**THE CORPORATION OF THE CITY OF MISSISSAUGA**
**DEVELOPMENT CHARGES BY-LAW 342-09**

**WHEREAS** Section 2 of the *Development Charges Act, 1997* provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services from development;

**AND WHEREAS** a development charge background study as required by section 10 of the Act, has been completed within one year prior to the enactment of this By-law;

**AND WHEREAS** the Council of The Corporation of the City of Mississauga has given notice of and held a public meeting on the 7th day of October, 2009, in accordance with the provisions of the Act and the regulations thereto and has heard all persons who requested to be heard;

**AND WHEREAS** the development charge background study was made available to the public on September 10th, 2009 at least two weeks prior to the public meeting held on the 7th day of October, 2009;

**AND WHEREAS** the Council of The Corporation of the City of Mississauga resolved on November 11, 2009 that it is the intention of Council to ensure that increases in the need for services attributable to development identified in the By-law will be met;

**NOW THEREFORE,** the Council of The Corporation of the City of Mississauga **ENACTS AS FOLLOWS**:

## PART I – DEFINITIONS

1. In this By-law, the following terms shall have the corresponding meaning:

**"accessory use"** means a use of a building or structure that is naturally and normally incidental, subordinate and exclusively devoted to the principal use of a building or structure which is located on the same lands;

**"Act"** means the *Development Charges Act, 1997,* S.O. 1997, c. 27, as amended, or any successor thereto;

**"apartment unit"** means:

(a) a dwelling unit in a duplex dwelling, triplex dwelling or a horizontal multiple dwelling, as the terms are defined in the Zoning By-law, as amended;

(b) a dwelling unit in a residential building where such dwelling unit is served by an enclosed principal entrance common to three (3) or more other dwelling units or, a dwelling unit in a mixed use building; or

(c) a special care/special needs dwelling;
which exceeds 70m$^2$ or 750 square feet in size;

**"Board of Education"** has the same meaning as "board" set out in the *Education Act,* R.S.O. 1990, c. E.2, as amended, or any successor thereto;

**"Building Code Act, 1992"** means the *Building Code Act, 1992,* S.O. 1992, c. 23, as amended, or any successor thereto and all regulations thereto, including the Ontario Building Code, as amended;

**"building or structure"** means structure consisting of a wall, roof, and floor, or any one of them or a structural system serving the function thereof, and includes an air supported structure and/or an exterior storage tank, but does not include:

(1) a canopy; or

(2) an exterior storage tank where such storage tank constitutes an accessory use.

**"capital costs"** means the costs incurred or proposed to be incurred by the City or a local board thereof directly or by others on behalf of, and authorized by, the City or a local board,

(1) to acquire land or an interest in land, including a leasehold interest,

(2) to improve land,

(3) to acquire, lease, construct or improve buildings and structures,

(4) to acquire, lease, construct or improve facilities including,

(a) rolling stock with an estimated useful life of seven (7) years or more,

(b) furniture and equipment, other than computer equipment, and

(c) 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, as amended, or any successor thereto,

(5) to undertake studies in connection with any of the matters referred to in paragraphs (1) to (4) above, and

(6) interest on money borrowed to pay for costs described in paragraphs (1) to (4) above,

required for the provision of services designated in a development charge by-law within or outside the City;

**"City"** means The Corporation of the City of Mississauga;

**"commercial parking garage"** means a building or structure, or any part thereof, whose principal use is the parking of motor vehicles for remuneration. For the purposes of this definition, the principal use of a building or structure, or any part thereof, shall be deemed to be the parking of motor vehicles for remuneration when:

(1) motor vehicles are parked in a building or structure and the users thereof are required to pay a fee for the parking of said motor vehicles; and

(2) the users of said motor vehicles are neither owners, tenants or occupants of the building or structure in which the parking is located, nor are said users, guests, invitees, employees or customers of the aforementioned owners, tenants or occupants.

Notwithstanding anything herein contained, in the case where a building or structure, or any part thereof, whose principal use is the parking of motor vehicles for remuneration as defined above, is located in the City Centre District as defined in the Mississauga Plan (Official Plan), said building or structure, or any part thereof, shall not for the purposes of this by-law be considered to be a commercial parking garage.

