



Hamilton  
City of Hamilton

## DEVELOPMENT CHARGES STAKEHOLDERS SUB-COMMITTEE

**Meeting #:** 19-002  
**Date:** February 19, 2019  
**Time:** 4:00 p.m.  
**Location:** Council Chambers, Hamilton City Hall  
71 Main Street West

Lisa Chamberlain, Legislative Coordinator (905) 546-2424 ext. 4605

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	<b>Pages</b>
1. CEREMONIAL ACTIVITIES	
2. APPROVAL OF AGENDA (Added Items, if applicable, will be noted with *)	
3. DECLARATIONS OF INTEREST	
4. APPROVAL OF MINUTES OF PREVIOUS MEETING	
4.1 January 28, 2019	3
5. COMMUNICATIONS	
6. DELEGATION REQUESTS	
7. CONSENT ITEMS	
7.1 Development Charges By-law Policy - 2019 Development Charges Agriculture / Farm Land Comparators (FCS18062(b)) (City Wide)	6
8. PUBLIC HEARINGS / DELEGATIONS	
9. STAFF PRESENTATIONS	
10. DISCUSSION ITEMS	

- 10.1 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide)  
(Deferred from the January 28, 2019 meeting)

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- 11. MOTIONS
- 12. NOTICES OF MOTION
- 13. GENERAL INFORMATION / OTHER BUSINESS
- 14. PRIVATE AND CONFIDENTIAL
- 15. ADJOURNMENT



**DEVELOPMENT CHARGES STAKEHOLDERS  
SUB-COMMITTEE**

**MINUTES 19-001**

**Monday, January 28, 2019**

**9:30 a.m.**

**Council Chambers**

**Hamilton City Hall**

**71 Main Street West**

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**Present:** Councillors B. Clark (Chair), J.P. Danko (Vice-Chair), M. Wilson, J. Farr, C. Collins, M. Pearson, B. Johnson, and J. Summers, S. Mammel, B. Caramento and Y. Rozenszajn, W. Stewart

**Absent:** T. Whitehead

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**THE FOLLOWING ITEMS WERE REFERRED TO THE AUDIT, FINANCE AND ADMINISTRATION COMMITTEE FOR CONSIDERATION:**

**1. Appointment of Chair and Vice Chair (Item 1.1)**

**(Pearson/Farr)**

That Councillor B. Clark be appointed as Chair of the Development Charges Stakeholders Sub-committee for 2019.

**CARRIED**

**(Johnson/Pearson)**

That Councillor J.P. Danko be appointed as Vice Chair of the Development Charges Stakeholders Sub-committee for 2019.

**CARRIED**

**2. Hamilton 2019 Development Charges Study: Capital Presentation (Item 9.1)**

**(Johnson/Farr)**

That the 2019 Development Charges Background Study – Draft Capital Listings, be received.

**CARRIED**

**Development Charges  
Stakeholders Sub-Committee  
Minutes 19-001**

**January 28, 2019  
Page 2 of 3**

**3. 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide) (Item 10.1)**

**(Wilson/Danko)**

That the statutory public meeting for the Development Charges Background Study and By-law scheduled for April 18, 2019 include an evening session to start at 7:00 p.m., or on another date if the 18<sup>th</sup> isn't available.

**CARRIED**

**(Johnson/Clark)**

- (a) That the entire draft Development Charges Policy be released; and,
- (b) That staff be directed to provide comparators for Agricultural Development Charges in surrounding municipalities including, West Lincoln, Lincoln, Haldimand, Halton, Brantford and Brant County, and report back to the Development Charges Stakeholders Sub-Committee.

**CARRIED**

**FOR INFORMATION:**

**(a) APPROVAL OF THE AGENDA (Item 2)**

**(Pearson/Farr)**

That the agenda of the January 28, 2019 meeting be approved as presented.

**CARRIED**

**(b) DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) September 13, 2018 (Item 4.1)**

**(Pearson/Rozenszajn)**

That the Minutes of the September 13, 2018 meeting, be approved.

**CARRIED**

**(d) STAFF PRESENTATIONS (Item 9)**

**(i) Hamilton 2019 Development Charges Study: Capital Presentation (Item 9.1)**

Gary Scandlan of Watson & Associates Economists Limited addressed the Committee respecting Hamilton 2019 Development Charges Study: Capital Presentation, with the aid of a PowerPoint presentation. A copy of the presentation and study are available for viewing on the City's website.

**(Johnson/Danko)**

That the presentation respecting Hamilton 2019 Development Charges Study: Capital Presentation, be received.

**CARRIED**

For further disposition of this matter, refer to Item 2.

**(ii) City of Hamilton Development Charge Exemptions Review (Item 9.2)**

Erik Karvinen of Watson & Associates Economists Limited addressed the Committee respecting the City of Hamilton Development Charge Exemptions Review, with the aid of a PowerPoint presentation. A copy of the presentation is available for viewing on the City's website.

**(Pearson/Farr)**

That the presentation respecting City of Hamilton Development Charge Exemptions Review, be received.

**CARRIED**

**(e) DISCUSSION ITEMS (Item 10)**

**(i) 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide) (Item 10.1)**

**(Danko/Wilson)**

That consideration of Report FCS18062(a) respecting 2019 Development Charges By-law Policy be deferred to a meeting in February 2019, to be scheduled by the Committee Clerk.

**CARRIED**

For further disposition of this matter, refer to Item 3.

**(f) ADJOURNMENT (Item 15)**

**(Farr/Summers)**

That, there being no further business, the Development Charges Stakeholders Sub-Committee, be adjourned at 1:03 p.m.

**CARRIED**

Respectfully submitted,

Councillor B. Clark, Chair  
Development Charges  
Stakeholders Sub-Committee



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Development Charges Stakeholders Sub-Committee
<b>COMMITTEE DATE:</b>	February 19, 2019
<b>SUBJECT/REPORT NO:</b>	Development Charges By-law Policy - 2019 Development Charges Agriculture / Farm Land Comparators (FCS18062(b)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lindsay Gillies (905) 546-2424 Ext. 2790
<b>SUBMITTED BY:</b>	Cindy Mercanti Director, Customer Service and POA Acting Director, Financial Planning and Policy Corporate Services Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

During the January 28, 2019 Development Charges Sub-Committee meeting, staff was asked to provide comparators for agriculture Development Charges (DC) for the surrounding municipalities of West Lincoln, Lincoln, Haldimand, Halton, Brantford and Brant County.

## INFORMATION

The rural economy of Hamilton, specifically the agriculture sector, accounts for a significant part of the City's economic base. The City of Hamilton's Agricultural DC exemption provides a 100% exemption for bona fide farming / agriculture uses outside of the urban boundary. The exemption is provided to support and promote agricultural growth in the rural area of the City. Similarly, the surrounding municipalities of West Lincoln, Lincoln, Haldimand, Halton, Brantford and Brant County also provide 100% DC exemptions.

The DC exemption is one tool a municipality can use to encourage and support agricultural development. The provincial government introduced the agricultural / farm land tax ratios with a mandated ratio of 25% of the residential property tax class. The Province has granted municipalities the flexibility to provide further tax relief to farmland property owners by setting the agricultural / farm land tax ratios lower than the mandated 25% of the residential property tax class.

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**SUBJECT: Development Charges By-law Policy – 2019 Development Charges Agriculture / Farm Land Comparators (FCS18062(b)) (City Wide) – Page 2 of 2**

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Farm properties within Hamilton that satisfy agricultural / farm land eligibility requirements are taxed at Council's determined percentage of the municipal residential tax rate. In reviewing the agricultural / farm land tax ratios of the comparator municipalities, the City of Hamilton offers the lower agricultural / farm land tax ratio at 17.67%. Whereas Brantford, Haldimand, Lincoln and West Lincoln provide higher agricultural / farm land tax ratios at 20 - 25%.

### Comparator Background

Table 1 summarizes the exemptions and agricultural / farm land tax ratio for the identified surrounding municipalities of West Lincoln, Lincoln, Haldimand, Halton, Brantford and Brant County.

Table 1  
Agricultural / Farm Land DC Exemption and Agricultural / Farm Land  
Tax Ratio Comparators - 2018 Year

Municipality	DC Exemption	DC Exemption %	DC Exemption Detail	Agricultural / Farm Land Tax Ratio
Hamilton	Yes	100%	Bona fide farming / agriculture uses	17.67%
Brant County	Yes	100%	Non-residential farm building	24.00%
Brantford	Yes	100%	Farm building	25.00%
Haldimand	Yes	100%	Farm operation constructed for bona fide farm uses	25.00%
Halton	Yes	100%	Agricultural development	20.00%
Lincoln	Yes	100%	Non-residential farm buildings for farming activities and the development of a farm help house	25.00%
West Lincoln	Yes	100%	A non-residential farm building for agricultural use	25.00%

### Appendices and Schedules Attached

None.

LG/dt

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**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
*Financial Planning, Administration and Policy Division*

<b>TO:</b>	Chair and Members Development Charges Stakeholder Sub-Committee
<b>COMMITTEE DATE:</b>	January 28, 2019
<b>SUBJECT/REPORT NO:</b>	2019 Development Charges By-law Policy (FCS18062(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lindsay Gillies (905) 546-2424 Ext. 2790 Joseph Spiler (905) 546-2424 Ext. 4519
<b>SUBMITTED BY:</b>	Cindy Mercanti Director, Customer Service and POA Acting Director, Financial Planning and Policy Corporate Services Department
<b>SIGNATURE:</b>	

### RECOMMENDATIONS

- (a) That staff be directed to include the policy as outlined in Appendix "B" to Report FCS18062(a) in the draft DC By-law to be included the 2019 Development Charges (DC) Background Study;
- (b) That the anticipated cost of providing the exemption policy as outlined in Appendix "B" be supported through the Rate and Tax Capital Budgets as well as through allocations from the City's annual operating budget surplus;
- (c) That the 2019 Development Charges (DC) Background Study, as prepared by Watson and Associates Economists Ltd., be released to the public through the next Development Charges Stakeholder Sub-Committee meeting;
- (d) That staff be directed to prepare the necessary reports and draft by-laws to amend the City's GO Transit By-law 11-174 to be consistent with the policy as outlined in Appendix "B" to Report FCS18062(a);
- (e) That the "Meeting with downtown developers regarding the proposed Downtown Community Improvement Project Area Development Charge Exemption" be considered complete and removed from the Outstanding Business List;

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**SUBJECT: 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide) –  
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- (f) That “Laneway Housing DC Policy” be considered complete and removed from the Outstanding Business List;
- (g) That “Review of Downtown and Community Renewal Improvement Program” be considered complete and removed from the Outstanding Business List;
- (h) That “Including Affordable Housing in the Development Charges Policy Review” be considered complete and removed from the Development Charges Stakeholders Subcommittee Outstanding Business List;
- (i) That “Revise Agriculture Definition in the City’s DC By-law” be considered complete and removed from the Outstanding Business List.

**EXECUTIVE SUMMARY**

The City is currently undergoing the process to release the 2019 Development Charges (DC) Background Study and By-law. The current DC By-law expires on July 5, 2019. The *Development Charges Act, 1997, as amended* (DC Act) requires that Council make the DC Background Study available to the public at least 60 days prior to passing a DC By-law. In addition, a draft DC by-law needs to be available to the public at least two weeks in advance of the public meeting regarding the proposed by-law.

The purpose of Report FCS18062(a) is to receive direction as to the policies that the draft DC by-law shall contain. These policies will be written into the draft DC By-law to be released at the March DC Stakeholders Subcommittee meeting. The public meeting, as required by the DC Act, will be held at the April 18, 2019 Audit, Finance and Administration Committee meeting. At that time, Council may direct changes to the DC By-law or Background Study. In order to both provide an opportunity for staff to examine any direction provided, as well as respect the 60-day required public consultation period, the passing of the DC By-law and Background Study will occur in May / June with a proposed effective date of July 6, 2019.

The policy recommendations as detailed in Appendix “B” to Report FCS18062(a) utilizes the results of the third party incentive review completed by Watson and Associates Economists Ltd. and N. Barry Lyon Consultants Limited along with staff input. As summarized in Table 1 of Appendix “B” to Report FCS18062(a) staff is recommending removing five exemptions, maintaining (with minor clarifications) eight exemptions, modifying five exemptions and adding one exemption.

***Alternatives for Consideration – Page10***

**SUBJECT: 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide) –  
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**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** DC exemptions need to be funded by non-DC sources. Annually, the City budgets funding towards the cost of DC exemptions through the Rate and Tax Capital Budgets.

Table 2 in Appendix “B” to Report FCS18062(a) details the funding that is included in the 2019 Rate and Tax Capital Budgets and the forecasted amounts to 2024.

The cost of each recommended DC exemption is identified in Appendix “B” to Report FCS18062(a) and summarized in Table 1 of Appendix “B” to Report FCS18062(a) at an estimated annualized cost of \$12.5 M.

**Staffing:** None

**Legal:** The DC Act requires the following:

*“A development charge by-law must set out the following:*

- 1. The rules developed under paragraph 9 of subsection 5 (1) for determining if a development charge is payable in any particular case and for determining the amount of the charge.*
- 2. An express statement indicating how, if at all, the rules provide for exemptions, for the phasing in of development charges and for the indexing of development charges.*
- 3. How the rules referred to in paragraph 1 apply to the redevelopment of land.*
- 4. The area of the municipality to which the by-law applies.”*

The recommendations within Appendix “B” to Report FCS18062(a) address point 2 above.

**SUBJECT: 2019 Development Charges By-law Policy (FCS18062(a)) (City Wide) –  
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**HISTORICAL BACKGROUND**

Staff has received several directions with respect to the 2019 DC By-law Policy.

May 17, 2016  
Planning Committee

*To Limit the Agricultural Use Development Designation Only to Those Properties Used for Agricultural Purposes*

- (a) *That staff be directed to revise the City's Development Charge (DC) By-law regarding Agricultural DC Exemptions at the next opportunity (currently forecast to be 4th quarter of 2016) and report to the Audit, Finance and Administration Committee;*
- (b) *That staff revise the Agricultural Use Definition in the City's DC By-law so that a "Farm Business Registration Number" will be required by the property owner in order for a proposed development to be eligible for an agricultural use designation.*

Agriculture has been included in the DC Policy review. See Appendix "B" to Report FCS18062(a). This item should be removed from the Outstanding Business List.

June 21, 2017  
General Issues Committee

*Review of the Downtown and Community Renewal Improvement Program*

*That staff be directed to review the Downtown and Community Renewal Improvement Program and report back to the General Issues Committee, prior to the 2019 Operating Budget process.*

The Downtown Community Renewal Improvement Program was reviewed as part of the DC Exemption Review attached as Appendix "A" to Report FCS18062(a) by Watson and Associates Economists Ltd. and N. Barry Lyons Consultants Limited. This item should be removed from the Outstanding Business List.

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May 17, 2018  
Audit, Finance & Administration Committee

*Joe Deschenes Smith, Trillium Housing, respecting implementation of by-law 14-153 and how the City can add its support for housing affordability at Trillium Housing's two affordable housing projects in Hamilton (Item 6.2)*

*That staff be directed to include affordable housing in the Development Charges Policy review.*

Affordable Housing has been included in the DC Policy review. See Appendix "B" to Report FCS18062(a). This item should be removed from the Outstanding Business List.

