provide, to the City Treasurer's satisfaction, evidence that the **Temporary Building** was demolished or removed from the lands;
 - (iii) In the event the **Owner** does not provide satisfactory evidence of such demolition or removal of the **Temporary Building** in accordance with clause (ii) above, the **Temporary Building** shall be deemed conclusively not to be, nor ever to have been, a **Temporary Building** for the purposes of this by-law and, subject to any **Agreement** entered into pursuant to section 10 of this by-law, the City shall assess **Development Charges** at the rate in effect at **Building Permit** issuance, and if payment is not received within 30 days of the delivery of an invoice, the City will add the amount due to the tax roll of the property in accordance with Section 32(1) of the *Development Charges Act 1997, as amended* from time to time; and
 - (iv) The timely provision of satisfactory evidence of the demolition or removal of the **Temporary Building** in accordance with clause (ii) above shall be solely the **Owner's** responsibility.
- (5) This by-law shall not apply to **Development** creating or adding an **Accessory Use** or **Building** not exceeding 100 square metres of **Gross Floor Area**;
- (6) This by-law does not apply with respect to approvals related to the **Residential Development** of land or **Buildings** that would have the effect only of:
 - (a) Permitting the enlargement of an existing **Dwelling Unit**;
 - (b) Creating one or two additional **Dwelling Units** in an existing **Single Detached Dwelling**;
 - (c) Creating one additional **Dwelling Unit** in an existing **Dwelling Unit** in a **Semi-Detached Dwelling**; or
 - (d) Creating one additional **Dwelling Unit** in any other existing **Residential Building**, not including a **Mixed-Use Building**.
- (7)
 - (a) Notwithstanding clauses (b) to (d) inclusive of subsection 3(6), a **Development Charge** shall be imposed and payable with respect to the creation of any additional **Dwelling Units** if the **Floor Area** of the additional **Dwelling Units** exceeds the **Floor Area** of the existing **Dwelling Unit** referred to in clauses (b) and (c) of subsection 3(6) or the smallest existing **Dwelling Unit** in the existing **Residential Building**, referred to in clause (d) of subsection 3(6).
 - (b) For the purposes of determining the **Floor Area** of an existing **Dwelling Unit** pursuant to clause (a) of subsection 3(7), the **Floor Area** shall be the maximum **Floor Area** of the **Dwelling Unit** that existed in the three years preceding the application for a **Building Permit** in respect of the additional **Dwelling Unit**.
- (8) For the purposes of the exemption for enlargement of existing **Industrial Buildings** set out in section 4 of the **Act**, the following provisions shall apply;

- (a) For the purpose of this section, “**Gross Floor Area**” and “existing **Industrial Building**” shall have the same meaning as those terms have in O. Reg. 82/98 under the **Act**, as amended;
 - (b) For the purposes of interpreting the definition of “existing **Industrial Building**” contained in the **Regulation**, regard shall be had for:
 - (i) the classification of the lands pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31 or successor legislation, and in particular whether more than 50 per cent of the **Gross Floor Area** of the **Building** has an industrial tax class code for assessment purposes; and
 - (ii) whether the **Building** satisfied all requirements of the Building Code, obtained a **Building Permit**, which is subsequently deemed complete.
 - (c) Notwithstanding clause 3(8)(b) above, distribution centres, warehouses other than **Retail** warehouses, the bulk storage of goods and truck terminals shall be considered to be **Industrial** uses or **Buildings**;
 - (d) The **Gross Floor Area** of an existing **Industrial Building** shall be defined as the **Gross Floor Area** of the **Industrial Building** as it existed prior to the first enlargement in respect of that **Building** for which an exemption under section 4 of the **Act** is sought or was obtained;
 - (e) To qualify for the exemption:
 - (i) the enlargement of the **Gross Floor Area** of the existing **Building** must be attached to the existing **Industrial Building**;
 - (ii) the enlargement must not be attached to the existing **Industrial Building** by means only of a tunnel, bridge, passageway, canopy, shared below **Grade** connection, such as a service tunnel, foundation, footing or parking facility;
 - (iii) the enlargement shall be for a use for or in connection with an **Industrial** purpose as set out in this by-law;
 - (f) If the enlargement complies with the provisions of this subsection 3(8) and its **Gross Floor Area** is equal to, or less than, 50 per cent of the **Gross Floor Area** of an existing **Industrial Building**, the amount of the **Development Charge** in respect of the enlargement is nil; and
 - (g) If the **Gross Floor Area** of the enlargement is more than 50 per cent of the **Gross Floor Area** of an existing **Industrial Building**, and it otherwise complies with the provisions of this subsection 3(8), **Development Charges** are payable on the amount by which the enlargement exceeds 50 per cent of the **Gross Floor Area** of the existing **Building** before the enlargement.
- (9) Clauses (b) and (d) to (g) inclusive of subsection 3(8) shall apply, with necessary modifications, to an enlargement of an existing **Office**.
- (10) In the case of lands or **Buildings** used or designed or intended for use for a combination of **Retail** and **Industrial**, **Office** or **Institutional** uses, the **Development Charges** applicable to such **Development** shall be determined on the following basis:

- (a) The **Development Charges** applicable shall be calculated on a floor by floor basis and shall be applied to the entire floor based on the primary use of the floor. The primary use shall be determined as either **Industrial/Office/Institutional** (“IOI”) or, **Retail**, whichever comprises 55% or more of the **Gross Floor Area** of the floor. If neither **Retail** nor the total of IOI uses comprise 55% or more of each floor, then the **Development Charge** payable on the **Gross Floor Area** for each floor shall be the average of the two **Retail** and IOI rates payable.
- (11) For **Live-Work Units**, in addition to the applicable **Residential Development Charges**, where the **Non-Residential** portion of a **Live-Work Unit** exceeds 1,076 square feet (100 square metres), the **Mixed-Use Development** rate shall apply to the **Non-Residential** portion;
- (12) In the case of new **Buildings** that contain more than 100,000 square feet of **Offices**, the **Development Charge** rate for the **Office** portion shall be applicable on the first 100,000 square feet of **Gross Floor Area**, with any **Office** area in excess of this threshold assessed at 25% of the **Development Charge** rate payable;
- (13) Where additional **Non-Residential Gross Floor Area** is proposed to be constructed on a parcel where a **Non-Residential Development Charge** was previously paid pursuant to By-law 2008-124 and/or By-law 2013-82, on a “per **Net Hectare**” basis, the **Development Charge** payable for the additional **Non-Residential Gross Floor Area** shall be calculated as follows:

The rate in effect on the date the **Building Permit** is issued for the additional **Non-Residential Gross Floor Area**, less a credit equal to:

$$\frac{\text{Existing Non-Residential GFA}}{\text{Sum of existing and additional Non-Residential GFA}} \times \text{rate in effect at Building Permit issuance} \\ \times \text{Additional Non-Residential GFA}$$

APPROVALS FOR DEVELOPMENT

4. A **Development Charge** shall apply, and shall be calculated and collected in accordance with the provisions of this by-law to land to be developed or redeveloped for **Residential** and **Non-Residential** use, where the **Development** requires,
- (1) the passing of a zoning by-law or an amendment thereto under section 34 of the **Planning Act** or successor legislation;
 - (2) the approval of a minor variance under section 45 of the **Planning Act** or successor legislation;
 - (3) a conveyance of land to which a by-law passed under subsection 50(7) of the **Planning Act** or successor legislation applies;
 - (4) the approval of a plan of subdivision under section 51 of the **Planning Act** or successor legislation;
 - (5) a consent under section 53 of the **Planning Act** or successor legislation;
 - (6) the approval of a description under the *Condominium Act*, R.S.O. 1991, c. C. 26 or the *Condominium Act*, 1998, S.O. 1998, c. 19 as amended, or successor legislation; or

- (7) the issuing of a permit under the *Building Code Act*, or successor legislation, in relation to a **Building**.