"**complete application**" means an application, including but not limited to all supporting documentation, for a permit to construct or demolish a building or structure made in accordance with the requirements of the City's Building By-law 255-05 as amended, as determined by the City's Chief Building Official or his/her designate;

**“complete building permit”** means the Complete Building class of building permit as set forth in Schedule “A” of the City’s Building By-law, 255-05, as amended;

**“Condominium Act”** means the *Condominium Act, 1998*, S.O. 1998, c.19, as amended or any successor thereto;

**“Council”** means the Council of The Corporation of the City of Mississauga;

“**designated structures permit**” means the Designated Structures class of building permit as set forth in Schedule “A” of the City’s Building By-law, 255-05, as amended;

**“development”** means the construction, erection or placing of one or more buildings or structures on land or making of an addition or alteration to a building or structure that has the effect of increasing the size and usability thereof or both and includes redevelopment, whether or not the land on which the development occurs is already serviced;

**“development charge”** means a charge imposed under this By-law;

**“development agreement”** means an agreement entered into pursuant to the provisions of section 51 of the *Planning Act;*

**“distribution centre”** means a building or structure primarily used for the storage and distribution of goods, wares, merchandise, substances, articles or things, but does not include any storage and distribution of goods connected with any salvage operations or a bulk storage yard or truck terminal;

**“dwelling unit”** means one or more habitable rooms designed, occupied or intended to be occupied as living quarters for a single family or single household and shall, as a minimum standard, contain sanitary facilities, accommodation for sleeping and a kitchen, and for the purposes of this By-law, shall be deemed to include a special care/special needs dwelling;

**“established grade”** means the average level of proposed or finished ground adjoining a building at all exterior walls;

**“foundation to roof building permit”** means the Foundation to Roof Component (Superstructure) class of building permit as set forth in Schedule “A” of the City’s Building By-law, 255-05, as amended;

**“gross floor area”** means gross floor area as defined in the regulation;

**“high density”** means any development for residential and/or non-residential uses in excess of 4 storeys in height;

**“hazard lands”** means lands that are unsuitable for development due to naturally occurring processes including lands covered by water and shall extend to the furthest landward limit of the flooding or erosion hazard limits as may be determined by the Conservation Authority with jurisdiction over the lands with respect to a development;

**“industrial”** means lands, buildings or structures used or designed or intended for use for or in connection with manufacturing, producing or processing of raw goods, warehousing or bulk storage of goods, distribution centre, truck terminal, research or development in connection with manufacturing, producing or processing of raw goods, storage, 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 a building used exclusively for office or administrative purposes unless it is attached to an industrial building or structure as defined above;

**“local board”** means a local board as defined in section 1 of the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, as amended, or any successor thereto, other than a board as defined in subsection 1(1) of the *Education Act,* R.S.O. 1990, c. E.2, as amended;

**“mezzanine”** means the floor area located between the floor and the ceiling of any room or storey, with or without partitions or other visual obstructions;

**“mixed use”** means any building or structure containing residential and non-residential uses;

**“mobile temporary sales trailer”** means a temporary sales pavilion with a gross floor area of less than $120m^2$ or 1291 square feet, that is constructed without foundation, excluding concrete piers or sono tubes, and is used for the principal purpose of promoting the sale of new residential units;

**“net developable area”** shall be calculated on a net hectare basis, and shall mean for the purpose of calculating the development charge for the Storm Water Management service as set out in Schedule “D”, all lands with respect to a development, exclusive of all lands conveyed or to be conveyed to:

(1) the City pursuant to sections 42, 51 and 53 of the Planning Act, and, all lands conveyed or to be conveyed to the City or any local board thereof; or

(2) the Regional Municipality of Peel or any local board thereof, save and except for any lands developed for residential use by the Regional Municipality of Peel or any local board thereof, or any corporation owned controlled or operated by the Regional Municipality of Peel; or

(3) a Board of Education; or

(4) the Ministry of Transportation for the construction of provincial highways; or

(5) Hydro One Networks Inc., Enersource Corporation, or any of their subsidiaries, for the purposes of providing electricity utility services; or,

(6) any hazard lands conveyed or to be conveyed to a Conservation Authority as a condition of any development;

notwithstanding the above, under no circumstances, shall the net developable area of any development be less than the minimum lot size prescribed by the City’s Zoning By-law under the zoning category applicable to the development;

**“non-industrial”** means the use of land, buildings or structures or parts thereof, used, designed or intended to be used for any use other than for residential use or for industrial use as those terms are defined in this section;

**“non-residential”** means the use of land, buildings or structures or parts thereof, used designed or intended to be used for any use other than for residential use as that term is defined in this section;

**“one family detached dwelling”** means a separate building designed, occupied or intended to be occupied as a single housekeeping unit;