June 19, 2018  
Planning Committee

*Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) (Item 6.5)*

- (c) That Corporate Services staff be requested to present Report PED16200(a) to the Development Charges Stakeholders Subcommittee for consideration when recommending policy direction for the 2019 Development Charges Study and in addition, bring forward for Council's consideration at the earliest possible date a standalone amendment to the Development Charges By-law to deal specifically with laneway-related housing developed in accordance with Report PED16200(a);*
- (d) That, as part of the report back on a standalone Development Charges By-law amendment, staff include options for potentially retroactively applying any reduced Development Charges requirement, or benefit of any reduced Development Charges requirement, to recently completed laneway housing projects;*

Report PED16200(a) has been attached as Appendix "D" to report FCS18062(a). Staff has made a recommendation regarding laneway housing in Appendix "B" to Report FCS18062(a). Case law and the DC Act prevent a retroactive application of the 2019 DC By-law. This item should be removed from the Outstanding Business List.

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June 25, 2018

Audit, Finance and Administration Committee

(June 14, 2018 Development Charges Stakeholders Sub-Committee)

*Development Charges Stakeholders Sub-Committee Report 18-002 (Item 8.4)*

- (a) *2019 Development Charges By-law Policy (FCS18062) (City Wide)*
- (i) *That the Downtown Hamilton Community Improvement Project Area Development Charge Exemption be set at 50% effective July 6, 2019 and be reduced 10 percentage points annually thereafter, subject to the results of the independent incentive review;*
  - (ii) *That the annual indexing transition policy, Section 37 of By-law 14-153, not be included in the 2019 Development Charges By-law;*
  - (iii) *That the 2019 Development Charge By-law not contain phasing provisions for the specific policy changes in Recommendations (a) and (b) Report FCS18062;*
  - (iv) *That appropriate staff be directed to meet with the stakeholders to provide an update regarding the proposed changes to the Downtown Hamilton Community Improvement Project Area Development Charge Exemption;*
  - (v) *That the offer made by the President of the Chamber of Commerce to facilitate the stakeholder meeting for the downtown developers, be accepted.*
- (b) *Public Input Respecting the 2019 Development Charges By-law*  
*That appropriate staff be directed to hold a public engagement session respecting the proposed policy changes for the 2019 Development Charges By-law at the appropriate time and that all relative stakeholders, including members of the general public, be invited.*
- (c) *Input Respecting the 2019 Development Charges By-law from the Agricultural Community*  
*That staff be directed to consult with the Agriculture and Rural Affairs Committee ensuring that representatives of the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and the Ontario Federation of Agriculture are in attendance and obtain the Committee's input respecting the proposed policy changes for the 2019 Development Charges By-law.*

With respect to (a) (iv) and (a) (v), staff, with the aid of the Hamilton Chamber of Commerce, scheduled a meeting on November 5, 2018 with some downtown developers (as recommended by the Chamber of Commerce) to discuss the proposed changes to the Downtown Hamilton Community Improvement Project Area Development Charge Exemption. Staff also provided the option to submit written comments. This item should be removed from the Outstanding Business List.

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With respect to (b), the appropriate time to receive input on DC Policy changes is the Public meeting required under the DC Act. This meeting is planned to be held April 18, 2019.

With respect to (c), at the time of writing, the first 2019 meeting date of the Agriculture and Rural Affairs Committee has not been scheduled. Staff will forward a memo to the Committee members summarizing the proposed changes and will include options for providing input.

### **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Report FCS18062(a), largely through Appendix “B” to Report FCS18062(a), makes recommendations for the policy to be included in the draft 2019 DC By-law. This policy uses inputs from third party suggestions and staff input alongside the financial impact.

The draft DC by-law forms the starting point for public consultation and is a requirement under the DC Act. Where staff is recommending policy that varies from existing policy, it is detailed in Appendix “B” to Report FCS18062(a).

The DC Act outlines the requirements for a municipality to pass a DC By-law. Municipalities are required to undertake a background study no less than every five years to support the DC rates. A municipality may choose to impose less than the calculated rate but must express so through the DC By-law and cannot make up the lost revenues by increasing the development charge for other types of development.

Table 1 outlines the municipality’s requirements under the DC Act and the planned dates related to the adoption of the 2019 DC By-law:

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**Table 1: Schedule of Dates for the 2019 DC By-law Process**

2019 DC Background Study including draft 2019 DC by-law available to public	March 25, 2019 via DC Stakeholders Subcommittee
Public Meeting ad placed in newspaper(s)	March TBD, 2019 At least 20 days prior to the public meeting
Public Meeting	April 18, 2019 to be held at Audit, Finance and Administration Committee, at least two weeks after proposed background study and by-law are available to the public
Council considers passage of by-law	AF&A – May 16, 2019 or June 6, 2019 Council – May 22, 2019 or June 12, 2019  (Date dependent on outcome of the Public Meeting)  No less than 60 days after the background study is made available to the public
Newspaper and written notice given of by-law passage	By 20 days after passage
Last day for by-law appeal	40 days after passage
City makes available pamphlet (where by-law not appealed)	By 60 days after passage

The following City DC By-law will be revoked and replaced on July 6, 2019:

- By-law 14-153 – City Wide Development Charges (expires July 6, 2019)

City By-law 11-174 – GO Transit Development Charges will remain in effect. The Province passed Ontario Regulation 468/16 and Ontario Regulation 469/16 which permits municipalities to collect GO Transit charges until December 31, 2019. During the extension period, the Ministry of Transportation is to undertake a broader review of the framework governing municipal contributions to GO Transit. To date, the City has not received communications regarding the future of GO Transit as it relates to DC collections.

The GO Transit DC By-law will need to be amended for policy changes arising through the 2019 DC By-law process.

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The funds collected through the GO Transit DC By-law are remitted annually to Metrolinx. The last update from the Province on the future of the GO Transit DCs was received in December 2016. At that time, the Province extended the expiration of GO Transit By-laws to December 31, 2019 and informed municipalities that a three-year review would be performed.

## **RELEVANT CONSULTATION**

### Internal

- Planning and Economic Development Department
- Public Works Department
- Healthy and Safe Communities Department
- City Manager's Office
- Corporate Services Department - Legal and Risk Management Services
- CityHousing Hamilton

### External

- Watson and Associates Economists Ltd.
- N. Barry Lyon Consultants Limited

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

The City of Hamilton DC By-law has historically contained a number of discretionary DC policies with full or partial exemptions. The City has successfully used DC policies (sometimes in conjunction with other policies such as low-cost loan programs and remediation incentives) so that certain types of development can cross the economic threshold and become viable. The foregone DC revenue is funded by existing tax and rate payers as growth infrastructure is developed. This cost is justified through the tangible and intangible benefits the City realizes as a result of increased development activity made possible through lower DC costs.

The cost of providing the existing portfolio of DC exemptions far exceeds the City's current funding dedicated towards finding DC exemptions. To maintain the existing discretionary DC exemption policy the City is forecasted to need approximately \$40 M annually. The City budgets approximately \$15 M annually.

Watson and Associates Economists Ltd. along with N. Barry Lyons Consultants Limited analyzed the City's DC exemption policies and made recommendations regarding what should continue and where the City may be able to reduce exemptions. An executive summary of this analysis and the recommendations are attached as Appendix "A" to Report FCS18062(a).



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Staff has utilized the exemption review and made recommendations regarding DC exemption policy to be contained in the 2019 DC By-law. The recommendations and rationale are attached as Appendix “B” to Report FCS18062(a). The priorities that are upheld with the staff recommendations are a continued revitalization of Downtown Hamilton as well as commercial revitalization of all the City’s Community Improvement Project Areas (CIPAs) and Business Improvement Areas (BIAs). Policies to incentivize industrial development continue to be a priority and a focus on encouraging and attracting office development has been considered when recommending the 2019 DC Policy.

**ALTERNATIVES FOR CONSIDERATION**

Council may consider alternatives as identified in Appendix “B” to Report FCS18062(a).

**Financial:** The financial impact is identified with each type of exemption in Appendix “B” to Report FCS18062(a).

The City will need to finance the cost of exemptions through non-DC sources.

**Staffing:** None

**Legal:** The DC By-law needs to contain an express statement of any exemptions. The cost of exemptions cannot be made up through increases to other forms of development.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

**Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

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**Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.*

**Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

**APPENDICES AND SCHEDULES ATTACHED**

Appendix A – City of Hamilton Development Charge Exemptions Review Executive Summary – Prepared by Watson and Associates Economists Ltd. with N. Barry Lyons Consultants Limited

Appendix B – City of Hamilton Recommended 2019 Development Charges Policies

Appendix C – Maps for Community Improvement Project Area (CIPA) and Business Improvement Area (BIA)

Appendix D – Staff Report: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway (“Laneway Housing”) (PED16200(a)) (Parts of Wards 1, 2, 3 and 4)

LG/JS/dt

## City of Hamilton Development Charge Exemptions Review Executive Summary

Watson & Associates Economists Ltd. and N. Barry Lyon Consultants Limited (NBLC) were retained by the City of Hamilton to undertake a Development Charge Exemptions Review Study.

Rules regarding calculations and the use of development charges are provided in the Development Charges Act, 1997 (D.C.A.) as amended. This Act, and the associated regulations (Ontario Regulation 82/98) provide guidance with respect to the use of exemptions and discounts. If a municipality elects to reduce the calculated development charges for a specific use for policy reasons, eligible D.C. costs relating to the reductions must be funded from sources other than development charges (e.g. taxes, water and sewer rates, other reserves). As with any government subsidy or program which is designed to influence private-sector investment decisions, it is important to ensure that the public expenditure or foregone revenue produces a community benefit of a greater magnitude.

The purpose of this study is to provide background information on the historical performance of D.C. exemptions in the City of Hamilton, a review of exemptions practices in comparator municipalities, assessment of existing and anticipated future market conditions, and application of investor perspectives through conceptual development feasibility analysis. Based on this comprehensive analysis, a series of objective D.C. exemption policy recommendations is provided.

### **Current D.C. Exemption Policies and Historical Performance**

City of Hamilton By-laws 14-153 (as amended) and 11-174 (as amended) include a series of discretionary exemptions that apply to a range of residential, non-residential and mixed-use development. Over the 2013-2017 period, the Downtown CIPA has accounted for the largest share of total discretionary D.C. exemptions (27% of total dollars). Other major categories include Academic Facilities (20%), Transition Policy (13%), Agricultural Use (13%), Industrial Reduced Rate (7%), Non-Industrial Stepped Rate (6%), Parking Structures (4%), Non-Industrial Expansion (3%), and Student Residences (2%).



Key observations from the historical assessment (2013 to 2017 period) of notable discretionary D.C. exemptions include:

- **Downtown CIPA** – Exemption has historically been important to fund project feasibility “gap” for residential projects in downtown Hamilton; exemption has helped to revitalize downtown, generating population and employment growth, and helping achieve density and intensification targets.
- **Industrial Reduced Rate** – D.C. discount has been beneficial in improving industrial development feasibility; Hamilton is cost competitive for industrial development.
- **Non-Industrial Stepped Rates** – Retail/services sector key beneficiary – a sector with strong feasibility and market dynamics; qualifying projects have generated significant building space and employment.
- **Academic Facilities and Student Residences** – Significant “lost” D.C. revenues; qualifying projects have generated notable employment growth and expansion in student housing.
- **Affordable Housing D.C. Exemption** – Limited number of projects have benefited from exemption.

## Market Analysis and Feasibility Assessment

The real estate market for higher density residential apartments in the City of Hamilton has improved significantly over the past several years. It is apparent that a number of factors are contributing to the downtown’s urban renaissance, of which the City’s package of financial incentives is notable. Other factors, however, such as the improving and diversifying economy, current and planned investments in transit, post-secondary growth, improving public realm and lifestyle changes, demographic shifts, improved built environment and public realm, and housing affordability relative to other markets, are also driving private-sector residential development.

As the downtown CIPA continues to experience public- and private-sector investment, it will increasingly become more attractive for continued residential intensification, subject to other market shifts or development impacts. The continued market strengthening of the area is considered highly important for the City to meet its intensification targets.

The residential projects modelled in the feasibility analysis do not currently display signs of viability without the City’s financial tools. Despite strong improvements in absorption



and achievable pricing over the past five years, development in the City’s downtown is also experiencing rising development costs. The results of the analysis indicate that large projects that are located in strong market areas are nearing the point where they do not require the assistance of the City’s financial tools. Should pricing and absorption continue to strengthen, the need for incentives will continue to decrease for these projects. Notwithstanding the above, smaller scale projects that are located in slightly weaker market areas are not “near-viable” without the City’s financial tools.

### Recommended Changes to D.C. Exemption Policy Framework

Based on the City’s growth trends and development targets, forecast market conditions and development feasibility analysis, the following changes to the City of Hamilton D.C. exemptions policies are recommended:

Modify	Maintain	Remove
<ul style="list-style-type: none"> <li>• <b>CIPA</b> – Phase out D.C. exemption. Continue to apply to residential, non-residential and mixed-use development except for standalone major office development; continue to provide the current exemption for standalone major office developments (Class A) greater than 20,000 sq.ft. G.F.A.</li> <li>• <b>Non-Industrial Stepped Rate D.C.</b> – D.C. exemption should be removed from non-office-based commercial and institutional developments; exemption should be maintained for office development,</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Industrial Reduced Rate</b> – maintain current D.C. exemption.</li> <li>• <b>Parking Structures</b> – continue to exempt parking structures which are associated with the development of, and serve the needs of, residential, mixed-use or non-residential uses; charge D.C.s for revenue generating parking.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Non-Industrial Expansion D.C. exemption.</b></li> <li>• <b>Academic D.C. exemptions</b> – remove, where permitted.</li> <li>• <b>Student Residence D.C.</b></li> <li>• <b>Affordable housing</b> – replace with an equivalent incentive program.</li> </ul>



Modify	Maintain	Remove
excluding medical office.		

There are a number of D.C. exemptions that could not be empirically analyzed on a market basis. As such, no specific recommendations have been provided for the following D.C. exemptions.

Agriculture	Redevelopment for Residential Facility
Heritage Building	Farm Help House
ERASE	Public Hospital
Places of Worship	Covered Sports Field
Transition Policy	Council Granted
Downtown Public Art	

**CITY OF HAMILTON  
RECOMMENDED  
2019 DEVELOPMENT CHARGES POLICIES**

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RECOMMENDED  
2019 DEVELOPMENT CHARGES POLICIES**

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*Note: All estimated costs in this document are dependent on the type, location, timing and pace of development. If development occurs faster than anticipated then the cost of exemptions increases, if development occurs slower than anticipated then the cost of exemptions decreases. The recommendations regarding the appropriate level of budgeted Development Charges (DC) exemption funding will be subject to regular review and update.*

## INTRODUCTION

The City of Hamilton Development Charge (DC) By-law has historically contained a number of discretionary DC policies with full or partial exemptions. The City has successfully used DC policies (sometimes in conjunction with other policies such as low-cost loan programs and remediation incentives) so that certain types of development can cross the economic threshold and become viable. The foregone DC revenue is funded by existing tax and rate payers through funding allocations in both the Rate and Tax Capital Budgets. This cost is justified through the tangible and intangible benefits the City realizes as a result of increased development activity.

The *DC Act, 1997, as amended* (DC Act) requires mandatory exemptions that all municipalities must provide; one for residential intensification and one for a 50% expansion of existing industrial buildings. A municipality may choose to provide any additional discretionary exemptions but must do so through an express statement in the DC By-law.