LOCAL SERVICE INSTALLATION

5. Nothing in this by-law prevents **Council** from requiring, as a condition of an approval under section 51 or 53 of the *Planning Act*, that the **Owner**, at his or her own expense, shall install or pay for such **Local Services** related to or within the plan of subdivision or related to the severance of the lands, as **Council** may require, or that the **Owner** pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the **Owner's** expense, or administrative, processing, or inspection fees.

MULTIPLE CHARGES

- 6.
- (1) Where two or more of the actions described in section 4 are required before land to which a **Development Charge** applies can be developed, only one **Development Charge** shall be calculated and collected in accordance with the provisions of this by-law.
 - (2) Notwithstanding subsection 6(1), if two or more of the actions described in section 4 occur at different times, and if the subsequent action results in increased, additional or different **Development**, then additional **Development Charges** on any additional **Residential** units and/or **Non-Residential Gross Floor Area**, shall be calculated and collected in accordance with the provisions of this by-law.
 - (3) If a **Development** does not require a **Building Permit** but does require one or more of the approvals described in section 4, then the **Development Charge** shall nonetheless be payable in respect of any increased, additional or different **Development** permitted by such approval.

CREDIT FOR PROVISION OF SERVICES

7. As an alternative to the payment by the means required under section 10, **Council** may, by **Agreement** entered into with the **Owner**, accept the provision of **Services** in full or partial satisfaction of the **Development Charges** otherwise payable. Such **Agreement** shall further specify that where the **Municipality** agrees to allow the performance of work that relates to a **Service**, the **Municipality** shall give to the **Owner** a credit equal to the reasonable cost of doing the work against the **Development Charge** otherwise applicable to the **Development**, without interest, unless such interest is specifically authorized by **Council**, provided such credit shall not exceed the total amount of **Development Charges** payable by an **Owner** to the **Municipality** and provided that no such credit shall be given for any part of the cost of services that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5(1) of the *Act*. The reasonable cost of doing the work and the amount of the credit therefore, shall be finally determined by the City's Commissioner of Development Services.

REDUCTION OF CHARGE FOR REDEVELOPMENT

- 8.
- (1) Despite any other provision of this by-law, where one or more existing **Dwelling Units** are demolished, a credit against **Development Charges** otherwise payable pursuant to this by-law for **Redevelopment** of the lands for **Residential** purposes, in an amount equal to the **Development Charge** payable pursuant to this by-law for the same number of demolished **Dwelling Units**, shall be applicable where the **Redevelopment** has occurred:

- (a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and
 - (b) on the same lot or block on which the demolished **Building** was originally located.
- (2) Despite any other provision of this by-law, where an existing **Non-Residential Building**, or part thereof, is demolished, a credit against **Development Charges** otherwise payable pursuant to this by-law for **Redevelopment** of the lands for **Non-Residential** purposes shall be applicable, in an amount equal to the **Development Charge** payable pursuant to this by-law for the same amount of demolished **Gross Floor Area** and such credit or partial credit shall be applicable only where the **Redevelopment** has occurred:
 - (a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and
 - (b) on the same lot or block on which the demolished **Building** was originally located.
- (3) Where there is a **Redevelopment** that includes a change in the use of all or part of a **Non-Residential Building** to a **Residential** or other **Non-Residential** use, the **Development Charge** otherwise payable pursuant to this by-law on the number of **Residential** units being created or **Non-Residential Gross Floor Area** being converted, will be reduced by the amount calculated as the **Development Charge** that would be payable in accordance with Schedule “B” in effect on the date when **Development Charges** are payable, pursuant to this by-law, with respect to the **Gross Floor Area** of the **Non-Residential Gross Floor Area** being converted. If the **Redevelopment** includes demolition of an existing structure or part thereof, the credit or partial credit will be applicable only in accordance with the timelines referenced in subsection 8 (2).
- (4) Where there is a **Redevelopment** that includes a change in the use of all or part of a **Residential Building** to a **Non-Residential** use, the **Development Charge** otherwise payable pursuant to this by-law on the **Non-Residential Gross Floor Area**, will be reduced by the amount calculated as the **Development Charge** that would be payable in accordance with Schedule “B” in effect on the date when **Development Charges** are payable, pursuant to this by-law, with respect to the number and type of units being converted to **Non-Residential** use. If the **Redevelopment** includes demolition of an existing structure or part thereof, the credit or partial credit, will be applicable only in accordance with the timelines referenced in subsection 8 (1).
- (5) Despite any other provision in this by-law, whenever a reduction is allowed against a **Development Charge** otherwise payable pursuant to this by-law and the amount of such reduction exceeds the amount of the **Development Charge** otherwise payable pursuant to this by-law, no further reductions shall be allowed against any other **Development Charges** payable and no refund shall be payable.