**“other residential”** means the use of land, building or structures of any kind whatsoever, used, designed or intended to be used as a dwelling unit and includes, without limiting the generality thereof, a one family detached dwelling, a semi-detached dwelling, a townhouse, and a street row dwelling but does not include an apartment unit, a small unit, a hotel, a motel, a nursing home or a retirement home;

**“owner”** means the owner of land or any person which has made an application for an approval of the development of land upon which a development charge can be imposed;

**“Planning Act”** means the *Planning Act,* R.S.O. 1990, c. P.13, as amended, or any successor thereto;

**“protracted”** means, in relation to a temporary building or structure, the continuation of its construction, erection, or placement on land or its continuation as an alteration or addition, for a continuous period exceeding 245 days within any twelve (12) month period, commencing from the date on which the building or structure was first erected or placed on the lands;

**“regulation”** means any regulation made pursuant to the Act;

**“residential”** means the use of land, buildings or structures of any kind whatsoever, used, designed or intended to be used as living accommodation for one or more individuals;

**“semi-detached dwelling”** means one of a pair of attached dwelling units, which are divided vertically above grade by a party wall;

**“service”** means a service designated in this By-law;

**“small unit”** means any dwelling unit as defined in this By-law that is $70m^2$ or 750 square feet, or less, in size;

**“special care/special needs dwelling”** means a unit intended for residential use, in a building containing more than three (3) such units, which units have a common enclosed entrance from street level, where the occupants have the right to use in common halls, stairs, yards, common rooms and accessory buildings, which units may or may not have exclusive sanitary and/or culinary facilities and are designed to accommodate individuals with special needs, including an independent long-term living arrangement, where support for services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels, and includes retirement homes and nursing homes;

**“speculative building”** means any building or structure where the ultimate use or occupancy cannot be determined to the satisfaction of the City at the time that a development charge becomes due and payable;

**“storey”** means that portion of a building other than a cellar or basement included between any floor level and the floor, roof deck or deck ridge next above it;

**“Storm Water Development Charge”** means that component of the development charge relating to the provision of the Storm Water Management service as set out in Schedule “D” to this By-law.

**“temporary building or structure”** means a building or structure constructed, erected or placed on land for a period not exceeding 245 days within any twelve (12) month period, commencing from the date on which the building or structure was first erected or placed on the lands;

**“total floor area”** means the aggregate of the areas of each floor and/or mezzanine above or below established grade, measured between the exterior of outside walls, including all parts of the building below established grade developed for non-residential use, but excluding the following:

(1) any enclosed area used for climate control, electrical, energy generation and distribution, or mechanical equipment related to the operation or maintenance of the building;

(2) areas of stairwells, washrooms, elevators or walkways/catwalks used exclusively for the maintenance of and/or access to mechanical equipment related to the operation or maintenance of the building;

(3) any enclosed area devoted to the collection or storage of disposable or recyclable waste generated within the building;

(4) any part of the building or structure above or below established grade, but not including a commercial parking garage, used exclusively for the temporary parking of motor vehicles or the provision of loading space(s) where such loading space(s) are required by the City’s Zoning By-law; and

(5) the area of any self contained structural shelf and rack storage facility approved by the Building Materials Evaluation Commission;

and where a building or structure does not have any walls, the total floor area shall be the sum total of the area of land directly beneath the building or structure and the total areas of any floors and mezzanines in the building or structure, not already included in the sum total.

**"truck terminal"** means a building, structure or place where trucks or transports are rented, leased, kept for hire, or stored, or parked for remuneration or from which trucks or transports are dispatched for hire as common carriers;

**"Zoning By-law"** means as may be applicable to the lands being developed the City's Zoning By-law 0225-2007, as amended;

## PART II – RULES

2. For the purposes of complying with section 6 of the Act:

   (1) the area to which this By-law applies shall be the area described in section 4 of this By-law;

   (2) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be set out in sections 3 to 12 both inclusive, 22 and 27 of this By-law;

   (3) the rules developed under paragraph 10 of subsection 5(1) of the Act for exemptions shall be the exemptions set forth in section 13 through 16 both inclusive, of this By-law, indexing of the charges shall be as set out in section 26 of this By-law and the phasing shall be as set out in section 24 of this By-law; and

   (4) rules for the redevelopment of land shall be as set out in sections 17 through 21, both inclusive, of this By-law.