The cost of providing the existing portfolio of discretionary DC exemptions exceeds the current capital financing plan allocation. To maintain the existing discretionary DC exemption policy the City is forecasted to need approximately \$40 M annually. The City current budgets approximately \$15 M annually.

Watson and Associates Economists Ltd. along with N. Barry Lyon Consultants Limited analyzed the City’s DC exemption policies in the context of growth, economic and financial considerations and provided recommendations where the City may be able to reduce exemptions and where the City should continue exemptions. One market gap identified through the review is that office development is challenging from a developer’s perspective within the City. The consultant makes recommendations to promote economic growth in this sector. While the market analysis revealed a gap related to office development, the same gap does not exist for medical office and, therefore, the incentives recommended for office development are not extended to medical office.

Staff has utilized the exemption review and made recommendations regarding DC exemption policy to be contained in the 2019 DC By-law. Key priorities that are advocated with the staff recommendations are:

- A continued revitalization of Downtown Hamilton;
- Commercial revitalization of all the City’s Community Improvement Project Areas (CIPAs) and Business Improvement Areas (BIAs);
- Continued support for the City’s industrial sector; and
- Promoting economic growth of the City’s office sector by refocusing other non-industrial incentives on encouraging and attracting office development.

<b>RECOMMENDED POLICIES COST SUMMARY</b>
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<b>Cost Summary</b>
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Details regarding the specific staff recommendation are located within the appropriate “DC EXEMPTION POLICIES” section of this document.

Table 1 summarizes the financial impact of the recommended 2019 DC policies on an annualized basis.

**Table 1: Staff Recommended Polices and related annualized costs**

<b>Exemption</b>	<b>High Level Recommendation</b>	<b>Annualized Cost</b>
Parking Structure	Remove	\$ -
Covered Sports Field	Remove	\$ -
Small Industrial Rate	Remove	\$ -
Academic – Post secondary / Not-for profit	Remove	\$ -
Affordable Housing	Remove	Alternate program
Places of Worship	Maintain	\$ 400,000
Public Hospitals	Maintain	\$ 5,000
Public Art	Maintain	\$ 180,000
Heritage Buildings	Maintain	\$ 150,000
Redevelopment for Residential Facility	Maintain	\$ 6,000
Industrial Rate	Maintain	\$ 2,600,000
Expansion of existing industrial (in excess of Act requirement)	Maintain	\$ 1,500,000
Transition Policy	Maintain	\$ 1,690,000
Student Residences	Modify	\$ 960,000
Agriculture	Modify	\$ 360,000
New non-industrial stepped rates	Modify	\$ 1,000,000
Expansion of existing non-industrial	Modify	\$ 160,000
Downtown Hamilton CIPA	Modify	\$ 3,250,000
Laneway Houses	Add	\$ 230,000
<b>TOTAL</b>		<b>\$ 12,491,000</b>

Funding for exemptions is anticipated to come from both the Rate and Tax Capital Budgets, specifically 40% rates, 60% tax.

Note that there are some policies where staff has recommended phasing an exemption reduction, in these cases the actual cost for the first year will be higher than in year five.

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The annualized costs were estimated using current residential development levels, modestly increased non-residential levels, consultant or staff estimates where a new exemption is being proposed, and draft 2019 DC rates as of January 2019. The growth pattern to meet the Province’s target was not used because the City is not realizing growth at that pace and would lead to an over estimation of the annual cost. The City will need to re-evaluate the cost of providing DC exemptions annually and adjust as growth patterns change.

<b>Future Budget DC Exemption Funding</b>
---

The City’s budget documents currently identify funding dedicated towards DC exemptions as detailed in Table 2.

**Table 2: DC Exemption Funding identifying in 2019 Budget documents**

<b>Year</b>	<b>Rate Capital Budget</b>	<b>Tax Capital Budget</b>	<b>Total DC Exemption Funding</b>
<b>2019</b>	\$ 9.0 M	\$ 6.5 M	\$ 15.5 M
<b>2020</b>	\$ 8.0 M	\$ 6.5 M	\$ 14.5 M
<b>2021</b>	\$ 8.0 M	\$ 6.5 M	\$ 14.5 M
<b>2022</b>	\$ 8.0 M	\$ 6.5 M	\$ 14.5 M
<b>2023</b>	\$ 8.0 M	\$ 6.5 M	\$ 14.5 M
<b>2024</b>	\$ 8.0 M	\$ 6.5 M	\$ 14.5 M

Funding for exemptions identified in Table 1 is anticipated to come from both the Rate and Tax Capital Budgets, specifically 40% rates, 60% tax.

With the DC rate and development forecast information the time of this report, the exemption funding identified in the Rates Capital Budget will be sufficient to support the policy recommended as well as make progress in funding the shortfall from past DC exemptions.

With the DC rate and development forecast information available at the time of this report, the exemption funding within the Tax Capital Budget is not expected to be sufficient to support the policy recommended and make progress in funding the shortfall from past DC exemptions. Annually, through both the Capital Budget and the annual operating budget surplus allocation staff will make recommendations for funding in order to address the funding gap related to forecasted and historical DC exemptions.

## DC EXEMPTION POLICIES

### Parking Structures

**Current Policy:**

Parking garages and structures, including outdoor parking lots located at grade are 100% exempt from City DCs.

**DC Exemption Review Recommendation:**

Continue to exempt parking structures which are associated with the development of, and serve the needs of, residential, mixed use or non-residential uses; charge DCs for other parking structures (e.g. standalone revenue generating parking facilities) – no requirement to fund other parking exemptions.

**Additional Comments:**

None.

**Staff Recommendation:**

Charge DCs for commercial parking.

**Estimated Cost:**

\$0

**Alternative:**

Continue to exempt all forms of parking.

Estimated cost: \$4.0 M over 10 years

### Covered Sports Field

**Current Policy:**

A covered sports field, as defined in the DC By-law, is 100% exempt from City DCs.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

There are no other comparator municipalities that provide a similar exemption.

**Staff Recommendation:**

Do not exempt covered sports fields.

**Estimated Cost:**

\$0

**Alternative:**

Continue to provide an exemption to covered sports fields.

Estimated cost: \$0.9 M over 10 years

<b>Small Industrial Rate</b>
------------------------------

**Current Policy:**

For new industrial developments that are less than 10,000 square feet, the industrial rate is set at 75% of the effective non-residential industrial rate.

**DC Exemption Review Recommendation:**

Not applicable.

**Additional Comments:**

DC exemptions need to be funded from other sources or infrastructure will not be able to keep up with growth. When deciding what exemptions to provide the City must focus on strategic priorities. A reduced rate for industrial development is already recommended therefore no further reduction is recommended.

**Staff Recommendation:**

Do not provide a lower rate for small industrial developments.

**Estimated Cost:**

\$0

**Alternative:**

Continue to discount new industrial developments under 10,000 square feet by levying only 75% of the industrial rate.

Estimated cost: \$1.3 M over 10 years

<b>Academic – Post Secondary / Not-for-profit elementary/secondary</b>
--

**Current Policy:**

Development of Academic Space by a University, Post-Secondary School offering a Degree or Diploma recognized by the Province of Ontario, or a Not-for-Profit Private Elementary or Secondary School operated in compliance with section 16 of the Education Act, as amended are exempt from City DCs, save and except for the transit component of the City DC.

**DC Exemption Review Recommendation:**

Remove exemption where permitted.

**Additional Comments:**

Crown agents are not required to follow local zoning requirements or otherwise follow the building permit process. In 1998, the “College d’arts appliques et de technologie La Cite collegiale” successfully argued that it was not required to pay DCs by virtue of being a Crown agent in a trial against “The Corporation of the City of Ottawa” and “The Regional Municipality of Ottawa-Carleton”

Staff is proposing to remove the exemption for academic uses. In cases where the academic organization can prove that it is a Crown agent, the city will not be able to enforce a DC.

**Staff Recommendation:**

Remove exemption.

Require documentation from developer to support mandatory exemption as a Crown agent.

**Estimated Cost:**

\$0

**Alternative:**

Continue to charge only the Transit component of the DC for post-secondary academic space.

Estimated cost: \$85.0 M over 10 years

**Affordable Housing****Current Policy:**

An affordable housing project that has been approved to receive funding through either a Government of Canada, Province of Ontario (including their crown corporations), City of Hamilton, or CityHousing Hamilton Corporation affordable housing program, where funding is not provided for DC liabilities, is 100% exempt from City DCs.

**DC Exemption Review Recommendation:**

It is recommended that a new affordable housing incentive program be developed that is outside the DC By-law. The program should be targeted and offer development charge grants and possibly other municipal funding incentives (e.g. capital contributions, property tax grant) for clearly defined depths of affordability. The program should align and be stackable with senior level funding where appropriate and provide as much certainty to the development community as possible. Certainty in this situation refers to qualifying requirements and the availability and timing of funds.

**Appendix “B” to Report FCS18062(a)****Page 10 of 30****Additional Comments:**

In order to most effectively aid affordable housing providers and be able to adapt to the changing affordable housing market, staff is recommending that an affordable housing grant program be developed outside the DC By-law.

Some challenges with incentivizing through the DC By-law are that it views any type of upper level funding as being equal (\$50K loan vs millions in construction funds), it does not allow the City to assess the merit of a project and it does not allow for changes in criteria to reflect the changing affordable housing market.

Staff is recommending that a program be developed outside of the DC By-law to effectively replace the DC exemption and allow the flexibility of project prioritization and ability to vary incentives with the depth of affordability. It is expected that the timing of payment under such a program can be concurrent with the timing on DCs so that the cash flow of the developing organization is not impacted by this change in the delivery method of an affordable housing incentive.

Note that CityHousing Hamilton is not impacted by this recommendation. CityHousing Hamilton projects will continue not to be subject to DCs. Any City owned facility is not charged DCs.

Should a separate affordable housing program not be developed and approved prior to passing the 2019 DC By-law that staff will recommend amending the 2019 DC By-law to include the affordable housing exemption on a per unit basis. Once a separate affordable housing program is scheduled to be in place, staff will seek to amend the 2019 DC By-law to remove the exemption.

**Staff Recommendation:**

Do not exempt affordable housing within the DC By-law

AND

That Housing Services be directed to draft an affordable housing grant program in lieu of including an affordable housing exemption within the DC By-law prior to the passing of the 2019 DC By-law.

**Estimated Cost:**

To be determined.

The cost will depend on the terms and expected use of the program to be designed.

**Alternative:**

Continue to exempt affordable housing in the DC By-law, edit wording to apply on a unit basis rather than a project basis.

Estimated cost: \$5.5 M over 10 years



## Places of Worship

**Current Policy:**

A place of worship, as defined in the DC By-law, is 100% exempt from City DCs.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Staff Recommendation:**

Maintain exemption – clarify that revenue generating space is not exempt.

**Estimated Cost:**

\$4.0 M over 10 years

**Alternative:**

Do not provide an exemption for places of worship.

Estimated cost: \$0

## Public Hospitals

**Current Policy:**

Development of a Public Hospital, as defined in the DC By-law, is exempt from 50% of the City DCs otherwise payable under the DC By-law.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Staff Recommendation:**

Maintain 50% exemption.

**Estimated Cost:**

\$0.05 M over 10 years based on historical

However, note that while no future hospital projects are known, one single project would likely exceed the historical average.

**Alternative:**

Do not provide an exemption for public hospitals.

Estimated cost: \$0

**Downtown Public Art Reserve voluntary contributions****Current Policy:**

Developments within the Downtown Hamilton Community Improvement Project Area (CIPA) are eligible to receive a dollar for dollar exemption for voluntary contributions made to the Downtown Public Art Reserve, to a maximum of 10% of the City DC calculated prior to the application of the Downtown Hamilton CIPA exemption.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

Cities around the world are realizing the economic and social benefits, and quality of life enhancements that flow from creativity and investment in culture and the expression of a community's culture through mediums such as Public Art. In addition to bringing vibrancy to a city's public spaces, Public Art is a tremendous source of civic pride and conveys the identity and cultural image of a city to its residents and visitors. Developers contributing the Downtown Public Art Reserve demonstrates a commitment to and a sense of ownership of the public spaces that reflect the evolving community across the Downtown Hamilton CIPA for the benefit of future tenants and residents as well as the existing community.

The funding from developers provides the only source of funds to the City's Downtown Public Art Reserve (108049). Staff makes recommendations for how to spend the funds and Council approves through Capital Budget requests. In absence of providing developers and opportunity to receive a DC exemption for voluntary contributions to the Downtown Public Art Reserve an annual contribution would need to be included in the City's annual budget.

**Staff Recommendation:**

Maintain exemption, place an annual limit of \$250K on the contributions that will be accepted by the City under this program.

**Estimated Cost:**

\$1.8 M over 10 years

**Alternative:**

Remove exemption, budget annually through the City's budget process.

Estimated cost: \$1.8 M over 10 years

## Heritage Buildings

**Current Policy:**

Adaptive Reuse of Protected Heritage Properties as defined in the DC By-law, is exempt from City DCs within the existing building envelope.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

The cost related to renovating properties with a heritage designation can be substantially more than the costs related to renovating non-heritage designated properties. Therefore, staff is recommending maintaining the exemption to aid in the preservation and adaptive reuse of the City's heritage properties and adding clarification that any existing sections of the building that are not covered by the heritage designation are not eligible for the exemption.

**Staff Recommendation:**

Maintain exemption - within existing building envelope except for sections that are not covered by the Heritage designation.

**Estimated Cost:**

\$1.5 M over 10 years

**Alternative:**

Do not provide an exemption for the Adaptive Reuse of Heritage Properties.

Estimated cost: \$0

## Redevelopment for Residential Facility

**Current Policy:**

Residential facilities created within the existing building envelope of an existing residential development, is exempt from 50% of the City DCs otherwise payable under the DC By-law.

Redevelopment of an existing residential facility to create additional units within the existing building envelope is exempt from 50% of the City DCs otherwise payable under the DC By-law. DC Credit for any existing residential facilities being redeveloped shall be provided at 100% of the DC rate in effect.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

This exemption does not apply to brand new residential facility developments. Older style residential facilities are being converted from rooms containing two beds per room to one bed per room. Therefore, staff recommends maintaining the exemption.

**Staff Recommendation:**

Maintain exemption.

**Estimated Cost:**

\$0.06 M over 10 years

**Alternative:**

Do not provide any exemption for redevelopment for use as a residential facility.

Estimated cost: \$0

<b>Industrial Rate</b>
------------------------

**Current Policy:**

Industrial developments are only charged 100% of the water and wastewater and 65% of the services related to a highway components of the DC. This equates to a 39% reduction from the calculated rate.

**DC Exemption Review Recommendation:**

Reduced rate exemption (39% reduction) should continue.

**Additional Comments:**

None.

**Staff Recommendation:**

Continue with exemption, 39% reduction, by adjusting the % of the services related to a highway component charged.

