BY-LAW 2013-99

A BY-LAW TO ESTABLISH AREA SPECIFIC DEVELOPMENT CHARGES BY-LAW FOR THE 404 NORTH EMPLOYMENT LANDS AREA 49 DEVELOPMENT AREA 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 May 13, 2013 to consider the enactment of an area specific 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 April, 2013 ("the background study"), wherein the background study indicated that the development of any 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 May 13, 2013;

AND WHEREAS on May 28, 2013, Council approved the Report titled "2013 Development Charges Background Study", 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 28, 2013, 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 2013, shall be paid for by development charges;

AND WHEREAS at its meeting held on May 28, 2013, 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 successors thereto;

(2) "accessory use" means that the use, building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure;

(3) "agreement" means a contract between the municipality and an owner and any amendment thereto;

(4) "apartment building" means:

(a) a residential building, other than a hotel, containing more than four dwelling units where the residential units are connected by an interior corridor;

(b) a residential building, other than a hotel, with a minimum of sixty units per net hectare and a minimum floor space index of 0.75;

(5) "apartment dwelling unit" means a dwelling unit in a duplex, triplex, fourplex, stacked townhouse or apartment building, as these terms are defined in this by-law;

(6) "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;

(7) "building" means a structure occupying an area greater than ten square metres ($10m^2$) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, and includes an above-grade storage tank and an industrial tent;

(8) "Building Code Act" means the Building Code Act, S.O. 1992, c. 23, as amended, or any successor thereto;

(9) "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);

(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 under this by-law adjusted in accordance with section 15;

(13) "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 culinary and sanitary facilities are provided for the exclusive use of such person or persons, excluding a hotel;

(14) "duplex" means a building that is divided horizontally into two dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule;

(15) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other development ancillary to an agricultural use, but excluding a residential use, a retail use associated therewith or a commercial greenhouse;

(16) "floor area" means the amount of floor space within an apartment dwelling unit, including the space occupied by its interior partitions, measured to the interior face of walls separating the apartment dwelling unit from the exterior and from the remainder of the building;

(17) "fourplex" means a building that is divided horizontally or a combination of vertically and horizontally into four dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule

(18) "grade" means the average level of finished ground adjoining a building or structure;

(19) "gross floor area" means in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, 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 structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure 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 excluding, in the case of a building containing parking spaces, the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the parking of motor vehicles is the principal use of the building or structure, and, 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 or structure;

(20) "heritage building" means an individual building or structure designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, or a building or structure 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 or a building or structure listed in the Markham Inventory of Heritage Buildings;

(21) "high-rise" means a building or structure having three or more storeys above grade with a common entrance and access to grade;

(22) "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;

(23) "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, without limiting the generality of the foregoing, places of worship, medical clinics and special care facilities;"Large Apartment" means an apartment dwelling unit having a floor area of more than 750 square feet, 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);

(24) "large apartment" means an apartment dwelling unit that is 700 square feet or larger in size, 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), until June 18, 2014. Commencing on June 19, 2014 "large apartment" means an apartment dwelling unit that is 650 square feet or larger in size, 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);

(25) "live-work unit" means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall with direct access between the residential and non-residential areas;

(26) "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;

(27) "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;

(28) "mixed-use development" means a building or structure 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;

(29) "multiple dwelling unit" means a building excluding a hotel, containing more than one dwelling unit but does not include a "single detached dwelling", a "semi-detached dwelling" and an "apartment dwelling";

(30) "municipality" means The Corporation of the City of Markham;

(31) "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;

(32) "non-residential" means lands, buildings or structures or portions thereof used, or designed or intended for other than residential use, including the non-residential portion of a live-work unit;

(33) "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, research establishments and data processing facilities are considered to be offices

(34) "official plan" means the Official Plan of the City of Markham and any amendments thereto;

(35) "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;

(36) "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;

(37) "public hospital" means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;

(38) "redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from residential to non-residential, from non-residential to residential or Industrial/Office/Institutional to Retail and vice versa;

(39) "Region" means the Regional Municipality of York;

(40) "regulation" means any regulation made pursuant to the Act;

(41) "residential" means lands, buildings or structures 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 townhouse, an apartment dwelling unit, 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;

(42) "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;

(43) "service standards" means the prescribed level of services on which the schedule of charges in Schedule "B" are based;

(44) "services" means services designated in this by-law or in an agreement under section 44 of the Act;