## PART III – DESIGNATED SERVICES

3. Development charges against land to be developed shall be based upon the provision of the following categories of designated services by the City:

   (1) General Government;

   (2) Recreation;

   (3) Fire Services;

   (4) Library;

   (5) Transit;

   (6) City-Wide Engineering;

   (7) Public Works (Building and Fleet);

   (8) Living Arts Centre (Debt for Ineligible Services);

   (9) Storm Water Management; and

   (10) Parking Services

## PART IV – AREA TO WHICH BY-LAW APPLIES

4. (1) Subject to subsection 4(2), this By-law applies to all lands in the City, however used, whether or not the land or use is exempt from taxation under section 3 of the *Assessment Act,* R.S.O. 1990, c. A.31, as amended.

(2) Subject to subsection 4(3), this By-law shall not apply to land that is owned by and used for the purposes of:

(a) the City or any local board thereof;

(b) a Board of Education; or

(c) the Regional Municipality of Peel or any local board thereof.

(3) The exemption referenced in subsection (2) above, does not apply to lands which are developed for a residential use and are owned by:

(a) the Regional Municipality of Peel or any local board thereof; or

(b) any corporation owned, controlled or operated by the Regional Municipality of Peel.

## PART V – DEVELOPMENT CHARGES IMPOSED

5. (1) Development charges shall be imposed and shall be calculated in accordance with the provisions of this By-law, on all lands, building or structures that are developed for residential and non-residential uses, where the development requires any one of the following:

(a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;

(b) the approval of a minor variance under section 45 of the *Planning Act*;

(c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;

(d) the approval of a plan of subdivision under section 51 of the *Planning Act*;

(e) a consent under section 53 of the *Planning Act*;

(f) the approval of a description under section 50 of the *Condominium Act*; or

(g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

(2) No more than one (1) development charge for each service designated shall be imposed upon any land to which this By-law applies even though two (2) or more of the actions described in subsection 5(1) hereof are required for the land to be developed.

(3) Despite subsection 5(2), and subject to this By-law and to section 4 of the Act, if two (2) or more of the actions described in subsection 5(1) occur at different times, additional development charges shall be imposed in respect of any increased or additional development permitted by such action.

**PART VI – CALCULATION OF DEVELOPMENT CHARGES**

6. The development charges with respect to a development shall be calculated as follows:

(1) (a) in the case of residential development, or the residential portion of a mixed use development, based on the number and type of dwelling units; or

(b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the total floor area of such development.

(2) Notwithstanding subsection 6(1)(a) and (b) above, in the case of residential and non-residential development, the Storm Water Development Charge shall be calculated on the basis of the net developable area as that term is defined in this By-law.

(3) With respect to residential development on any lot greater than 0.15 ha (0.37 acres) in area, the Storm Water Development Charge shall be calculated on the basis of the greater of four times the total area occupied by any buildings and/or structures, and the minimum lot area as prescribed in the Zoning By-law for the lands.

7. The development charges described in Schedule "A" to this By-law are imposed on land developed for residential uses including dwelling units accessory to a non-residential use and, in the case of a mixed-use building or structure, on the residential component of the mixed-use building or structure, according to the type of residential use.

8. The development charges described in Schedule "B" to this By-law are imposed on land developed for industrial uses and, in the case of a mixed use building or structure, on the industrial component of the mixed use building or structure, and are calculated with respect to each of the services according to total floor area of the industrial use.

9. The development charges described in Schedule "C" to this By-law are imposed on land developed for non-industrial uses and, in the case of a mixed use building or structure, on the non-industrial component of the mixed use building or structure, and are calculated with respect to each of the services according to total floor area of the non-industrial use.

10. The development charges described in Schedule "D" to this By-law are imposed on land developed for residential and non-residential uses and are calculated on the basis of the net developable area of the lands to which this By-law applies.

11. All development charges shall be payable at the rate in effect on the date of payment.

12. (1) Where an owner has applied for a building permit for a non-residential building or structure, and where the building or structure is a speculative building, the City may permit the owner to pay the lower industrial development charge in accordance with Schedule "B" hereto and if the owner is permitted by the City to pay the lower industrial development charge, the owner shall enter into an agreement with the City, to the satisfaction of the Commissioner of Corporate Services, which shall include provisions for, but shall not be limited to the owner being required to submit satisfactory security, to be realized upon by the City in the event that the building or structure is ultimately deemed by the City to be a non-industrial building or structure in accordance with the provisions of this By-law and where development charges at the non-industrial rate as set in Schedule "C" hereto are deemed to be applicable.

(2) Where an owner has requested to pay the lower industrial rate and to submit security for the difference between the industrial rates paid and the non-industrial rates then in effect, the City may agree to hold the security posted on the terms and conditions agreed to in any agreement entered into pursuant to subsection 12(1) above, but in no event shall the City agree to hold security for a period beyond 36 months from the date that a building permit is issued with respect to the development.