**Estimated Cost:**

\$26.0 M over 10 years

**Alternative:**

None

**Expansion of an existing Industrial development****Current Policy:**

Current DC By-law reads:

17. *No development charge shall be imposed on:*
  - (a) *one or more enlargements of an existing industrial building as defined herein, up to a maximum of fifty percent (50%) of the gross floor area of the existing industrial building.*
  - (b) *one or more industrial buildings on the same lot or parcel of land as one or more existing industrial buildings, up to a maximum of fifty percent (50%) of the combined gross floor area of the existing industrial buildings.*
18. *Where a proposed enlargement exceeds fifty percent (50%) of the gross floor area of an existing industrial building, development charges are payable on the amount by which the proposed enlargement exceeds fifty percent (50%) of the gross floor area before the enlargement.*
19. *The cumulative total of the gross floor area previously exempted hereunder shall be included in the determination of the amount of the exemption applicable to any subsequent enlargement.*

Where:

- (a) *a subdivision of a lot or parcel of land subsequent to any enlargement or additional industrial building previously exempted hereunder results in the existing industrial building being on a lot or parcel separate from the development previously, further exemptions, if any, pertaining to the existing industrial building shall be calculated on the basis of the lot or parcel of land as it exists at the time of said enlargement or additional industrial building.*
- (b) *lands are merged or otherwise added to a lot or parcel of land after July 16, 2018, the exemption in 17 (b) shall only be available to development on the lot or parcel of land as it existed as of July 16, 2018 and the exemption in subsection 17(b) shall not apply to any development on lands that were merged with or added to a lot or parcel of land after July 16, 2018.*

**DC Exemption Review Recommendation:**

Not applicable.

**Additional Comments:**

The DC Act requires that municipalities provide a 50% expansion exemptions for industrial buildings. The City allows the exemption to be used whether the expansion is attached or unattached to recognize that industrial expands in different forms and DC policy should not favour an attached expansion over a detached structure.

**Staff Recommendation:**

Maintain the 50% Industrial expansion exemption as written in the active DC By-law.

**Estimated Cost:**

\$15.0 M over 10 years

**Alternative:**

Require that industrial expansions be attached to an existing structure in order to receive 50% expansion exemption.

Estimated cost: \$0

<b>Transition Policy</b>
--------------------------

**Current Policy:**

Current DC By-law reads:

37. *The development charge rates payable are the rates in effect on the date a complete building permit application is received and accepted by the City’s Chief Building Official, provided that the permit is issued within 6 months of the effective date of a development charge rate increase. Where the said building permit is lawfully revoked by the Chief Building Official on or after the date of the said development charge rate increase, any subsequent application for a building permit on the lands or site will be subject to the development charge rate in effect on the date of building permit issuance. For the purposes of this Section, a “complete application” shall mean an application with all required information and plans provided, all application fees paid and all prior charges and taxes relating to the subject land paid and discharged.*
38. *Where a complete application for site plan approval pursuant to City of Hamilton By-law 03-294, as amended, or any successor thereto, has been received by the City prior to May 1, 2014, and no building permit in relation thereto has been issued prior to July 06, 2014, the development charge payable upon the issuance of the building permit or permits issued in relation to said approved site plan shall be the applicable development charge as of July 5, 2014, provided that:*
- (a) any building permit required in relation to the said approval has been issued prior to January 6, 2015; and*
  - (b) construction has commenced thereafter within six (6) months of the date of issuance of the said building permit or permits, such construction to be deemed to have commenced when all footings and foundations have been completed.*

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*For the purposes of this Section 38, a “complete site plan application” means an application in compliance with the requirements of the City as set out in the document entitled “City of Hamilton Submission Requirements and Application Form for Site Plan Control” dated January 01, 2004, or any successor thereto, as the same may be amended from time to time, together with all applicable fees.*

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

Staff previously sought approval to discontinue the annual transition policy. Such a policy is not identified in any comparator municipality DC By-laws. Staff is now recommending that the policy be continued for the implementation of the new rates and the annual transitions thereafter for the following reasons:

- When large increases in DC rates are announced the building department is overwhelmed with permit applications.
- The influx of permit applications will correlate with the size of the rate increase, a large increase leads to a large volume of applications attempting to get permits ahead of the rate increase.
- If a transition based on application date is not provided then, in order to meet building code requirements related to permit issuance, additional staff will need to be hired and trained for the few weeks leading up to a DC rate increase.
- Hiring staff for a few weeks of work is not an option due to the technical nature of the position and a required 4-5 month training period.

Therefore, since annual indexation cannot be predicted and hiring and training staff for a few weeks of work is not a feasible option, staff are recommending that the transition policy remain.

Staff is not recommending a transition tied to site plan application at this time.

**Staff Recommendation:**

Maintain the transition policy tied to building permit application.

**Estimated Cost:**

\$6.7 M for the first year, \$0.44 M annually thereafter.

The first year will result in a much higher cost to the City due to a new DC rate coming into effect.

Note that the cost has been spread over the five year by-law period when estimating the annualized cost for Table 1.

**Alternative:**

None

## Student Residences

**Current Policy:**

Development of a student residence by a university, college of applied arts, or other accredited post-secondary institution is exempt from 50% of the City DCs otherwise payable under the DC By-law. In the case of redevelopment of student residences, credit for existing residences to be redeveloped shall be applied based on 100% of the rate in effect, as outlined in the DC By-law.

**DC Exemption Review Recommendation:**

Remove exemption.

**Additional Comments:**

There are a few student residence projects that are in discussions. While staff is recommending removing the exemption, careful considerations has been provided. A sudden elimination of an exemption of this magnitude for a key sector of development will be better accommodated with a longer period of notice. Therefore, staff recommends providing approximately a year and half notice of the change.

**Staff Recommendation:**

Remove the 50% exemption effective June 30, 2020, maintain until then.

**Estimated Cost:**

\$4.8 M to June 30, 2020 assuming approximately 660 student rooms benefit from the exemption.

Note that the cost has been spread over the five year by-law period when estimating the annualized cost for Table 1.

**Alternative:**

Remove 50% exemption effective immediately.

Estimated cost: \$0



## Agriculture

### **Current Policy:**

Agricultural uses, as defined in the DC By-law, which are located outside the urban boundary, are 100% exempt from City DCs.

The DC By-law currently defines agriculture as:

*“agricultural use” means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants and includes the operation of a farming business and the erection of a farm help house on agricultural land outside the Urban Area Boundary, but excludes a commercial greenhouse. Agricultural use does not include the development of a single detached dwelling on agricultural land. Development of building or structures inside the Urban Area Boundary for a use that would, except for its location inside the Urban Area Boundary, be an agricultural use under this By-law shall be an industrial development.*

### **DC Exemption Review Recommendation:**

No specific recommendation provided.

### **Additional Comments:**

In Ontario, farm properties satisfying the eligibility requirements are identified for the Farm Property Class and are taxed at 25% of the municipal residential tax rate.

For a number of years and until 2016, the City of Hamilton reduced the tax ratio of the farmland property tax in order to mitigate the impacts of reassessment (the value of farmland has increased at a pace higher than the other tax classes). The provincial tax ratio threshold for farmland properties is 0.2500. Hamilton, along with some identified municipalities, provides a tax ratio under this threshold.

Table 3 shows Hamilton’s historical farmland tax ratios and Table 4 shows a list of municipalities that have implemented farmland tax ratios below the Provincial threshold of 0.2500.

**Table 3: City of Hamilton Historical Farmland Tax Ratios**

	2013	2014	2015	2016	2017	2018
<b>Tax Ratio</b>	0.1982	0.1857	0.1807	0.1767	0.1767	0.1767
<b>Municipal Tax Impact</b>	7.4%	3.7%	5.20%	3.70%	5.6%	5.3%

With all other factors held constant, a 0.01 increase in the 2018 farmland tax ratio would have equated to an additional \$116 K in tax revenue from the farmland class.

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Table 4: Farmland tax ratios below Provincial threshold of 0.2500

Municipality	2018 Farmland Ratio
London	0.1180
North Bay	0.1500
Caledon	0.1689
Hamilton	0.1767
Durham	0.2000
Greater Sudbury	0.2000
Halton	0.2000
Ottawa	0.2000
Chatam-Jent	0.2200
Kingston	0.2250
Lambton	0.2260
Oxford	0.2350
Brant County	0.2400

Source: BMA Municipal Study 2018

In addition to a low tax ratio, agriculture development currently benefits from a 100% DC exemption. Staff recommends removing farm help houses from the definition of agriculture and reducing the agriculture DC exemption to 50% with a phased approach.

Staff were directed, through the May 17, 2016 Planning Committee to add the requirement of a farm business registration number for developers accessing the agriculture exemption. Staff will add this clarification in the draft 2019 DC By-law.

Further, staff has reviewed other municipal DC By-laws and there are at least four municipalities (Milton, Niagara Region, Bradford West Gwillimbury and Centre Wellington) that have a definition related to cannabis/marijuana. It is recommended that the definition of agriculture be structured to exclude cannabis growing and processing facilities and that these facilities be charged the industrial DC rate.

**Staff Recommendations:**

Do not exempt farm help houses.

Require proof of a farm business registration number to receive the agriculture DC exemption.

Agriculture – bona fide farm:

Start reducing the DC exemption for agriculture

July 6, 2019 – July 5, 2020 – continue to provide 100% exemption

July 6, 2020 – July 5, 2021 – reduce agriculture exemption to 75%

July 6, 2021 – July 5, 2023 – reduce agriculture exemption to 50%.

Redefine agriculture to exclude cannabis growing and processing, charge the industrial DC rate.

**Estimated Cost:**

\$1.8 M over five years

Note that where varying (decreasing) exemption rates have been recommended, staff analysed the estimated cost for the five year By-law period rather than a 10 year period.

**Alternatives:**

1. Continue to exempt agriculture at 100%.  
Estimated cost: \$5.5 M over 10 years (\$2.8 M over five years)

Direct staff to review increasing the farmland class tax ratio.

2. Do not define redefine agriculture to exclude cannabis growing and processing.  
Estimated cost: \$13.0 M over 10 years

<p><b>New Non-industrial (Commercial/Institutional) stepped rates</b></p>
---

**Current Policy:**

That the effective City DC rate for new non-industrial (Commercial/Institutional) be set as follows:

- i. 50% of the rate in effect be charged on the first 5,000 ft<sup>2</sup> of gross floor area;
- ii. 75% of the rate in effect be charged on the second 5,000 ft<sup>2</sup> of gross floor area;
- iii. 100% of the rate in effect be charged on the gross floor area in excess of 10,000 ft<sup>2</sup>.

**DC Exemption Review Recommendation:**

Non-industrial stepped rate DC exemption should be removed from non-office based commercial and institutional developments.

DC exemption should be maintained for office development, excluding medical office.

**Additional Comments:**

Staff is generally supportive of implementing the consultant's recommendation. The City has priority commercial development areas that staff is recommending the stepped DC rates be maintained.

**Appendix “B” to Report FCS18062(a)****Page 22 of 30**

Staff is recommending that the stepped non-industrial (commercial/institutional) rates be maintained within the City’s CIPAs and BIAs and for office development outside these borders.

The City’s CIPAs and BIAs borders are included for reference as Appendix “C” to Report FCS18062(a).

**Staff Recommendation:**

Continue stepped DC rates for office, excluding medical office.  
Continue stepped DC rates within the City’s CIPAs and BIAs.  
Remove stepped rates for all other development.

**Estimated Cost:**

\$10.0 M over 10 years

**Alternative:**

Continue stepped rates for all non-industrial development.  
\$27.5 M over 10 years

**Expansion of Existing Non-Industrial (Commercial/Institutional)**

**Current Policy:**

That the initial 5,000 ft<sup>2</sup> of gross floor area of an expansion be exempted, provided that the development did not receive the stepped DC rates in the past.

**DC Exemption Review Recommendation:**

Remove non-industrial expansion exemption.

**Additional Comments:**

Staff is generally supportive of the consultant’s recommendation. Staff is recommending maintaining the exemption for office, excluding medical office. This approach is consistent with how office has been treated with other exemption recommendations.

**Staff Recommendation:**

Only provide a 5,000 ft<sup>2</sup> exemption for office, excluding medical office.  
Remove exemption for all other non-industrial development.

**Estimated Cost:**

\$1.6 M over 10 years

**Alternative:**

Remove non-industrial expansion DC exemption.  
Estimated cost: \$0

<b>Downtown Hamilton CIPA</b>
-------------------------------

**Current Policy:**

Current DC By-law reads:

22. *All development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule “D” attached to this By-law shall:*

- (a) *be exempted from the following percentages of the development charges otherwise payable, after all other credits and exemptions are considered, under the By-law for only the portion of the building that is within the height restrictions as shown in Schedule “H” attached to this By-law based on the later of the date on which development charges are payable or the date all applicable development charges were actually paid:*

<i>Date</i>	<i>Percentage of exemption (%)</i>	<i>Percentage of development charge payable (%)</i>
<i>July 6, 2014 to July 5, 2015</i>	<i>90</i>	<i>10</i>
<i>July 6, 2015 to July 5, 2016</i>	<i>85</i>	<i>15</i>
<i>July 6, 2016 to July 5, 2017</i>	<i>80</i>	<i>20</i>
<i>July 6, 2017 to July 5, 2018</i>	<i>75</i>	<i>25</i>
<i>July 6, 2018 to July 6, 2019</i>	<i>70</i>	<i>30</i>

*Schedule “H” attached to this By-law shall not be amended by any decision by the Local Planning Appeal Tribunal relating to the City’s Zoning By-law Amendment 18-114; or by any amendments, including site specific or area specific, to the City’s Zoning By-law 05-200 either through Local Planning Appeal Tribunal decisions or by Council.*

*For clarity, any development in excess of the height restrictions as shown in Schedule “H” shall be subject to the full calculated development charge and only be reduced if there are any credits or exemptions remaining after applying any and all other credits or exemptions to the portion of the building that is within the height restrictions as shown in Schedule “H” attached to this By-law.*

In summary, currently all development within the Downtown Hamilton CIPA receives a 70% exemption for all height that is within the heights that were approved with the Downtown Hamilton Secondary Plan.

**DC Exemption Review Recommendation:**

Reduce CIPA exemption through a phased approach. Continue to apply to residential, non-residential and mixed use development except for standalone major office development.

Continue to provide 70% CIPA exemption for standalone major office developments (Class A) greater than 20,000 ft<sup>2</sup> gross floor area.

**Additional Comments:**

Staff supports the consultant's recommendation. Previously staff proposed an initial reduction from 70% exemption to 50% exemption. The DC exemption is one of the most significant incentives that encourages development within the Downtown Hamilton CIPA. Staff recommends a more conservative approach, so as not to constrain development in the downtown.

While there have been a number of multi-residential projects announced in downtown Hamilton, the real estate market is experiencing volatility. A number of factors can influence the viability of these and future projects. These factors include increases in labour and material costs, rise in interest rates, tightening of construction financing, and a potential slowdown in the housing market. It is important that the residential activity which is starting to take shape in the core be continued in order to attract interest in the commercial and office sectors. Economic Development is focussed on attracting more companies and jobs into the downtown but a key component of this strategy is to increase the density in the downtown in order to provide the talent pool that employers require. Companies and businesses are attracted by increased density and downtown Hamilton is showcased as a place where people want to live and work. In order to continue the interest in attracting new multi-residential and commercial projects in the downtown, it is important that incentives be adjusted gradually and to provide sufficient notice to developers and investors as projects take time to plan, by reducing the development charge exemption by 10% per year (an increase from the previous 5% reduction) to 2021. The proposed schedule of reducing the development charge exemption to 60% on July 6, 2019 to 50% in 2020 and then 40% in 2021, 2022 and 2023 would also allow the City to review the impact of the changes on development in the downtown. Staff would seek to re-evaluate the exemption once the 40% is reached in 2021 to determine what, if any, modifications are required.

**Staff Recommendations:**

Continue to provide 70% CIPA exemption for major office developments (Class A - greater than 20,000 ft<sup>2</sup> gross floor area), whether or not the development is standalone office.