CREDITS, EXEMPTIONS, RELIEF AND ADJUSTMENTS NOT CUMULATIVE

9. Only one (1) of the applicable credits, exemptions, reductions or adjustments in this by-law shall be applicable to any **Development** or **Redevelopment**. Where the circumstances of a **Development** or **Redevelopment** are such that more than one credit, exemption, relief or adjustment provided for in this by-law could apply, only one credit, exemption, relief or adjustment shall apply and it shall be the credit, exemption, relief or adjustment that results in the lowest **Development Charges** payable pursuant to this by-law.

TIMING OF CALCULATION AND PAYMENT

10.

- (1) A **Development Charge** for each **Building** or part thereof shall be calculated and payable in full in cash or by certified cheque or by entering into an **Agreement** for the performance of work for credit, on the date of execution of the subdivision **Agreement** or consent agreement in relation to such **Building** on land to which a **Development Charge** applies.
- (2) Notwithstanding subsection 10(1) above, at the option of the payor, the applicable **Development Charge** may be paid, based on the **Development Charge** rate in effect on the date of **Agreement** execution, as follows:
 - (a) In the case of a **Residential** subdivision **Agreement**, or site plan **Agreement** related to a **High-Rise Residential Development**, in three installments paid in accordance with the following: 30% on the date of execution of the site plan or subdivision **Agreement**, 35% six months after **Agreement** execution, and 35% twelve months after **Agreement** execution. The latter two installments shall be fully secured by a letter of credit on the date of **Agreement** execution.
- (3) Where no subdivision, site plan or consent **Agreement** is required, the **Development Charges** for each **Building** shall be calculated as of the date of the issuance of a **Building Permit** and shall be payable and collected as of the date a **Building Permit** is issued in respect of the **Building**.
- (4) Where **Development Charges** apply to land in relation to which a **Building Permit** is required, the **Building Permit** shall not be issued until the **Development Charge** has been paid in full.
- (5) If at the time of issuance of a **Building Permit** or permits for any **Development** for which payments have been made pursuant to subsections 10(1) or 10(2), the total number and type of **Dwelling Units** for which **Building Permits** have been and are being issued, or the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which **Building Permits** have been and are being issued, is greater than that used for the calculation and payment referred to in subsections 10(1) or 10(2), an additional payment shall be required and shall be calculated by multiplying the applicable charge shown in Schedule "B", by:
 - (a) in the case of **Residential Development**, the difference between the number and type of **Dwelling Units** for which **Building Permits** have been and are being issued and the number and type of **Dwelling Units** for which payments have been made pursuant to subsections 10(1) and 10(2) and this subsection; and