(3) Where the owner has failed to submit evidence satisfactory to the Commissioner of Corporate Services, to establish that a speculative building is an industrial building in accordance with the terms of any agreement as provided for in subsection 12(1), the City shall apply the security posted as if the building were deemed to be a non-industrial building or structure in accordance with the provisions of this By-law.

(4) In order for a building or structure to deemed to be an industrial use for the purpose of this By-law, at least 51 per cent of the total floor area of the building or structure must be used for industrial purposes, as determined by the City.

(5) Where the City requires the payment of development charges at the non-industrial rate in accordance with the provisions set out above, the amount payable shall be the amount calculated at the rate in effect at the later of the date of issuance of the building permit or the date that the payment of the development charges at the non-industrial rate is received by the City.

(6) Where the City determines that the building or structure is an industrial building, the security provided to the City pursuant to subsection (1) of this section shall be refunded or returned to the owner, without interest.

## PART VII – EXEMPTIONS

13. Notwithstanding the provisions of this By-law, no development charges are imposed under this By-law respecting:

(1) land, buildings or structures used as public hospitals governed by the *Public Hospitals Act,* R.S.O. 1990, c. P.40, as amended, or any successor thereto;

(2) land, buildings or structures owned by and used for the purposes of a college of applied arts and technology established pursuant to the *Ministry of Training Colleges and Universities Act,* R.S.O. 1990, c. M.19, as amended, or any successor thereto;

(3) land, buildings or structures owned by and used for the purpose of a university established by an Act of the Legislative Assembly of Ontario;

(4) a mobile temporary sales trailer;

(5) a temporary building or structure provided that:

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

(b) the owner, upon application being made for the issuance of a building permit under the *Building Code Act*, *1992*, or in the event that the owner is not required to obtain a building permit, but does require any one or more of the actions or approvals listed in subsection 5(1) of this By-law, upon the happening of the earliest of any action or approval under subsection 5(1) of this By-law, the City may require the owner to enter into an agreement prior to the temporary building or structure being erected or placed on the lands, in a form satisfactory to the Commissioner of Corporate Services, which agreement shall include provisions for but not be limited to, the owner providing the City with satisfactory security for the payment of development charges and that the City may draw upon the security provided in the event that the temporary structure becomes protracted or is no longer deemed by the City to be a temporary structure in accordance with the provisions of this By-law or the agreement referred to herein; and

(c) in the event that a temporary building or structure becomes protracted, whether pursuant to the terms of any agreement referenced in subsection (c) above or under the provisions of this By-law, it shall be deemed not to be, nor ever to have been a temporary building or structure, and the development charges shall immediately become due and payable and where security for the payment of development charges has been provided in furtherance of any agreement entered into pursuant to subsection 13(5)(c), the City shall be entitled to draw upon the security in accordance with the provisions of said agreement.

(6) lands which are zoned for and used as a cemetery, burial ground, mausoleum, crematorium, and or columbarium, as those terms may be defined in the City's Zoning By-law, shall be exempt from the payment of the Storm Water Development Charge only, and only to the extent that the net developable area of the lands are not occupied by buildings and structures, parking, and paved internal roadways.

14. Other than the uses specifically listed in subsection 4(2) or section 13 of this By-law, no lands, buildings and/or structures shall be exempt from development charges solely by virtue of their use.

15. (1) 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 a one-family detached dwelling unit;

(c) creating one additional dwelling unit in an existing semi-detached dwelling unit; or

(d) creating one additional dwelling unit for any other existing residential building, not including a mixed-use building.

(2) Notwithstanding clauses (b) to (d) inclusive of subsection 15(1), a development charge shall be imposed with respect to the creation of one or two additional dwelling units in a dwelling, if the gross floor area of the additional one or two dwelling units exceeds the gross floor area of the existing dwelling unit in clause (b) and (c) or the smallest existing dwelling unit in clause (d).

(3) For the purposes of determining the gross floor area of an existing dwelling unit under this section, the gross floor area shall be the maximum gross floor area that existed in the three years preceding the application for a building permit in respect of the additional dwelling unit.