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For other development within the Downtown Hamilton CIPA

- July 6, 2019 – July 5, 2020           60% exemption
- July 6, 2020 – July 5, 2021           50% exemption
- July 6, 2021 – July 5, 2022           40% exemption
- July 6, 2022 – July 5, 2023           40% exemption
- July 6, 2023 – July 5, 2024           40% exemption

Maintain the same height limits on exemption use.

Add clarity that the Downtown Hamilton CIPA exemption cannot be combined/stacked with other DC exemptions and that the Downtown Hamilton CIPA exemption will not be applied if other exemptions result in a lower amount payable. (Example: in the Downtown Hamilton CIPA the stepped non-industrial rates will not be applied, only the Downtown Hamilton CIPA exemption – unless the stepped non industrial rates result in a lower charge to the developer, in that case the Downtown Hamilton CIPA exemption will not be applied.)

**Estimated Cost:**

\$16.3 M over five years.

Note that where varying (decreasing) exemption rates have been recommended, staff analysed the estimated cost for the five year By-law period rather than a 10 year period.

**Alternative:**

A different phase-out approach could be used; all other recommendations remain the same.

For other development within the Downtown Hamilton CIPA

- July 6, 2019 – July 5, 2020           50% exemption
- July 6, 2020 – July 5, 2021           40% exemption
- July 6, 2021 – July 5, 2022           30% exemption
- July 6, 2022 – July 5, 2023           20% exemption
- July 6, 2023 – July 5, 2024           10% exemption

Estimated cost: \$10.1 M over five years

<b>Laneway Housing</b>
------------------------

**Current Policy:**

None

**DC Exemption Review Recommendation:**

Not applicable.

**Additional Comments:**

Staff were directed to consider addressing a DC exemption for laneway houses with the 2019 DC By-law through Report PED16200(a) (Attached as Appendix "D" to Report FCS18062(a)). Laneway houses are physically detached structures and therefore are classified as single detached dwellings within the current DC By-law. The DC Act contains statutory exemptions when an additional dwelling unit is added within an existing residential dwelling but does not address second dwellings that are on the same lot as an existing dwelling.

Staff is recommending an exemption for laneway houses to encourage this form of development.

Currently, zoning only exists to permit laneways homes within Wards 1, 2, 3 and 4.

**Staff Recommendation:**

Exempt laneway housing.

**Estimated Cost:**

\$2.3 M over 10 years

**Alternative:**

Do not provide an exemption for laneway housing.

Estimated cost: \$0

**Uses charged Industrial Rate****Current Policy:**

That self-storage facilities and hotels be charged at the industrial DC rate.

**DC Exemption Review Recommendation:**

Not applicable.

**Additional Comments:**

The DC rate calculation utilizes the North American Industry Classifications System (NAICS) when classifying development.

Self storage facilities and hotels are not industrial uses within the NAICS but have been benefitting from the industrial rates through the City's DC By-law in the past. Staff is recommending that these uses be charged the appropriate non-industrial (commercial) DC rate.

Staff has identified film, production and artists' studios as a key economic industry that the City should support as able. Therefore, staff recommends adding a definition for this type of development and that they be charged the industrial DC rate.



**Staff Recommendation:**

Do not provide the industrial rate for self-storage facilities or hotels.  
Provide the industrial rate for film, production and artists’ studios.

**Estimated Cost:**

The anticipated costs will be minor and will be able to be covered with what is already calculated for reducing the industrial rate from the calculated rate.

**Alternative:**

Only provide the industrial rate to industrial developments.  
Estimated cost: \$0

<b>OTHER DC POLICIES</b>
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<b>Environmental Remediation and Site Enhancement (ERASE) Redevelopment Program</b>
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**Current Policy:**

Development of a brownfield property that has been approved by the City for an ERASE Redevelopment Grant, is eligible to receive an exemption equivalent to the cost of the environmental remediation on, in or under the property (as approved by the City under the ERASE Redevelopment Grant program and required to be paid to the owner), up to but not exceeding the amount of City DCs otherwise payable under the DC By-law.

The ERASE Grant payments are then reduced by the amount that was used to offset the DC.

**DC Exemption Review Recommendation:**

No specific recommendation provided.

**Additional Comments:**

The ability to offset the DCs with the future ERASE Grants aids developers with the financial costs of site remediation. Where a developer is receiving an ERASE Grant they are required to pay for the site remediation works up front and wait until the development is completed and reassessed by the Municipal Property Assessment Corporation (MPAC) to benefit from the grant. Being able to defer the DCs to the time of the Grant payments assists the development with managing cash flow.

It is, however, recommended that this exemption be rephrased as a deferral and a formal agreement be entered into in order to protect the City’s interest and ensure collection in the future.

**Staff Recommendation:**

Maintain ability to offset DCs with ERASE grant, require security through a DC Deferral Agreement.

**Estimated Cost:**

DC impact negligible (lost interest) – the cost of the ERASE Grant is approved through the ERASE Grant and would be incurred regardless of the decision related to DCs.

**Alternative:**

Do not permit ERASE Grant recipients to offset the DC with the ERASE Grant.

Estimated cost: \$0

**Deferral Agreements****Current Policy:**

The City (subject to the approval of the General Manager of Finance & Corporate Services) may enter into an agreement for non-residential developments, residential facilities, and apartment developments only, to defer payment, with interest, of City DCs for a term of no longer than 5 years, after it would otherwise be payable under the DC By-law.

Deferral Agreements for a Public Hospital may allow the City DCs to be deferred for no longer than 10 years after it is otherwise payable under the DC By-law, and deferral agreements for the student residence of a university may allow the City DCs to be deferred for no longer than thirty (30) years after it is otherwise payable under the DC By-law.

**DC Exemption Review Recommendation:**

Not applicable.

**Additional Comments:**

In recent years Council has received requests to extend a few DC deferral agreements past the five years that staff have authority to enter into. With the current policy, staff is not able to approve extensions. It is recommended that staff's authority be increased to permit staff to negotiate extension requests for up to two years after the initial five year term.

Another opportunity to enhance the effectiveness of deferral agreements is to add a deferral option for podium developments. The DC Act requires DCs to be paid with the first building permit. This is a challenge for podium development since the towers can be in phases with years in between and DCs are due with what is typically the underground parking because it forms the foundation for the future towers. It is recommended that staff be provided authority to enter into deferral agreements to delay the timing and rate of DC collection to the structure permit for each tower.

In addition, when an ERASE grant is used towards the DC there is not a registered deferral on title. Staff recommends that this become formal process and therefore need approval to enter into a deferral when the ERASE grant is used to offset the DC.

**Staff Recommendation:**

Maintain existing policy and add:

1. That staff be authorized to negotiate extensions of DC Deferral Agreements of up to two years.
2. That staff be authorized to enter into DC Deferral Agreements related to Podium Developments to delay timing and applicable rate of DC payment to the issuance of each structure permit (no time limit).
3. That staff be authorized to enter into zero interest DC Deferral Agreements where a developer is applying their ERASE grant to offset the DC (no time limit).

**Estimated Cost:**

\$0

**Alternative:**

None

<b>Other DC Policies</b>
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**Current Policy:**

Temporary Building or Structure:

A temporary building or structure is 100% exempt from City DCs, provided that the temporary building or structure not remain on the lands for more than one year.

Redevelopment/Demolition Credits:

A DC credit shall be provided for any existing development, and any demolished buildings, provided that a building permit has been issued within five years of demolition permit issuance. No credit shall be provided where a demolished building, or part thereof, would have been exempt pursuant to the DC By-law.

The DC credit shall be based upon the number of residential units multiplied by the related DC rates in effect at the time of redevelopment, and the non-residential gross floor area multiplied by the appropriate non-residential DC rates in effect at the time of redevelopment based on former use.

**Indexing of Rates:**

The City DC rates shall be indexed annually on the anniversary of the effective date of the DC By-law, based on the percentage change during the preceding year, as recorded in Statistics Canada’s Construction Cost Index (non-residential building for the City of Toronto – CANSIM table 327-0043).

**Demolition Credit Extensions:**

The General Manager of Finance & Corporate Services may extend demolition credits for developments located outside the urban boundary, or for developments where it has been determined by the General Manager of Planning & Economic Development that significant development delays were not the responsibility of the developer. Otherwise, only Council may extend Demolition Credits.

**Staff Recommendation:**

That the above policies continue to be included in the DC By-law  
Estimated cost: \$0

**Alternative:**

Remove demolition credit extension policy.

**GENERAL DC BY-LAW HOUSEKEEPING****Staff Recommendation:**

Where no change in policy from the current DC By-law 14-153 has been addressed through Report FCS18062(a) the existing policy will continue. Staff will review all existing DC By-law definitions, schedules, and appendices and add/modify/clarify as deemed necessary. Example: adding a definition of a live/work dwelling, stacked townhouse, laneway house, etc.



**MINISTRY OF TRANSPORTATION**

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**Dedicated Gas Tax Funds For  
Public Transportation Program**

**2018/19 Guidelines and Requirements**

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## **DEDICATED GAS TAX FUNDS FOR PUBLIC TRANSPORTATION PROGRAM**

### **2018/2019 GUIDELINES & REQUIREMENTS**

#### **1. DEFINITIONS**

When used in these guidelines and requirements, the words set out below that import the singular include the plural and vice versa:

"baseline spending" means a municipality's spending level, which equals the average municipal own spending on public transportation for the years 2001 to 2003 and includes a rate of 2% per year for inflation. For new transit systems that were not operational from 2001 to 2003, the baseline will be determined at the Ministry's discretion until the municipality has three years of operation, whereby the first three years of municipal spending will be averaged and a rate of 2% per year for inflation will be applied.

"Canadian Content Policy" means the Canadian Content for Transit Vehicle Procurement Policy, attached to these guidelines and requirements as Appendix B: Canadian Content Policy, which the Ministry may amend from time to time.

"dedicated gas tax funds" means the money provided by the Ministry to a municipality to be used strictly towards eligible expenditures that are reasonable, in the opinion of the Ministry, and related directly to the provision of public transportation services, and "dedicated gas tax funding" has the same meaning.

"dedicated gas tax funds reserve account" means an interest bearing account set up by a municipality, under its name and in a Canadian financial institution, where dedicated gas tax funds are deposited and can be tracked separately from any other funds that may be in the account. This does not need to be a separate account, so long as the dedicated gas tax funds can be tracked separately.

"DFPTA" means the *Dedicated Funding for Public Transportation Act, 2013*, S.O. 2013, c. 2, Sched. 3.

"eligible expenditures" means expenditures made by a municipality in direct support of public transportation operating or capital, or both, costs in accordance with Article 3 of these guidelines and requirements.

"guidelines and requirements" means these guidelines and requirements entitled "Dedicated Gas Tax Funds for Public Transportation Program – 2018/2019 Guidelines and Requirements", including Appendices A, B and C to these guidelines and requirements, which the Ministry may amend from time to time.

"host municipality" means a host municipality as described in Section 4.2.

"indemnified parties" means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees, and employees.

"letter of agreement" means an agreement entered into between the Ministry and a municipality, including a host municipality, that sets out the terms and conditions under which the Ministry agrees to provide dedicated gas tax funds to the municipality, including those under these guidelines and requirements, and any amendments to the letter of agreement.

"losses" means any and all liability, loss, costs, damages or expenses (including legal, expert and consultant fees).

"major refurbishment" means: (a) for a subway car, light rail car, streetcar or trolley bus, the refurbishment where the life cycle is extended for a minimum of six years beyond the designed life cycle set out by the manufacturer; and (b) for a bus thirty feet in length or over, the refurbishment where, when the bus reaches a minimum age of nine years, the life cycle of the bus is extended for a minimum of six years.

"Ministry" and "Minister", respectively, means the Ministry of Transportation, which is responsible for the administration of the Program and the Minister responsible for the Ministry.

"municipal own spending on public transportation" means the funds, including those received from total operating revenue and local public donations, that a municipality contributes towards public transportation expenditures, including funds it contributes for operating and capital expenditures.

"personnel" includes the advisors, appointees, directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors of a municipality.

"proceeding" means any and all causes of action, actions, claims, demands, lawsuits or other proceedings.

"Program" means the Dedicated Gas Tax Funds for Public Transportation Program set up by the Ministry to provide municipalities with dedicated gas tax funds subject to and in accordance with a letter of agreement.

"PRESTO" means the fare payment system for which Metrolinx is responsible.

"public transportation" means any service for which a fare is charged for transporting the public by vehicles operated by or on behalf of a municipality or local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, c. M. 46, as amended, or under an agreement between a municipality or local board, and a person, firm or corporation, and includes special transportation facilities for transporting persons with disabilities but does not include transportation by special purpose facilities, such as school buses or ambulances.

"public transportation vehicle" refers to a streetcar, bus, subway car, light rail car, specialized vehicles for transporting persons with disabilities or trolley bus used for public transportation.



“reporting forms” means the following forms attached as Appendix A (Reporting Forms) to these guidelines and requirements: 1) Dedicated Gas Tax Funds for Public Transportation 2018 Reporting Form (i.e. form MT-O-16); 2) Dedicated Gas Tax Program – 2018 Conventional Transit Reporting Form (i.e. form MT-O-17); and 3) Dedicated Gas Tax Program – 2018 Specialized Transit Reporting Form (i.e., form MT-O-18).

“subcontractor” means any contractor of a municipality or any of its subcontractors at any tier of subcontracting.

## **2. INTRODUCTION**

The Program is an important element of the ongoing relationship between the province of Ontario and Ontario municipalities. Municipalities receiving dedicated gas tax funds must meet the requirements set out in these guidelines and requirements.

As of 2013 and pursuant to the *Dedicated Funding for Public Transportation Act, 2013*, S.O. 2013, c. 2, Sched. 3 (“DFPTA”), a portion, (2 cents per litre), of the provincial gasoline tax revenue is dedicated to the provision of grants to municipalities for public transportation, including those pursuant to the Program. The portion of the gas tax that is dedicated in each fiscal year is an amount determined using a formula set out in the DFPTA.

The 2018/19 Program year runs from April 1, 2018 to March 31, 2019. The new allocation of funding for the Program for 107 public transit systems representing 144 municipalities will amount to approximately \$367.5 million.

## **3. GENERAL ELIGIBILITY REQUIREMENTS AND CONDITIONS**

The purpose of the Program is to provide dedicated gas tax funds to Ontario municipalities to support local public transportation services, and to increase overall ridership through the expansion of public transportation capital infrastructure and levels of service. To be eligible to receive dedicated gas tax funds, a municipality must contribute financially towards its public transportation services.

For 2018/19, and unless otherwise approved in writing by the Ministry, only municipalities that have submitted their 2017 annual data survey to the Canadian Urban Transit Association (CUTA), and their 2017 Gas Tax reporting forms to the Ministry, will be eligible to receive dedicated gas tax funds.

Subject to the provision of a municipal by-law indicating its intent to provide public transportation services, a municipality that is not currently providing public transportation services, but decides to begin providing such services, may be eligible for funding. Notification of the municipality’s intent to provide public transportation services and specific commitment to annually fund such public transportation services is required. Municipalities are encouraged to contact ministry staff early in their decision making process for providing services. After the

new public transportation services have been implemented, and at the Ministry's sole discretion, dedicated gas tax funding may then be available.