(45) "single detached dwelling" means a completely detached residential building consisting of one dwelling unit;

(46) "small apartment" means an apartment dwelling unit that is less than 700 square feet in size, 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), until June 18, 2014. Commencing on June 19, 2014 "small apartment" means an apartment dwelling unit that is less than 650 square feet in size, 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);

(47) "stacked townhouse" means a residential building, other than a duplex, triplex or fourplex, 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 shared with no more than 3 other units;

(48) "temporary buildings or structures" means a building or structure designed or constructed, erected or placed on land and which is demolished or removed from the lands within twelve months of building permit issuance;

(49) "temporary sales centre" means a building or structure, including a trailer, that is designed or intended to be temporary, or otherwise 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;

(50) "townhouse" means a residential building other than 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;

(51) "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, including the transition provisions set out in section 14 hereof, a development charge against land 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 with respect to the use of any land, buildings or structures shall be calculated as follows:

(a) In the case of a residential use and a non-residential use development, based upon the number of net hectares of land related to the development;

(b) In the case of a residential and/or non-residential enlargement or expansion, based upon the gross floor area of the floor having the largest area, at the net hectare rate;

(c) In the case of the non-residential portion of a mixed-use development, based upon the gross floor area of the floor having the largest area in the non-residential portion of the mixed-use development, at the net hectare rate;

(d) In the case of redevelopment on lands previously subject to a development charge, based on the net increase in the population density or floor space index, at the net hectare rate.

(3) Council hereby determines that the development of land, buildings or structures 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, buildings or structures 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 area municipality within the Region.

(4) This by-law shall not apply to land, buildings, or structures 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 mobile temporary sales centre;

(d) farm buildings; and

(e) a temporary building or structure provided that:

(i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this by-law;

(ii) upon application being made for the issuance of a permit under the *Building Code Act, 1992* in relation to a temporary building or structure on land to which a development charge applies, the owner shall submit security in the form of cash or a letter of credit satisfactory to the City Treasurer in the full amount of the development charges otherwise payable, to be drawn upon in the event that the temporary building or structure is not removed or demolished within twelve months of building permit issuance and development charges thereby become payable;

(iii) 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 or structure was demolished or removed from the lands, whereupon the City shall return the security to the owner without interest;

(iv) In the event that a temporary building or structure is not removed or demolished within twelve months of building permit issuance, it shall be deemed not to be, nor ever to have been, a temporary building or structure and, subject to any agreement entered into pursuant to section 10 of this by-law, development charges shall be payable forthwith.

(v) In the event the owner does not provide satisfactory evidence of such demolition or removal of the temporary building or structure in accordance with clause (iii) above, the temporary building or structure shall be deemed conclusively not to be, nor ever to have been, a temporary building or structure for the purposes of this by-law and the City shall, without prior notification to the owner, transfer the cash or draw upon the letter of credit provided pursuant to clause (ii) above and transfer the amount so drawn into the appropriate development charges reserve funds; and

(vi) The timely provision of satisfactory evidence of the demolition or removal of the temporary building or structure in accordance with clause (iii) above shall be solely the owner's responsibility.

(5) This by-law shall not apply to development creating or adding an accessory use or structure 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, buildings or structures 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 or two additional dwelling units 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 cumulative gross floor area of the additional dwelling units exceeds the gross 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 gross floor area of an existing dwelling unit pursuant to clause (a) of subsection 3(7), the gross floor area shall be the maximum gross 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 or structure has an industrial tax class code for assessment purposes; and

(ii) the legal existence of said structure through the building permitting process.

(c) Notwithstanding clause (b) of subsection 3(8), 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) The enlargement of the gross floor area of the existing building must be attached to the existing industrial building;

(f) 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;

(g) The enlargement shall be for a use for or in connection with an industrial purpose as set out in this by-law;

(h) If the enlargement complies with the provisions of this subsection 3(8) and is equal to 50 per cent or less of the gross floor area of an existing industrial building, the amount of the development charge in respect of the enlargement is nil; and

(i) If 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 (i) inclusive of subsection 3(8) shall apply, with necessary modifications, to an enlargement of an existing office.

APPROVALS FOR DEVELOPMENT

4. A development charge shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed 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 or structure.

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.

(21) 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.

(22) 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 or land area, shall be calculated and collected in accordance with the provisions of this by-law.