16. For the purposes of the exemption set out in section 4 of the Act for the enlargement of existing industrial buildings, the following provisions shall apply:

(1) for the purposes of interpreting the definition of "existing industrial building" contained in the regulation, regard shall be had for the classification of the lands pursuant to the *Assessment Act,* R.S.O. 1990, c. A31, as amended 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;

(2) notwithstanding subsection 16(1) above, distribution centers, warehousing, the bulk storage of goods and truck terminals shall be considered industrial uses;

(3) the gross floor area of an existing industrial building shall be calculated 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;

(4) the enlargement of the gross floor area of the existing building must be attached to the existing industrial building;

(5) the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, shared below grade connection, foundation, footing or parking facility, but must share a common wall with the existing building or structure;

(6) the enlargement shall be for a use for or in connection with an industrial purpose as set out in this By-law;

(7) if the enlargement is equal to 50 per cent or less of the gross floor area of an existing industrial building, the amount of development charge in respect of the enlargement is nil;

(8) if the enlargement is greater than 50 per cent of the gross floor area of an existing industrial building, 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) if the enlargement is greater than 50 per cent of the gross floor area of an existing industrial building, Storm Water Development Charges shall be payable on the lot area covered by the enlargement in excess of 50 per cent, plus the lot area covered by any additional parking;

(10) notwithstanding subsection (9) above, if prior to the coming into effect of this By-law, the City and the owner or former owner of the lands entered into an agreement with respect to the payment of Storm Water Development Charges, the Storm Water Development Charges payable on account of an enlargement of more than 50 per cent of the gross floor area of an existing industrial building shall be calculated in accordance with the terms of said agreement;

(11) notwithstanding subsection (9) above, if prior to the coming into effect of this By-law, the owner or former owner of the lands paid Storm Water Development Charges in respect of the entire lands to be developed pursuant to a prior development charges by-law, or pursuant to an agreement, then no further Storm Water Development Charges shall be payable in respect of the lands.

17. If, prior to the coming into effect of this By-law, the owner or former owner of lands in respect of which an existing non-industrial use is being enlarged, paid Storm Water Development Charges in respect of the entire lands being developed pursuant to a prior development charges by-law, or pursuant to an agreement, then no further Storm Water Development Charges shall be payable in respect of said lands.

18. (1) Where an application has been submitted for the demolition of one or more dwelling units or where one or more dwelling units have been demolished after October 21st, 1991 and satisfactory evidence of the demolition and the number of units demolished has been provided to the City's Commissioner of Planning and Building, the demolished units may be replaced by the same number of new dwelling units without being subject to development charges under this By-law to the extent the existing dwelling units are replaced by new dwelling units only, however, any additional development for residential use in excess of the existing number of dwelling units shall be subject to development charges pursuant the provisions of this By-law.

(2) Where an application for a demolition permit has been submitted for the demolition of one or more dwelling units as referenced in subsection 18(1) above, and where evidence satisfactory to the Commissioner of Planning and Building has not been provided to establish that the dwelling units have been demolished within 365 days of the date of the demolition permit, any units constructed in accordance with subsection 18(1) above to replace the dwelling units which were to have been demolished, shall be subject to development charges pursuant to the provisions of this By-law and the development charges shall immediately become due and payable

19. (1) Where an application has been submitted for the demolition of one or more dwelling units or where one or more dwelling units have been demolished after October 21st, 1991 and satisfactory evidence of the demolition and the number of units demolished has been provided to the City's Commissioner of Planning and Building, the demolished units may be replaced with non-residential total floor area which shall be subject to development charges to the extent of the non-residential total floor area, provided that the owner shall receive a credit against such development charges equal to the number of demolished dwelling units multiplied by the development charges for the service categories in Schedule "A" hereto and which credit shall not exceed the amount of the development charge for each service category calculated and payable for the non-residential total floor area in accordance with Schedule "B" or "C".

(2) Where an application for a demolition permit has been submitted for the demolition of one or more dwelling units as referenced in subsection 19(1) above, and where evidence satisfactory to the Commissioner of Planning and Building has not been provided to establish that the dwelling units have been demolished within 365 days of the date of the demolition permit, any credits against development charges which may have been granted to the owner pursuant to subsection 19(1) shall be immediately cancelled by the City, and any such amounts shall immediately become due and payable to the City as development charges pursuant to the provisions of this By-law.

20. (1) Where an application has been submitted for the demolition of non-residential total floor area, or where non-residential total floor area has been demolished after October 21st, 1991 and satisfactory evidence of the demolition and the amount of non-residential total floor area demolished has been provided to the City's Commissioner of Planning and Building, the demolished non-residential total floor area may be replaced with the same amount of non-residential total floor area without being subject to development charges to the extent the existing non-residential total floor area is replaced by new non-residential total floor area only, however, any additional development for non-residential use, in excess of the existing non-residential total floor area shall be subject to the provisions of this By-law.