A municipality receiving dedicated gas tax funds must ensure that all funds received and any related interest are used exclusively towards eligible expenditures and, unless otherwise approved in writing by the Ministry, disbursement of dedicated gas tax funds and any related interest must be net of any rebate, credit or refund, for which the municipality has received, will receive, or is eligible to receive.

All public transportation services and public transportation vehicles must be fully accessible in accordance with the requirements set out under the following statutes and regulations, as may be amended from time to time: the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 and the *Integrated Accessibility Standards*, O. Reg. 191/11 made under that Act; the *Highway Traffic Act*, R.S.O. 1990, c. H.8 and the *Accessible Vehicles*, R.R.O. 1990, Reg. 629 made under that Act; and the *Public Vehicles Act*, R.S.O 1990, c. P. 54. In addition to the above, the acquisition of public transportation vehicles must comply with the Canadian Content Policy requirements.

Unless the Ministry otherwise approves in writing, in 2018/19, gas tax revenues and any related interest can only be used to support municipal public transportation expenditures above a municipality's baseline spending and not to reduce or replace current levels of municipal public transportation funding. External audit and financial reporting costs are not eligible expenditures which the Ministry may reimburse or to which dedicated gas tax funding can be applied.

**(a) Requirements for All Dedicated Gas Tax Funds Received in 2018/19 and Beyond**

- Dedicated gas tax funds and any related interest must be spent on:
  - Public transportation capital expenditures that promote increased transit ridership, and are above a municipality's baseline spending;
  - Public transportation operating expenditures that are above a municipality's baseline spending;
  - Capital expenditures for the replacement of any public transportation vehicles that are above a municipality's baseline spending;
  - Capital expenditures that provide improvements to public transportation security and passenger safety, and are above a municipality's baseline spending; or
  - Expenditures for major refurbishment on any fully accessible, or to be made fully accessible, public transportation vehicle, with the exception of specialized vehicles used for the transportation of persons with disabilities, and are above a municipality's baseline spending.
  
- For municipalities that provide only specialized transit for persons with disabilities, dedicated gas tax funds can be spent on public transit initiatives that may not initially result in ridership growth but will provide increased accessibility.

**(b) Additional Requirements for the following Municipalities: Regions of Durham and York, the Cities of Brampton, Burlington, Hamilton, Mississauga, Ottawa and Toronto, and the Town of Oakville.**

Prior to the release of any dedicated gas tax funds, the municipalities listed under (b) above will, in addition to any other requirements in this Article 3, be required to:

- Participate in PRESTO and, as participants, will be required to meet their financial obligations for that system.

**(c) Additional Requirements for GTA Municipalities: Regions of Durham, Halton, Peel and York, and Cities of Hamilton and Toronto.**

Prior to the release of any dedicated gas tax funds, the municipalities listed under (c) above will, in addition to any other requirements in this Article 3, be required to:

- Demonstrate that they have met their responsibility for the payment of the growth and expansion capital costs of Metrolinx pursuant to the *Amendment to Greater Toronto Services Board By-law No. 40*, O. Reg. 446/04, made under the *Metrolinx Act, 2006*, S.O. 2006, c. 16, as amended.

The eligibility requirements for dedicated gas tax funds will be determined in accordance with these guidelines and requirements. The eligibility for any dedicated gas tax funds is at the sole discretion of the Ministry. Municipalities should consider consulting with Ministry staff to determine whether a proposed expenditure is an eligible expenditure for the purpose of dedicated gas tax funds.

#### **4. GENERAL PROGRAM ALLOCATION METHODOLOGY AND PAYMENT PROCESS**

##### **4.1 General Program Allocation Methodologies**

Based on consultation with municipalities, public transportation operators and stakeholders, the Province recognizes the varying needs of public transportation in Ontario municipalities, including those related to large established public transportation systems and communities with different growth rates and levels of public transportation service. Consistent with the above, the Province has established an allocation formula based on a combination of ridership and population. This formula balances the needs of large established public transportation systems, the growth needs of rapidly growing municipalities, and the needs of smaller municipalities that provide public transportation services.

The Province is implementing an allocation based on 70% transit ridership and 30% municipal population. Fully implemented, 70% of \$367.49 million (up to \$257.24 million) may be distributed to municipalities on the basis of their public transportation ridership levels. Thirty percent (30%) of \$367.49 million (up to \$110.25 million) may be distributed on the basis of

population levels. Public transportation ridership will include the totals of both conventional and specialized public transportation services.

Both ridership and population figures are updated and revised annually for use in the calculation of dedicated gas tax funds.

CUTA annually collects and reproduces, on behalf of the Ministry, transit ridership data in its Ontario Urban Transit Fact Book and its Ontario Specialized Transit Services Fact Book (the "CUTA Fact Books"). The Ministry used the 2017 ridership data from the 2017 CUTA Fact Books for the above calculation. Where a municipality's ridership data have not been collected nor reproduced in the 2017 CUTA Fact Books, the Ministry used the 2017 transit ridership data received from the municipality.

The 2018/19 gas tax allocations were calculated using 2017 population estimates derived from the 2011 census data.

Dedicated gas tax funds provided to each municipality in 2018/19 are not to exceed, based on the 2017 municipal public transportation spending data set out in the CUTA Fact Books, 75% of municipal own spending on public transportation. The Ministry may re-allocate, in support of increasing public transportation ridership, any amounts of moneys dedicated for but that remains undistributed through the Program.

The Ministry may undertake an annual review of the dedicated gas tax allocation methodology and eligibility requirements to ensure these funds support the desired outcome of increased public transportation ridership. Municipal public transportation spending will be reviewed on an annual basis to determine if the limits of the dedicated gas tax funds need to be applied where the gas tax allocation may exceed 75% of municipal own spending on public transportation.

#### **4.2 Payment Process**

The Minister will advise each municipality that provides public transportation services of the amount of dedicated gas tax funds it is eligible to receive. The Minister will send a letter of agreement to each of these municipalities. The letter of agreement will set out the terms and conditions upon which the dedicated gas tax funds will be released to the municipality, and by which the municipality will have to agree to be bound.

The Ministry may, on a quarterly basis (or other basis, as the Ministry may decide from time to time), make payments of dedicated gas tax funds only after receipt of the following documents: i) the letter of agreement, provided by the Ministry to the municipality, signed in accordance with the by-law(s) and, if applicable, the resolution(s) described below; and ii) a certified copy of the by-law(s) and, if applicable, any resolution(s) authorizing the letter of agreement and naming municipal signing officers for the letter of agreement.

In addition, the Ministry may withhold payment of dedicated gas tax funds until the reporting requirements under Section 8.4 are met.

Any amount of dedicated gas tax funds provided to the municipality under the Program will be subject to the remedies set out under Article 7.

Any dedicated gas tax funds the Ministry provides to a municipality and any related interest, including those kept by the municipality in a dedicated gas tax funds reserve account, will have to be used by the municipality exclusively towards public transportation services and in accordance with the requirements set out in these guidelines and requirements including, without limitation, those related to eligibility and related conditions, acquisition, disposition, accountability, records, audit, reporting, liability, and indemnity requirements.

If a municipality agrees to provide public transportation services (a "host municipality") for another municipality, the Ministry, at its sole discretion, may only provide the host municipality with dedicated gas tax funds. Prior to the Ministry making any payment of dedicated gas tax funds to the host municipality, the host municipality and the municipality on whose behalf the host municipality is providing transportation services will be required to provide the Ministry with copies of their respective by-law(s) and, if applicable, resolution(s), designating the host municipality as a public transportation service provider for the municipality or authorizing the host municipality to provide public transportation services to the municipality, as applicable. The contributing municipality, on whose behalf the host municipality is providing transportation services, will be required to provide the Ministry with a copy of their by-law(s) and, if applicable, resolution(s), in the year that this arrangement is initiated, and will be required annually to confirm with the Ministry in writing that the arrangement is still in effect. The host municipality will be required to enter into a dedicated gas tax funds letter of agreement with the Ministry and be in compliance with the terms and conditions set out in these guidelines and requirements.

In addition, the host municipality must promptly advise the Ministry of any change in arrangements between the host and contributing municipalities, such as decisions to cease contributions. The Ministry may then, at its sole discretion, make any necessary adjustment to its contribution of dedicated gas tax funds to the host municipality.

## **5. DEDICATED GAS TAX FUNDS RESERVE ACCOUNT AND INTEREST**

### **5.1 Dedicated Gas Tax Funds Reserve Account**

Dedicated gas tax funds must be used only towards the eligible expenditures for public transportation listed under Article 3(a). If the Ministry provides dedicated gas tax funds to a municipality before the municipality's immediate need for the funds, the municipality will be required to keep the funds, and all interest earned on such funds, in a dedicated gas tax funds reserve account. Dedicated gas tax funds received, and any related interest earned on such funds, must be reported annually, using the reporting forms, on a cash basis.

## 5.2 Interest

Interest must accrue on funds carried over the course of the Program reporting period in a dedicated gas tax funds reserve account. A municipality must calculate interest on its average annual balance of funds. The interest must also be reported annually, using the reporting forms, and can only be applied towards eligible expenditures.

## 6. ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

If a municipality acquires goods, including supplies, materials, vehicles, equipment or services, or both, with dedicated gas tax funds, it must do so through a process that promotes the best value (with due regard for economy, efficiency and effectiveness) for the dedicated gas tax funds it spends.

The municipality must report, in writing, to the Ministry any funds accrued from the sale, lease or disposal of assets purchased with dedicated gas tax funds, and return such funds to a dedicated gas tax funds reserve account (see Article 5), with the exception that funds accrued from the sale, lease or disposal of transit buses beyond their useful economic life (12 years for conventional and 5 years for specialized), will not be required to be returned to a dedicated reserve account.

## 7. ADJUSTMENT, WITHHOLDING AND PAYMENT OF DEDICATED GAS TAX FUNDS AND OTHER REMEDIES

If, in the opinion of the Ministry, a municipality: i) fails to comply with any term, condition or obligation set out in a letter of agreement, including these guidelines and requirements; ii) uses any of the dedicated gas tax funds or any related interest for a purpose not authorized without the prior written consent of the Ministry; iii) provides erroneous or misleading information; iv) fails to provide information, including requested audit information and required reports, to the Ministry for any reason whatsoever; or v) is unable to provide or acquire or has discontinued the provision or acquisition of any service or asset for which dedicated gas tax funds have been provided, or it is not reasonable for the municipality to continue to provide or acquire any service or asset for which such funds have been provided ("event of default"), the Ministry may, unless the Ministry provides the municipality with written notice of an opportunity to remedy the event of default, take one or more of the following actions: i) initiate any action the Ministry considers necessary in order to facilitate the successful provision or acquisition of any service or asset provided or acquired with dedicated gas tax funds; ii) suspend the payment of dedicated gas tax funds for such period as the Ministry determines appropriate; iii) reduce the amount of the dedicated gas tax funds; (iv) cancel further payments of dedicated gas tax funds; (v) demand from the municipality the payment of any dedicated gas tax funds remaining in the possession or under the control of the municipality; (vi) demand from the municipality the payment of an amount equal to any dedicated gas tax funds the municipality used, but did not use in accordance with the letter of agreement; (vii) demand from the municipality the payment of an amount equal to any dedicated gas tax funds the Ministry provided to the municipality; and viii) terminate the letter of agreement at any time, including

immediately, without liability, penalty or costs to the Ministry upon giving notice to the municipality.

Where the Ministry gives the municipality an opportunity to remedy an event of default by giving the municipality notice of the particulars of the event of default and the date by which the municipality is required to remedy it, and: i) the municipality does not remedy the event of default by the date specified in the notice; ii) it becomes apparent to the Ministry that the municipality cannot completely remedy the event of default by the date specified in the notice; or iii) the municipality is not proceeding to remedy the event of default in a way that is satisfactory to the Ministry, the Ministry may extend the date by which the municipality is required to remedy the event of default, or initiate any of the remedies for event of default available to it under this Article.

Upon termination of the letter of agreement pursuant to this Article, the Ministry may take one or more of the actions listed for in the first paragraph to this Article 7. In regards to any demand for payment, the Minister may not demand payment of an aggregate amount greater than the dedicated gas tax funds that were received by the municipality.

Upon the Minister providing a municipality a written demand for payment of dedicated gas tax funds, any related interest, or both, the amount of the demand will be deemed to be a debt due and owing to the Crown of the Province of Ontario and may be recovered as such under applicable law, including, without limitation, the *Financial Administration Act*, R.S.O. 1990, c. F.12, as amended, ("FAA"). In addition to any remedy the Crown may have under the FAA, the Ministry may decide to withhold or adjust the amount of any current or future dedicated gas tax funding, or any other funding program, that may be provided to the municipality in an amount equal to such debt or have the amount of such debt deducted from financial assistance payable on any other project(s) of the municipality under any other initiative in which the Ministry is involved (either current or future). The Ministry may charge the municipality interest on any money owing by the municipality at the then current rate charged by the Province of Ontario on accounts receivable. The municipality will pay any money owing to the Ministry by cheque payable to the "Ontario Minister of Finance" and delivered to the Ministry as the Ministry may require.

If a municipality: i) has failed to comply with any term, condition or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a "failure"); ii) has been provided with notice of such failure in accordance with the requirements of such other agreement; iii) has, if applicable, failed to rectify such failure in accordance with the requirements of such other agreement; and iv) such failure is continuing, the Ministry may suspend the payment of dedicated gas tax funds for such period as the Ministry determines appropriate.

When the Ministry provides its consent pursuant to a letter of agreement, including these guidelines and requirements, it may impose any terms and conditions on such consent and the municipality will comply with such terms and conditions.

If a municipality fails to comply with any term of a letter of agreement, including these guidelines and requirements, the municipality could only rely on a waiver of the Ministry if the

waiver was in writing and refers to the specific failure to comply. A waiver will not have the effect of waiving any subsequent failures to comply.

Any decision made by the Minister regarding funding under the Program is final.

## **8. ACCOUNTABILITY, RECORDS, AUDIT AND REPORTING REQUIREMENTS**

### **8.1 Accountability**

A municipality receiving dedicated gas tax funds must use such funds, and any interest earned on such funds, exclusively towards public transportation service eligible expenditures and in accordance with these guidelines and requirements. The municipality will not be allowed to use dedicated gas tax funds and related interest to offset other municipal expenditures.

The municipality will also be required to provide such further assurances as the Ministry may request from time to time with respect to any matter to which a letter of agreement, including these guidelines and requirements, pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of these documents to their full extent.

Furthermore, the municipality must ensure any information the municipality provides to the Ministry under the Program is true and complete at the time provided and will continue to be true and complete.

### **8.2 Records**

A municipality receiving dedicated gas tax funds must keep and maintain separate records and documentation related to any dedicated gas tax funds and any related interest, including invoices and any other financially-related documents relating to the provision or acquisition of public transportation services for which dedicated gas tax funds and any related interest have been used. The records and documentation must be kept and maintained in accordance with generally accepted accounting principles. Records containing confidential information must be kept in accordance with all applicable legislation. No provision of these guidelines and requirements shall be construed so as to give the Ministry any control whatsoever over the municipality's records.

### **8.3 Audit**

A municipality receiving dedicated gas tax funds may be subject to audit. The Ministry may, at its sole discretion, audit or have audited by any third party, any records and documentation of the municipality related to any public transportation services provided or acquired with dedicated gas tax funds or any related interest, and such funds. Such audit may require the Ministry, at the municipality's expense (except as provided in the Canadian Content Policy), to retain external auditors. In addition, the Auditor General may, pursuant to the *Auditor General Act*, R.S.O. 1990, c. A. 35, as amended, audit the accounts and records of the municipality



relating to any expenditure of dedicated gas tax funds.