(23) 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 person performing the work 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 an existing residential use building or structure is demolished, a full credit against development charges otherwise payable pursuant to this by-law with respect to redevelopment of the residential use or lands 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 or structure was originally located.

(2) Despite any other provision of this by-law where an existing non-residential use building or structure is demolished, a full credit against development charges otherwise payable with respect to redevelopment of the non-residential use shall be applicable if the gross floor area of the replacement non-residential use building or structure is equal to or less than the demolished non-residential use building or structure; and a partial credit against development charges otherwise payable with respect to such redevelopment shall be applicable if the gross floor area of the replacement non-residential use building or structure is greater than the gross floor area of the demolished non-residential use building or structure to be calculated in accordance with the following:

$$\text{partial credit for redevelopment} = \text{eligible charge} \times \frac{\text{existing gross floor area of demolished building or structure}}{\text{gross floor area of demolished replacement building or structure}}$$

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 or structure 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 or structure to residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The reduction will be calculated as the amount of the development charge that was payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to residential use.

(4) Where there is a redevelopment that includes a change in the use of all or part of a residential building or structure to a non-residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The amount of the reduction will be calculated as the amount of the development charge that would be payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to non-residential use.

(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 structure 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, site plan or consent agreement in relation to such building or structure on land to which a development charge applies. At the option of the payer, the applicable development charge may be paid as follows:

(a) In full at execution of the subdivision, consent or site plan agreement; or

(b) In the case of a residential subdivision agreement, or site plan agreement related to a high-rise development, in three installments paid in accordance with the following: 30% on the date of agreement execution, 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.

(2) Where no subdivision agreement, site plan or consent agreement is required, the development charges for each building or structure 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 or structure for the use to which the development charge applies.

(3) 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.

(4) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection 10(1), the total number and type of dwelling units for which building permits have been and are being issued, or the net hectares 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 subsection 10(1), an additional payment shall be required and shall be calculated by multiplying the applicable charge shown in Schedule "B-1", by:

(a) in the case of residential development, the difference between the net hectares for which building permits have been and are being issued and the net hectares for which payments have been made pursuant to section 10(1) and this subsection; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued and the net hectares used or intended to be used for a non-residential purpose for which payments have been made pursuant to section 10(1) and this subsection.

(5) Subject to subsection 10(6), if following the issuance of all building permits for all development in a subdivision or for all development on a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsection 10(1), the total residential net hectares for which building permits have been issued, or the total non-residential net hectares 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 subsection 10(1), a refund shall become payable by the City to the person who originally made the payment referred to in subsection 10(1) which refund shall be calculated by multiplying the applicable development charges in effect at the time such payments were made by:

(a) in the case of residential development, the difference between the net hectares for which payments were made pursuant to subsection 10(1) and the net hectares for which building permits were issued; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which payments were made pursuant to subsection 10(1) and the net hectares used or intended to be used for a non-residential purpose for which building permits were issued.

(6) Subsections 10(3) and 10(4) 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.

(7) Notwithstanding subsections 10(1) to 10(5), 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.

(8) Any refunds payable pursuant to subsections 10(4) and 10(5) shall be calculated and paid without interest.

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 separate reserve funds 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 or funds shall be credited to the development charge reserve fund or funds in relation to which the investment income applies.

(3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll 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 funds 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 AND TRANSITION

14.

(1) 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.

(2) Where a complete building permit application has been filed prior to the enactment of this by-law, the development charge payable pursuant to this by-law shall be calculated in accordance with the rates in force and effect on the date of filing, provided that:

(a) the building permit application meets the requirements in the Ontario Building Code, as determined by the City's Chief Building Official; and

(b) the building permit application substantially complies with other applicable laws, as determined by the City's Chief Building Official; and

(c) the building permit is issued no later than November 29, 2013.

INDEXING

15. The development charges referred to in Schedules "B" shall be adjusted 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, 2014, in accordance with the Statistics Canada Quarterly, *Construction Price Statistics* (Catalogue No. 62-007).

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 municipality.

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 Area 49 – 404 North Employment Lands
Schedule "B"	Schedule of Development Charges
Schedule "C"	Map of Area to which this by-law applies

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 and after May 29, 2013.

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. 2008-144 and any amendments made thereto is 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 Area Specific Services Development Charge By-law, 404 North Employment Lands Area 49".

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 28TH DAY OF MAY, 2013.