- (b) in the case of **Non-Residential Development**, the difference between the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which **Building Permits** have been and are being issued and the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which payments have been made pursuant to subsections 10(1) and 10(2) and this subsection.
- (6) Subject to subsection 10(7), if, following the issuance of **Building Permits** for **Development** in a subdivision or for **Development** on a block within that subdivision for which payments have been made pursuant to subsections 10(1) and 10(2), the total number and type of **Dwelling Units** for which **Building Permits** have been issued, or the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which **Building Permits** have been issued, is less than that used for the calculation and payment referred to in subsections 10(1) and 10(2), a refund shall be payable by the City to the person who originally made the payment referred to in subsections 10(1) and 10(2) which refund shall be calculated by multiplying the applicable **Development Charge** in effect at the time such payments were made by:
 - (a) in the case of **Residential Development**, the difference between the number of **Dwelling Units** by type for which payments were made pursuant to subsections 10(1) and 10(2) and the number of **Dwelling Units** by type for which **Building Permits** were issued; and
 - (b) in the case of **Non-Residential Development**, the difference between the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which **Building Permits** have been or are being issued and the **Gross Floor Area** used or intended to be used for a **Non-Residential** purpose for which payments have been made pursuant to subsections 10(1) and 10(2).
- (7) Subsections 10(4) and 10(5) shall apply with necessary modifications to a **Development** for which **Development Charges** have been paid pursuant to a condition of consent or pursuant to an **Agreement** respecting same.
- (8) Notwithstanding subsections 10(1) to 10(6), the City may require and where so required, an **Owner** shall enter into an **Agreement**, including the provision of security for the **Owner's** obligations under the **Agreement**, pursuant to section 27 of the **Act** and, without limiting the generality of the foregoing, such an **Agreement** may require the early payment of the **Development Charges** hereunder. The terms of such **Agreement** shall then prevail over the provisions of this By-law.
- (9) Any refunds payable pursuant to subsections 10(6) shall be calculated and paid without interest.
- (10) A **Development Charge** for a **Community Use** that is owned by a **Non-Profit Corporation** may be deferred, provided that:
 - (a) the **Services** provided could otherwise be provided by the City of Markham, or other approved service provider, at the sole discretion of the City;
 - (b) the **Building** is owned by the **Non-Profit Corporation**; and

- (c) the **Owner** consents to the deferral being registered on title and agrees that if **Development Charges** become due as a result of a change in use, the applicable charges will be calculated in accordance with the Development Charges Deferral Policy adopted by **Council** on November 8, 2011, as amended from time to time, and payable on the date the actual change of use occurs or in the case where a change of use **Building Permit** is required, upon **Building Permit** issuance, whichever is earlier; and
 - (d) the **Owner** agrees that applicable **Development Charges** will become due as a result of a change in use from that of a **Community Use** to another use that triggers payment of **Development Charges**, and will be calculated at the rate applicable on the date the actual change of use occurs, and payable on the date the actual change of use occurs.
- (11) Where clause (1)(a) or (1)(b) of Section 26.2 of the Act applies to a development for the purposes of determining the amount of the development charge, the development charge payable under this bylaw shall be determined in accordance with section 26.2 and such development charge shall be subject to interest in accordance with the City's Interest Policy, as may be amended by City Council.

NO REFUNDS ARISING OUT OF CREDITS, EXEMPTIONS, RELIEF OR ADJUSTMENTS

11. Notwithstanding anything in this by-law to the contrary, whenever a credit, exemption, relief or adjustment is allowed against a **Development Charge** otherwise payable pursuant to this by-law and the amount of such credit(s), exemption(s), relief or adjustment(s) exceeds the amount of the **Development Charges** otherwise payable pursuant to this by-law, no further credit(s), exemption(s), relief or adjustment(s) shall be allowed against any other **Development Charges** payable and no refund shall be payable.

RESERVE FUND(S)

- 12.
- (1) Monies received from payment of **Development Charges** shall be maintained in a separate reserve fund and shall be spent for **Capital Costs** determined under paragraphs 2 to 8 of subsection 5(1) of the **Act**.
 - (2) The amounts contained in the reserve fund established under this section shall be invested in accordance with section 418 of the *Municipal Act, 2001*, S.O. c.25. Any income received from investment of the **Development Charge** reserve fund shall be credited to the **Development Charge** reserve fund.
 - (3) Where any **Development Charge**, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the land to which it applies and shall be collected as taxes.
 - (4) Where any unpaid **Development Charges** are collected as taxes pursuant to subsection 12(3) above, the monies so collected shall be credited to the **Development Charge** reserve fund referred to in subsection 12(1).
 - (5) The Treasurer of the **Municipality** shall, in each year on or before October 1, furnish to **Council** a statement in respect of the reserve fund established hereunder for the prior year which statement shall contain the prescribed information.