(2) Where an application for a demolition permit has been submitted for the demolition of non-residential total floor area as referenced in subsection 20(1) above, and where evidence satisfactory to the Commissioner of Planning and Building has not been provided to establish that the non-residential total floor area has been demolished within 365 days of the date of the demolition permit, any non-residential total floor area constructed in accordance with subsection 20(1) above to replace the non-residential total floor area which was to have been demolished, shall be subject to development charges pursuant to the provisions of this By-law and the development charges shall immediately become due and payable.

21. (1) Where an application has been submitted for the demolition of non-residential total floor area or where non-residential total floor area has been demolished after October 21st, 1991 and satisfactory evidence of the demolition and the amount of non-residential total floor area demolished has been provided to the City's Commissioner of Planning and Building, the demolished non-residential total floor area may be replaced with dwelling units, which shall be subject to development charges to the extent of such dwelling units, provided that the owner shall receive a credit against such development charges equal to the amount of demolished non-residential total floor area multiplied by the charges for the non-residential service categories in Schedules "B" or "C" hereto and which credit shall not exceed the amount of the development charges for each service category calculated and payable for the dwelling units in accordance with Schedule "A".

(2) Where an application has been submitted for the demolition of non-residential total floor area as referenced in subsection 21(1) above, and where evidence satisfactory to the Commissioner of Planning and Building has not been provided to establish that the non-residential total floor area has been demolished with 365 days of the date of the demolition permit, any credits against development charges which may have been granted to the owner pursuant to subsection 21(1) shall be immediately cancelled by the City, and any such amounts shall immediately become due and payable to the City as development charges pursuant to the provisions of this By-law**.**

**PART VIII – ADMINISTRATION – PHASING, TIMING AND PAYMENT**

22. (1) Development charges shall be calculated and paid in full on the date that the first building permit is issued for a building or structure on land to which a development charge applies.

(2) Where development charges apply to land in relation to which a building permit is required, no building permit shall be issued, and the City shall be under no obligation to issue a building permit**,** until the development charge has been paid in full.

(3) Notwithstanding subsection 22(1), Storm Water Development Charges shall be payable, with respect to an approval of a plan of subdivision under section 51 of the *Planning Act*, immediately upon the City authorizing execution of a development agreement with the owner.

(4) Notwithstanding subsection 22(1), development charges with respect to all high-density development shall be calculated and become due and payable upon the earlier of the date that a foundation to roof building permit, complete building permit or designated structures building permit is issued for the development.

(5) If a use of land, buildings or structures that constitutes development does not require the issuance of a building permit but requires one or more of the actions listed in sections 5(1)(a) to (f) inclusive, a development charge shall be payable and shall be calculated and collected on the earliest of any of the actions listed in section 5(1)(a) to (f) inclusive being required or on a date set by agreement, between the City and the owner.

(6) Where a payment or grant in lieu of taxes is provided for or is required in respect of development charges by an Act of Ontario or Canada, the payment or grant in lieu of taxes in respect of the development charge shall be calculated as the amount that would have been otherwise payable directly to the City in furtherance of the provisions of this By-law. Payments or grants in lieu of taxes in respect of development charges shall be payable and collected on the earlier of the occurrence of any of the actions listed in sections 5(1)(a) to (g) inclusive, or the commencement of development.

23. Without limiting the authority of the City to enter into any other agreement, the City is hereby authorized to enter into agreements providing for the payment of all or any part of a development charge before or after it would otherwise be payable, pursuant to section 27 of the Act.

24. (1) Subject to subsections 24(2) and 24(3), this By-law applies to all building permits issued on or after November 11th, 2009.

(2) Subject to subsection 24(3), the charges, as indexed in accordance with the provisions of By-law 0316-2004, as amended, set forth in Schedules A, B, C and/or D of By-law 0316-2004, as amended, shall be applied for the purpose of calculating development charges under this By-law where a complete application for a building permit, has been submitted to the City's Chief Building Official on or before December 4th, 2009 and where the building permit is issued on or before April 30th, 2010.

(3) Where there is an agreement executed before June 24th, 2009 in accordance with section 23 of By-law 0316-2004, as amended, or where there is an agreement executed before November 11th, 2009, in accordance with section 23 of By-law 0197-2009 providing for the payment of development charges, the payment of development charges shall be governed by the provisions of said agreement.

**PART IX – PAYMENT BY PROVISION OF SERVICES**

25. (1) Notwithstanding the requirements of sections 6 through 12 both inclusive, to pay development charges, Council may, by agreement with an owner of land, give a credit towards a development charges payable in exchange for work done or to be done that relates to services to which a development charges relates under this By-law, provided that:

(a) the credit will be applied at the time that the development charge for the service category is payable;

(b) if the City and the owner cannot agree as to the reasonable cost of doing the work under this section, the dispute shall be referred to Council whose decision shall be final and binding; and

(c) the amount of the credit shall not exceed the aggregate amount of development charges otherwise payable in respect of the land, buildings or structures.