KIMBERLEY KITTERINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR

Schedule "A"

SCHEDULE OF MUNICIPAL SERVICES

AREA 49 – 404 NORTH EMPLOYMENT LANDS

CATEGORY OF MUNICIPAL SERVICES
Sanitary Sewers

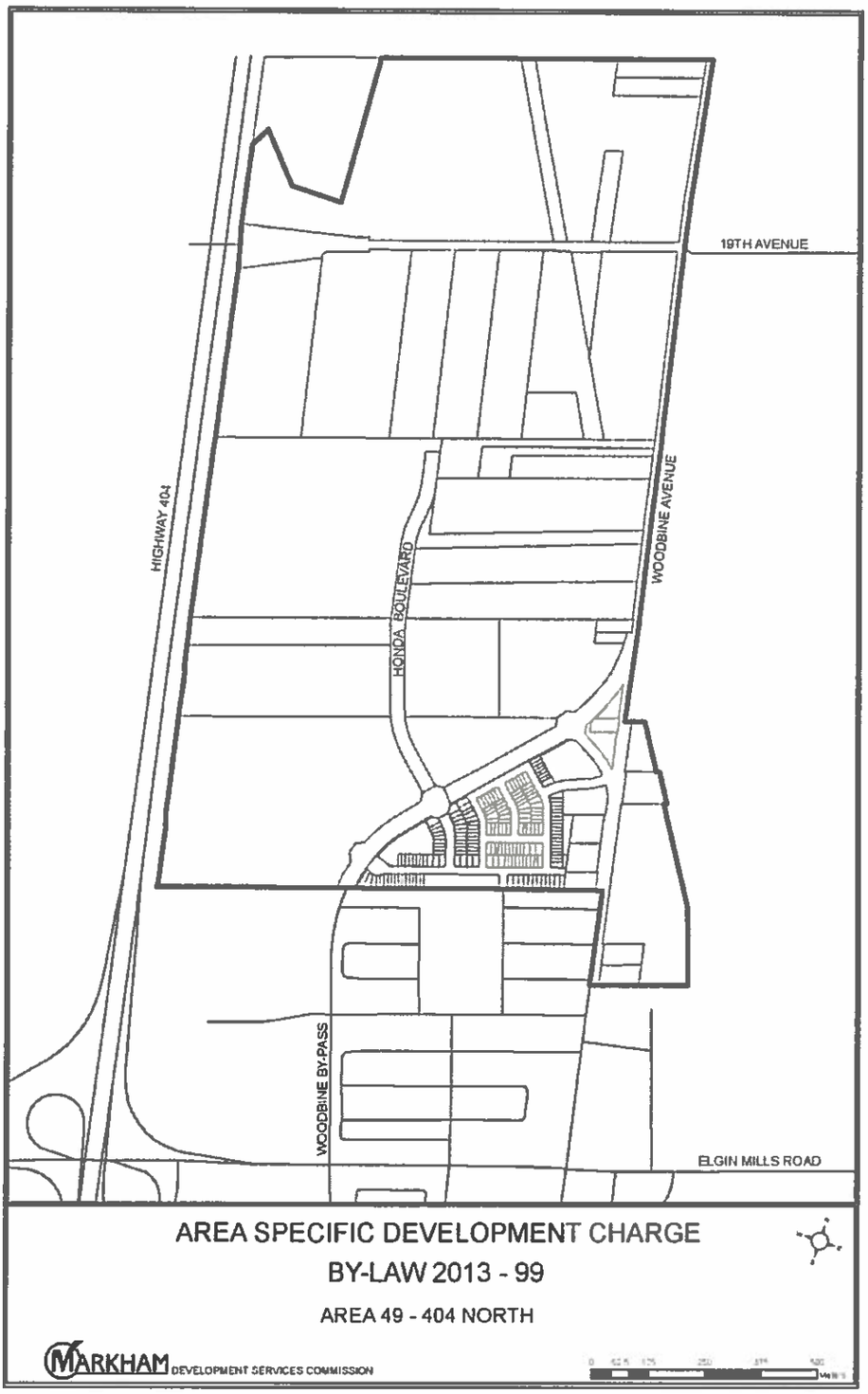
Schedule "B"

SCHEDULE OF DEVELOPMENT CHARGES

I. General

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

Development Charge per Net Hectare	$42,565

Schedule "C"

MAP OF AREA TO WHICH THIS BY-LAW APPLIES