To assist in respect of the rights set out above, a municipality will be required to disclose any information requested by the Ministry, its authorized representatives or an independent auditor identified by the Ministry, and will do so in the form requested by the Ministry, its authorized representatives or an independent auditor.

In addition to any adjustments the Ministry may make to dedicated gas tax funding under these guidelines and requirements, the Ministry may, upon recommendation in an audit report, adjust future dedicated gas tax fund payments or other payments the Province may make to the municipality under any other program.

#### **8.4 Reporting**

Accuracy in the calculation and reporting of municipal transit ridership and dedicated gas tax funds and any related interest is paramount. When calculating ridership, municipalities must use one of the acceptable best practices identified in the 2008 Ontario Ridership Data Collection Review Report, published jointly by CUTA and iTrans Consultants (retained by CUTA).

A municipality will be accountable to use dedicated gas tax funds and any related interest towards public transportation expenditures that meet the Program eligibility requirements. Each municipality will be required to report on how dedicated gas tax funds and any related interest are spent on an annual basis, including the provision of its Canadian Content Policy declaration form(s), in accordance with the Canadian Content Policy, for any public transportation vehicle funded with dedicated gas tax funds. The Canadian Content Policy has been amended effective September 21, 2017 to be aligned with government procurement commitments under the Comprehensive Economic Trade Agreement (CETA) between Canada and the European Union (EU). As of September 21, 2017, municipalities are to comply with the amended policy for all transit procurements.

For the purpose of the above reporting, municipalities will be required to use the reporting forms that have been developed in consultation with municipal public transportation stakeholders, and submit these reporting forms to the Ministry prior to February 28, 2019.

Municipalities are strongly advised to carefully verify all data before submitting their reporting forms, to ensure that all information provided is accurate. Municipalities are also encouraged to contact the Ministry if they require any guidance or assistance in completing these reports.

### **9. COMMUNICATIONS**

Unless the Ministry otherwise approves in writing, a municipality receiving dedicated gas tax funds will be required to acknowledge the support of the Ministry in a form and manner as directed by the Ministry.

A municipality will be required to give a minimum of thirty (30) days written notice to the Ministry regarding any planned local dedicated gas tax funding communication or recognition event, or both. The municipality will also be required to provide the Ministry with detailed information regarding such communication or event, or both.

The Ministry and a municipality receiving dedicated gas tax funds will, at all times, remain independent of each other and will not represent themselves to be the agent, joint venturer, partner or employee of the other. Neither the municipality nor the Ministry will be allowed to make representations or take actions that could establish or imply any apparent relationship of agency, joint venture, partnership or employment. In addition, neither the municipality nor the Ministry will be bound in any manner whatsoever by any agreements, warranties or representations made by any of them to any other person or entity, with respect to any other action of the other.

If the municipality publishes any material of any kind, written or oral, relating to public transportation services provided or acquired with dedicated gas tax funds, the municipality will indicate in the material that the views expressed in the material are the views of the municipality and do not necessarily reflect those of the Ministry.

A municipality receiving gas tax funding must comply with the requirements for the installation and maintenance of visual identity signage set out in Appendix C.

## **10. CONFLICT OF INTEREST**

A municipality and its subcontractors and any of their respective personnel must use dedicated gas tax funds and provide and acquire services and assets with such funds without an actual, potential, or perceived conflict of interest.

A conflict of interest includes any circumstances where a municipality or any person who has the capacity to influence the municipality's decisions has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the municipality's objective, unbiased, and impartial judgment relating to the provision or acquisition of services or assets provided or acquired with dedicated gas tax funds, the use of such funds, or both.

A municipality will disclose to the Ministry, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest, and comply with any terms and conditions that the Ministry may prescribe as a result of the disclosure.

## **11. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

All applications submitted to the Ministry are subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F. 31, as amended ("FIPPA"). The FIPPA provides every person with a right of access to information in the custody or under the control of the Ministry, subject to a limited set of exemptions.

Municipalities are advised that the names of municipalities receiving dedicated gas tax funds, the amount of funds provided, and the purpose for which dedicated gas tax funds are provided, is information the Ministry makes available to the public.

## **12. LIABILITIES AND INDEMNITIES**

A municipality receiving dedicated gas tax funds must agree that it is responsible for anything that may arise, directly or indirectly, in connection with the Program, including, without limitation, any activity under it such as the provision and acquisition of services and assets with dedicated gas tax funds. The Ministry's involvement under the Program is for the sole purpose of, and is limited to, the provision of dedicated gas tax funds.

Furthermore, a municipality receiving dedicated gas tax funds must agree to indemnify and hold harmless the indemnified parties from and against any and all losses or proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of, or in connection with anything done or omitted to be done by the municipality or any municipality on behalf of which the municipality receives dedicated gas tax funds, or any of their respective personnel, the Program, any activity under it, or the letter of agreement, unless the loss or proceeding is solely caused by the negligence or willful misconduct of the indemnified parties.

A municipality receiving dedicated gas tax funds is responsible for its own insurance and must carry, at its own costs and expense, and require the same from its subcontractors and any municipality on behalf of which it receives dedicated gas tax funds, all the necessary and appropriate insurance that a prudent municipality in similar circumstances would maintain in order to protect itself and the Ministry and support the indemnification, as set out above, provided to the Ministry. For greater certainty, the municipality is not covered by the Province of Ontario's insurance program and no protection will be afforded to the municipality by the Government of Ontario for any losses or proceedings that may arise out of the Program or letter of agreement.

For greater certainty, the rights and remedies of the Ministry under a letter of agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

## **13. COMPLIANCE WITH THE LAW**

A municipality receiving dedicated gas tax funds must comply with all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and by-laws related to any aspect of the services or assets provided or acquired with the dedicated gas tax funds and the dedicated gas tax funds.

For greater clarity, by receiving dedicated gas tax funds, a municipality may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Public Sector Salary Disclosure Act, 1996*, S.O. 1996, c. 1, Sched. A and the *Auditor General Act*, R.S.O. 1990, c. A.35.

#### **14. WHERE TO APPLY AND REQUEST OR PROVIDE INFORMATION**

All forms, agreements, supporting documentation as well as any questions regarding the Program are to be directed to the Strategic Transit Investments Office of the Ministry of Transportation at [MTO-PGT@ontario.ca](mailto:MTO-PGT@ontario.ca).

## APPENDIX A: REPORTING FORMS

## APPENDIX B: CANADIAN CONTENT POLICY

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## APPENDIX C: VISUAL IDENTITY SIGNAGE REQUIREMENTS

### 1. Purpose of Schedule

This Appendix describes the municipality's responsibilities and obligations involved in installing and maintaining visual identity signage under the Program.

### 2. Visual Identity Signage

The municipality will install and maintain the exterior and interior visual identity signage on transit vehicles for which dedicated gas tax funds were provided. This is to include replacement buses that have been supported through the Program.

External visual identity signage must be located immediately to the left of the front passenger entrance doors of the vehicle. Internal visual identity signage should be placed on an interior wall in a location and height that will be convenient for passengers to read.

Recognition stickers approximate size — 10" x 3.4". Sample image found below is not to scale.









**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	June 19, 2018
<b>SUBJECT/REPORT NO:</b>	Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4)
<b>WARD(S) AFFECTED:</b>	Wards 1, 2, 3 and 4 (Parts Thereof)
<b>PREPARED BY:</b>	Edward John (905) 546-2424 Ext. 2359
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Report PED16200(a) (City Initiative CI-18-F) to amend regulations of Section 19 of Zoning By-law No. 6593 to allow secondary units within detached structures for those properties within the lower City (parts of Wards 1, 2, 3 and 4) adjoining a laneway, be received;
- (b) That Report PED16200(a), together with any written submissions and input from delegations received at Planning Committee, be referred to staff for consideration and incorporated into a further report and amending by-law to be presented to the a future Planning Committee meeting;
- (c) That Corporate Services staff be requested to present Report PED16200(a) to the Development Charge Stakeholders subcommittee for consideration when recommending policy direction for the 2019 Development Charge Study.

**EXECUTIVE SUMMARY**

The purpose of this Report is to continue the evolution and implementation of innovative measures to increase the supply, range of housing options and affordability of units within Hamilton, consistent with the Urban Hamilton Official Plan vision. This Report marks one of the continued and on-going strategies to support appropriate and compact infill development.

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*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 2 of 18**

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In particular, this Report seeks to amend Section 19 of Zoning By-law 6593 with respect to secondary dwelling units in separate built structures. The proposed Zoning By-law Amendment would permit modest secondary residential units within the rear yard of existing dwellings for properties that adjoin a laneway for certain areas of the lower City.

The Zoning By-law will ensure the relationship between the principal unit and the secondary suite regulations is maintained over time with respect to servicing, access and maintenance.

The proposed By-Law Amendment would:

- Permit secondary dwelling units within stand alone buildings on lots adjoining a laneway;
- Limit these dwellings to 6m in height and 50 sq m in area;
- Restrict the location of windows and doors above 1<sup>st</sup> floor; and,
- Not require any additional parking.

A more detailed discussion of the specific amendments is provided in the Analysis/Rationale for Recommendations Section of this Report.

***Alternatives for Consideration – See Page 17***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** As detailed within the servicing review, separate services to the secondary unit are the preferred option by Growth Management staff. This option would likely result in increased cost of development due to the requirement of road cuts. Joint servicing from the private lot would be considered more cost effective (saving between \$15,000 and \$20,000) however, based on discussions with Growth Management staff, this would have to be reviewed and approved on a case-by-case basis.

This Report recommends potential changes to the Development Charges By-law when they are reviewed and updated July, 2019. The intent is to align the development charges with that of an accessory unit, notwithstanding that it is located wholly within a detached structure.

**Staffing:** There are no staffing implications.

**Legal:** As required by the *Planning Act*, Council must hold at least one Public Meeting to consider an amendment to the Zoning By-law.

**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 3 of 18**

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Public Notice as per the *Planning Act* has been provided in the Hamilton Spectator.

As this is a City-initiated Zoning By-law Amendment with City Wide effects, no notification by mail or sign on the property is required.

## **HISTORICAL BACKGROUND**

At its meeting on March 1<sup>st</sup>, 2016, Planning Committee approved the following motion:

"That staff prepare a report and presentation to Committee on the current inventory and policies related to 'Laneway Housing' in Hamilton."

In response to this motion, staff brought forward Report PED16200 on December 5<sup>th</sup>, 2016 which provided an inventory and overview of the laneways within Hamilton. The Report identified that a number of constraints face the creation of Laneway Housing particularly with regard to servicing, emergency access and tenure.

As detailed in previous Report PED16200, although a number of examples of Laneway Housing exist, the current process to permit new Laneway Housing would require a rezoning application and potential site plan process. The required investment in time and money to pursue these applications limits the effectiveness and responsiveness of this form of housing in supporting rental stock development.

Report PED16200 also identified the significant constraints involved with the expense of constructing laneway servicing and functional challenges including garbage collection, snow clearing and emergency access.

These constraints are considerably more limiting when laneway units are dependent on servicing and access only through the laneway because the lot does not have frontage on a municipal street. Subsequently, Planning Division staff was requested to report back to Planning Committee following consultation with the Alleyway Management Strategy Working Group on a process for including appropriate permissions for Laneway Housing as part of the review and update of the City's Residential Zoning By-law planned for 2018-2019.

Staff continues to review and resolve these issues. However, as presented within this report, staff is recommending an additional measure which would permit secondary dwelling units as a pilot project in existing and proposed accessory structures on those properties that adjoin a laneway. The absorption rate and any potential impacts will be monitored by Planning Division staff and the results of this monitoring will be used to

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**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 4 of 18**

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inform the development of secondary unit zoning permissions as part of the Comprehensive Residential Zoning Project.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **1.0 Provincial Direction**

The policy framework in place to support Laneway Housing in the City of Hamilton is derived from Provincial policies, goals and targets pertaining to growth and intensification, affordable housing, and the accommodation of a variety of housing forms. The *Strong Communities Through Affordable Housing Act, 2011* amended the *Planning Act, 1990* to improve the affordable housing system. Section 2 of the *Planning Act, 1990* was amended to further identify affordable housing as a matter of Provincial interest. The amendments also included enhanced provisions for garden suites and secondary units.

Garden suites are units intended for temporary purposes only, and are required through the *Planning Act* to be located in structures that are both temporary and moveable. Converted accessory buildings or newly constructed secondary units in accessory buildings would not be considered under the provisions of a garden suite, as by definition, the housing created through such units would be both permanent and within a structure that is not moveable. Secondary units are additional separate dwelling units on a property that would normally accommodate only one dwelling unit.

### **1.1 Growth Plan of the Greater Golden Horseshoe, 2017**

The Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan) encourages municipalities to accommodate growth in the built-up areas, prescribes intensification targets, and supports intensification through the provision of a range and mix of housing, taking into account affordable housing needs and through the creation of secondary dwelling units. Policy 2.2.1.4 states in particular:

"Applying the policies of this Plan will support the achievement of *complete communities* that:

- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and *public service facilities*;
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;

**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 5 of 18**

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- c) provide a diverse range and mix of housing options, including second units and *affordable* housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;"

Secondary units located within accessory structures would provide the opportunity to accommodate growth within the built up area, and potentially address some affordable housing needs with respect to supply and, therefore, would conform with the Growth Plan.

## 1.2 Provincial Policy Statement, 2014

The Provincial Policy Statement, 2014 identifies the need for a range of residential options and prescribes the role of Planning authorities to identify opportunities and locations for suitable for intensification.

In particular, Policy 1.1 - Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, identifies that healthy, liveable and safe communities are sustained by an appropriate range and mix of residential uses including secondary units, affordable housing and housing for elderly people. The proposed by-law changes would assist in removing some of the regulatory barriers that encumber secondary suite development without compromising other planning objectives. More specifically, Policy 1.1.1 states:

"1.1.1 Healthy, liveable and safe communities are sustained by:

- a) Promoting efficient development and land-use patterns which sustain the financial well-being of the Province and Municipalities over the long term;
- b) Accommodating an appropriate range and mix of residential units including secondary units, affordable housing and housing for the elderly, employment including industrial and commercial, institutional including places of worship, cemeteries and long-term care homes, recreation, park and open space, and other uses to meet long-term needs;
- e) Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;"

Settlement areas are identified as the areas to focus on growth and development, and to use existing infrastructure to promote efficient development patterns. The proposed introduction of detached secondary dwelling units for those properties adjoining a laneway would encapsulate this efficient approach to development. In particular Policy 1.1.3.2 states:

**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 6 of 18**

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"1.1.3.2 Land use patterns within *settlement areas* shall be based on:

- a) densities and a mix of land uses which:
  - 1. efficiently use land and resources;
  - 2. are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
  - 3. minimize negative impacts to air quality and climate change, and promote energy efficiency;
  - 4. support *active transportation*;
  - 5. are *transit-supportive*, where transit is planned, exists or may be developed;

Following review of impacts and existing infrastructure, it is considered in accordance with Policy 1.1.3.3 which states:

"1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs."

Furthermore, Policy 1.4.3 specifically directs planning authorities to provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

"b) permitting and facilitating:

- 1) all forms of housing required to meet the social, health and well-being requirements of current and future residents, including *special needs* requirements;"

On the basis of the above comprehensive review, staff considers the proposed By-law to be consistent with the goals and direction of the PPS.