(2) Nothing in this By-law prevents Council from requiring, as a condition of any approval given under the *Planning Act* that the owner, at the owner's expense, install such local services as Council may require in accordance with the City's local services policies in effect at the time.

**PART X – INDEXING**

26. (1) Development charges imposed pursuant to this By-law shall be adjusted semi-annually, without amendment to this By-law, on the first day of February and on the first day of August in each year in accordance with the latest available issue of the index prescribed in the regulations, with the base index value being that in effect on November 11th, 2009.

(2) The adjustment referred to in subsection 26(1) shall be based upon the change in the index for the six (6) month period preceding the most recent issue of the index.

(3) Notwithstanding subsection (1) above, the first indexing under this By-law shall occur on February 1st, 2010.

**PART XI – SCHEDULES**

27. The following schedules shall form part of this By-law:

Schedule "A" – Amount of Charges – Residential

Schedule "B" – Amount of Charges – Industrial

Schedule "C" – Amount of Charges – Non-Industrial

Schedule "D" – Storm Water Management Development Charges – Residential and Non-Residential

**PART XII – CONLFICTS**

28. Where the City and an owner or former owner of land have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.

**PART XIII – REFUNDS**

29. (1) Where development charges have been paid on the issuance of a building permit and the building permit is subsequently cancelled, the building permit shall be deemed never to have been issued and the amount of the development charge paid shall be refunded to the payer by the City without any interest.

(2) Where development charges have been paid on the issuance of a building permit and the owner is subsequently entitled to a demolition credit in accordance with sections 18, 19, 20 or 21 of this By-law, the owner may request in writing to the Commissioner of Corporate Services that the amount of the demolition credit be refunded to the payer, and such refunded payment shall thereafter be paid to the payer by the City without any interest.

(3) Where development charges have been paid on or prior to the issuance of a building permit and the building permit is subsequently revised by the City's Chief Building Official or his/her designate, resulting in an overpayment of development charges to the City, the amount of any such overpayment shall be refunded to the payor by the City without any interest.

**PART XIV – BY-LAW ADMINSTRATION**

30. (1) This By-law shall be administered by the Commissioner of Corporate Services, and the Commissioner of Planning and Building, and/or their designates, such designation to be in writing.

(2) Any agreement which the City may enter into pursuant to either the provisions of this By-law or the Act shall be to the satisfaction of the City's Commissioner of Corporate Services and save and except for any agreement entered into pursuant to either section 27 of the Act, or sections 23 or 25 of this By-law, shall be executed on behalf of the City by the said Commissioner of Corporate Services, and the Clerk of the City, without the need for further by-law or resolution of the Council.

(3) Where any one of the City's Commissioner of Corporate Services, the City's Commissioner of Planning and Building, or their designates as described in subsection 30 (1) of this By-law, is satisfied that a clerical or factual error, including the transposition of figures, a typographical error or similar error, has occurred with respect to the calculation of a development charge pursuant to this by-law, which has resulted in an overpayment to the City, the City may issue a refund to the owner in an amount equal to such overpayment.

**PART XV – COMPLAINTS**

31. Development charges shall be paid, in accordance with the provision of this By-law, prior to the making of a complaint with respect to the requirement to pay such development charges, pursuant to the provision of section 20 of the Act.

**PART XVI – SEVERABILITY**

32. If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of the Council that all the remainder of the By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

**PART XVII – BY-LAW REGISTRATION**

33. A certified copy of this By-law may be registered against title to any land to which this By-law applies.

**PART XVIII – DATE BY-LAW IN FORCE**

34. This By-law shall come into force and takes effect from and after the date of its enactment.

**PART XIX – TERM OF BY-LAW**

35. This By-law shall continue in full force and effect for a term of five years unless it is repealed by Council at an earlier date.

**PART XX – NAME OF BY-LAW**

36. This By-law may be cited as the Mississauga Development Charges By-law, 2009 (Revised).

**PART XXI- EXISTING BY-LAWS REPEALED**

37. Subject to section 24(2) of this By-law, By-law 0197-2009, is hereby repealed effective as of the date and time of this By-law coming into effect.

**ENACTED AND PASSED** this 11th day of November, 2009.
**Signed by: Hazel McCallion, Mayor and Crystal Greer, City Clerk**

**Click here for Current Development Charges Rates**