BY-LAW AMENDMENT OR REPEAL

- 13.
- (1) Where this by-law or any **Development Charge** prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by **Council**, the Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal and make such payment in accordance with the provisions of the **Act**.
 - (2) Refunds that are required to be paid under subsection 13(1) shall be paid with interest to be calculated as follows:
 - (a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid; and
 - (b) Interest shall be calculated quarterly at the **Bank of Canada Rate**, adjusted on the first business day of January, April, July and October in each year.

PHASING

14. The **Development Charges** set out in this by-law are not subject to phasing and are payable in full, subject to the credits, exemptions, relief and adjustments herein.

INDEXING

15. The **Development Charges** referred to in Schedule “B” shall be increased, if applicable, semi-annually without amendment to this by-law, on the first day of January and the first day of July, of each year, commencing January 1, 2023 in accordance with the Statistics Canada Quarterly, Construction Price Statistics (Catalogue No. 62-007). For the January 1, 2023 adjustment only, the index shall be for the 12-month period from October 1, 2021 to end of September 2022. Notwithstanding the foregoing, the scheduled January 1st increase may be implemented by February 1st in any given year.

BY-LAW REGISTRATION

16. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

BY-LAW ADMINISTRATION

17. This by-law shall be administered by the Treasurer of the City.

SCHEDULES TO THE BY-LAW

18. The following Schedules to this by-law form an integral part of this by-law:

- Schedule “A” – Schedule of Municipal Services – City Wide Hard Services
- Schedule “B” – Schedule of **Development Charges**

FRONT ENDING AGREEMENTS

19. The City may enter into one or more front ending **Agreements** under section 44 of the **Act**.

DATE BY-LAW EFFECTIVE

20. This by-law shall come into force and effect on June 17, 2022.

DATE BY-LAW EXPIRES

21. This by-law shall continue in force and effect for a term of five (5) years from its effective date, unless it is repealed at an earlier date.

HEADINGS FOR REFERENCE ONLY

22. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

INTERPRETATION

23. Nothing in this by-law shall be construed to commit or require the **Municipality** to authorize or proceed with any specific capital project at any specific time. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

REPEAL

24. By-law No. 2017-116 and any amendments made thereto are hereby repealed as of the date this by-law comes into force and effect.

SHORT TITLE

25. The by-law may be cited as the “City of Markham Hard Services Development Charge By-law”.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
31ST DAY OF MAY, 2022.

CITY CLERK
KIMBERLEY KITTERINGHAM

MAYOR FRANK SCARPITTI

Schedule “A”

SCHEDULE OF MUNICIPAL SERVICES

CITY WIDE HARD SERVICES

CATEGORY OF MUNICIPAL SERVICES
Roads Illumination Intersection Oversizing Sanitary Sewer Sidewalks Structures/Bridges Special Projects Studies Storm Water Management Water Supply and Mains Property Acquisition

Schedule “B”

SCHEDULE OF DEVELOPMENT CHARGES

I. General

The **Development Charges** set out in this schedule are the base charges only. These charges will be increased, if applicable, based upon an inflation adjustment to be calculated semi-annually without amendment to this by-law as of the first days of January and July in each year in accordance with section 15 of this by-law.

II. City-Wide Hard Services Development Charges

<u>Type of Residential Unit</u>	<u>Dollars per Dwelling Unit</u>
Single Detached Dwelling or Semi-Detached Dwelling	\$31,268
Multiple Dwelling Unit (excluding apartments)	\$24,239
Apartment Dwelling Units :	
- Large Apartment	\$19,076
- Small Apartment	\$13,402

III. Development Charge for Non-Residential Development

For **Non-Residential Development**, the charge shall be payable based upon the square metres of **Non-Residential Gross Floor Area** as follows:

Industrial/Office/Institutional	\$173.68/m ²
Mixed-Use Development	\$105.46/m ²
Retail Use (other than Mixed-Use Development)	\$216.47/m ²