## 2.0 Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) identifies forecasts and targets for growth and intensification, as mandated by the Growth Plan. In addition to population forecasts, the

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UHOP provides other targets that include the Downtown Urban Growth Centre Density Target of 250 people and jobs per hectare (Policy A.2.3.3.1) and a Residential Intensification Target that includes 40% of all residential development required to occur annually within the built-up area (Policy A.2.3.3.4). In accordance with the 2017 Growth Plan, these targets will be revised to 60% once the City updates the UHOP to implement the 2017 Growth Plan.

Section B.2.4 of the UHOP identifies the need for residential intensification to ensure the efficient use of infrastructure, support existing communities, and contribute to the development of vibrant communities. Intensification is directed to the Downtown Urban Growth Centre, as well as nodes, corridors, and neighbourhoods.

UHOP Policy B.2.4.1.4 sets out the criteria to be followed when evaluating the appropriateness of residential intensification developments. The criteria include, but are not limited to, compatibility and integration of the development with the existing neighbourhood and built form, the contribution the development will make to achieving a range of dwelling types, and infrastructure and transportation capacity.

With particular regard to residential intensification, Policy B.2.4.2.2 policy has been used to review and support the proposed Zoning By-law Amendment:

"When considering an application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) *compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;

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- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of *cultural heritage resources*; and,
- j) infrastructure and transportation capacity and impacts."

The UHOP also identifies ways in which the City can facilitate residential intensification:

"Facilitating Residential Intensification

- 2.4.4 The City, when reviewing or developing new secondary plans or corridor studies, shall identify opportunities for residential intensification to support the intensification targets and related policies.
- 2.4.5 The City shall establish zoning that permits residential intensification generally throughout the built-up area in accordance with this Plan.
- 2.4.6 The City shall prepare detailed design guidelines for residential intensification projects in a variety of contexts.
- 2.4.7 The City shall consider the creation of new, or expansion of existing programs, including public transit, to encourage and/or facilitate residential intensification."

With respect to urban housing, UHOP Section B.3.2 outlines goals and policies that lay the groundwork for the creation and provision of a range of housing types, forms, tenures, densities, affordable housing, and housing in complete communities.

The potential for Laneway Housing is particularly influenced by the general urban housing policies of UHOP Section B.3.2.4, which makes allowances for secondary dwelling units and detached secondary dwelling units on lots of existing single detached dwellings (which secondary units adjoining a laneway would be considered), subject to the City undertaking a study, as follows:



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“3.2.4 General Policies for Urban Housing

- 3.2.4.4 Second dwelling units shall be permitted within single and semi-detached dwellings in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, and shall be subject to zoning regulations.
- 3.2.4.5 Subject to the City undertaking a study, in certain conditions it may be appropriate to permit new detached second dwelling units on lots of existing single detached dwellings.”

It is considered that for the purposes of this proposal, this Report fulfills this policy requirement.

Finally, with respect to the Hamilton’s Housing and Homelessness Action Plan, it is noted that a key outcome is to identify areas where pre-zoning for appropriate zoning designations is possible and would support affordable housing development. The consideration of Laneway Housing, and creation of appropriate zoning regulations to facilitate their creation, may potentially assist with the delivery of this outcome.

**RELEVANT CONSULTATION**

- Recycling and Waste Disposal, Public Works;
- Growth Management, Planning and Economic Development Department;
- Building Services, Planning and Economic Development Department;
- Community Safety & Planning, Healthy and Safe Communities; and,
- Corporate Services, Finance.

**Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Public Meeting was advertised in the Hamilton Spectator on May 25, 2018.

Given the potential for additional community or stakeholder consultation, staff will consider the possibility of a Public Consultation event in September prior to the matter being considered by Planning Committee. Matters raised at the public meeting and received correspondence will be addressed through this process.

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## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Previous staff Report PED16200(a) provided an inventory and characterization of Laneway Housing and existing laneways (See Appendix "B" to Report PED16200(a)). As detailed within Appendix "B", existing laneways have the following general characteristics. They are:

- Predominantly public and un-assumed;
- Predominantly located within wards 1-4 (Lower City); and,
- Typically lower density zones with the majority of lots having 25-50% lot coverage.

### **1.0 Housing Opportunities**

It is considered that while constraints face the creation of independent Laneway Housing that is contingent on servicing and access from the laneway; as discussed below, the laneway itself provides numerous secondary advantages which support the consideration of accessory structures being permitted to convert to residential use or, alternatively, new separate buildings being purpose-built for residential occupation.

#### 1.1 Character and Separation

As previously noted within Report PED16200, laneways and laneway housing represent a historical presence throughout Hamilton, particularly within the lower City with over 100 km of laneways. These 'service' corridors represented a means for access for services, delivery, and in several cases secondary dwelling units. The proposed by-law to permit the conversion and / or creation of modest habitable units for those properties adjacent to a laneway is considered in keeping with the historical fabric of the area and would enhance the utilization and animation of the laneways.

This mild form of intensification is comparable to the impact of creating a basement unit except that, in this case, the unit would be within a separate structure within the rear yard. The laneway acts as a buffer that would limit concerns of overview and loss of privacy that may otherwise be experienced.

Additional advantages include separation from the typical backyard to backyard configuration, lessening concerns over loss of privacy and detrimental impacts upon daylight. Given that most laneways are between 3.0 – 6.0 m in width and are often considered to be public thruways, intensification along these routes is not considered to be detrimental to the character or amenity of the properties that adjoin them.

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These concerns would be further mitigated through the provisions that restrict the height of the structure and ensure second floor windows face only the laneway unless within the plane of a roofline (discussed further in Section 5.0 of this Report).

### 1.2 Laneway Animation

The ability to provide adequate pedestrian secondary access to the new unit, notwithstanding securing primary access particularly for vehicles, remains a concern of the laneways and is also considered to significantly contribute to the successful implementation of secondary dwelling units within accessory structures.

It is considered that allowing the creation and conversion of accessory buildings to residential uses would also provide the opportunity for greater animation, security and vitality of the laneway due to increased pedestrian usage through the creation of these additional units.

### 1.3 Site functionality

Maintaining a relationship with the principal dwelling unit provides considerable benefit in terms of the site functionality, with servicing and garbage collection permitted and required through the same arrangements as the principal dwelling.

On this basis, while not creating independent freehold units, the proposed provisions would increase the supply of housing stock, some of which maybe rental.

The intent is to permit a new secondary dwelling unit that is not severable and instead remains ancillary to the principal dwelling. This approach resolves many of the fundamental constraints related to the dependence upon the laneway as an access and servicing corridor, and instead recognizes the benefits of the laneway as a secondary access that provides a buffer between the typical rear yard to rear yard lot configuration.

### 1.4 Affordable Housing

These forms of secondary dwelling units can be used to house family, aging relatives or dependents, or rented out to provide a household income supplement. The regulations require these units to be smaller, both in height and area, than the principal dwelling, not require parking and be serviced from the public right-of-way at the front of the principal dwelling.

It should be noted that unlike a "granny suite" which by definition under the *Planning Act* must be wholly moveable and a temporary structure, secondary dwelling units would be

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permanent structures and be an investment opportunity, one that could provide a meaningful option to those residents challenged by housing affordability.

The proposed by-law modifications are considered to represent a meaningful way to address the supply of affordable rental housing in the City of Hamilton. While unlikely to cater to the need for housing families, the ability for this modest form of housing to address the shrinking rental market and provide more options within existing neighbourhoods is considered an important consideration. Given the size and location, the units may generate lower rental rates but be located close to many services – two important factors often desirable for those in search of affordable housing.

The provision may also assist with some of the pressures being experienced as a result of rising property values through the lower City. The ability to secure a secondary suite may provide a mechanism to create a revenue stream for the owner of the property, providing the option to either live in the principal dwelling and rent out the suite or, alternatively, rent out the principle dwelling and downsize to the new suite. Under either circumstance, additional opportunities would be provided which would allow residents who may be experiencing pressure to relocate and to remain within their neighbourhood.

Finally, the provisions proposed would also foster positive community building opportunities such as "aging in place" options, as well as opportunities for greater independence from those family members who are seeking separate accommodations but cannot afford to enter the formal market.

## **2.0 Geographic Considerations**

The proposed By-law Amendments would apply in the lower City only and more specifically as per Appendix "B" to Report PED16200(a) to residential areas zoned "C" (Urban Protected Residential, Etc.) District, or the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District.

The restriction of these provisions to this geographic area was based on the consistency in character of the laneway configuration exhibited in these Wards. In addition, it is noted these areas contained the necessary infrastructure and services that could successfully accommodate the proposed intensification. Although laneways exist within the suburban and rural areas of the City, the character of these laneways was less consistent and more diverse in form and function.

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2.1 West of Highway 403

The Secondary Suite provisions as proposed in Appendix "B" to Report PED16200(a) do not extend west of Highway 403. The intent of this provision is to avoid over-intensification of the residential neighbourhoods, understanding these areas are characterized by modest dwellings on modest lots and which have been placed under increased development pressures as a result of the proximity to McMaster University. These areas have subsequently been zoned with site specific regulations intended to address these matters. On this basis, consideration of infill opportunities within these areas was not considered appropriate without additional study of the specific characteristics and pressures currently experienced within these areas.

2.2 Downtown Hamilton

The provisions also do not include Downtown Hamilton, which is part of the Secondary Plan and Zoning By-law Amendment Update, which has recently been approved by City Council, and does not extend north of Burlington Street which is predominantly an industrial area.

Given the recent updates to the Downtown Zoning By-law and the added concern that the role of alley ways within the Downtown Secondary Plan Area are more often strategically utilized as assembled components of more comprehensive developments, this area was not included in the pilot project. Inclusion of it will, however, be considered through the future Residential Zoning Review.

**3.0 Zoning By-law Provisions**

3.1 Single Detached Dwelling

Additional secondary dwelling units would only be eligible for existing single detached dwelling lots and would not be permitted within maisonettes, semi-detached properties, multiple dwellings and townhouses. This requirement ensures appropriate intensification, and allows the City to monitor potential impacts from the pilot project prior to these permissions extending city wide.

Extending the provisions beyond single detached dwellings would require an Official Plan Amendment as Policy B.3.2.4.5 of the UHOP specifically identifies this as applicable to single detached dwellings only.

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### 3.2 Height and Area

To ensure the scale of laneway houses are modest and subservient to the scale and massing of the principal dwelling, restrictions to the height and area of the secondary dwelling unit are recommended. It is considered that the maximum height of 6m and Gross Floor area to 50 sq. m would ensure the ancillary residential unit would be comparable to the regulations that govern typical ancillary structures (See Appendix "C" to Report PED16200(a)).

### 3.3 Setbacks

The requirement to maintain a 7.5 m separation between the principal dwelling and the secondary unit would ensure sufficient amenity space is maintained for the main dwelling and that the lot is not overly intensified. Similarly, requiring the 1.2 m side yard setbacks allow for the built form to respect the existing configuration of built form as well as ensuring servicing such as swales are not detrimentally affected (See Appendix "C" to Report PED16200(a)).

### 3.4 Location of Fenestration

As discussed previously, requirements have been added to ensure loss of privacy and overlook are not generated. In particular, restricting second floor windows that could look into neighbouring private amenity areas is restricted. Second floor windows are only permitted facing the laneway, where due to the separation and existence of a public right-of-way, privacy expectations are less sensitive (See Appendix "C" to Report PED16200(a)).

### 3.5 Parking

As detailed in Appendix "A" to Report PED16200(a), additional parking will not be required for the new units created through the recommended provisions. It is considered that given the limited floor area (50 sq. m) of the unit and the fact that the unit would maintain access and relationship with the principal dwelling, demand for parking would be low. In those circumstances where parking is desired, informal use of the parking available for the principal dwelling could be utilized where available. It is noted that pressure may be placed for the front yard landscaping requirements of the principal dwelling to accommodate tenant parking. Where variances are sought to amend this requirement, such variances should not be supported.

The requirement to not have additional parking for the secondary unit also reduces the reliance on the laneway for vehicular access. Discussions regarding the precarious ability for these units to secure continued access in perpetuity to parking was

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highlighted in the previous staff report and, not requiring it as a provision within the recommended amendment would ensure those who do provide parking accessed from the laneway would not be placed in a position of non-conformity with the regulation should the laneway access be compromised in the future.

Finally, these units, as they would only exist on lots containing single detached dwellings, would be eligible for on-street parking permits, where applicable.

### 3.6 Site Plan Control

Under Section 8 of 15-176 of the Site Plan Control By-law, accessory buildings to single detached dwellings are not subject to the Site Plan.

It is not necessary to place these lands under site plan control to capture the review of these secondary dwelling units. It is considered that the proposed regulations are sufficient to address the continued functionality of the residential lots and those adjoining lots.

## **4.0 Financial Implications**

### 4.1 Development Charges

With respect to applicable Development Charges, it is noted that the current By-law does not specifically recognize the secondary suite as a separate item and instead, given that it is a separate structure, would be applied the rate of a single detached unit.

Given that this is more characteristically defined as a basement unit in an accessory structure it is considered that the applicable fee should be reviewed and assigned a lower rate. A recommendation has been made to identify secondary dwelling units within an accessory structure as a separately defined item within the future update to the Development Charge By-law to be brought forward in 2019.

### 4.2 Parkland

Based on the same rationale, as detailed above, it is recommended that secondary dwelling units adjacent to a laneway should be treated equal to that of any other units created through Section 19 conversion provisions and not be considered a separate new dwelling unit. This motion has been captured in the recent update to the Parkland Dedication By-law approved by Council in May, 2018 which established the same flat fee as an accessory apartment.

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#### 4.3 Taxation

Approval of secondary units will require Building Permits to be approved. As such, changes to the property's assessed value will be captured by the Municipal Properties Assessment Corporation and result in increased Municipal taxation. In addition, it is noted that rental housing is exempt from the capital gains shelter and subject to increased income tax.

### **5.0 Technical Considerations**

#### 5.1 Servicing

All servicing (water/sanitary/utilities) will be facilitated from the public road of the principal dwelling or extended directly from the principal dwelling lot, where appropriate. As previously identified, servicing within the laneway was identified as a significant constraint, one borne not only due to the limited width in which to accommodate all the required services, but also the cost and tenure of the laneway in which to secure servicing and access in perpetuity.

Following discussions with Building and Growth Management Division staff, it was noted that under the current Building Code requirements, servicing under the existing dwelling is not permitted. On this basis, in accordance with current engineering guidelines, a separate service is preferred; however, given the potential additional road cut costs that would be incurred, staff would be willing to review alternative options on a case-by-case basis, subject to conformity with applicable Building Code provisions.

#### 5.2 Fire Suppression

As part of the approvals process, the applicant would be required to demonstrate to the satisfaction of the City's Building Department that access and infrastructure such as hydrants are available to ensure any fire related issue can be safely and satisfactorily addressed. Matters such as the width of unencumbered access to the secondary unit, distance from the frontage of the property, and existing locations of hydrants would be matters addressed through this review.

#### 5.3 Severance Potential

It is not appropriate to permit separate title to the secondary unit to be established through severance. As detailed within this Report and previous Report (PED16200), full dependence on the laneway for access and servicing remains a significant constraint. It is not considered appropriate until such point as clear and effective reduced regulations can be approved for the servicing of reduced rights-of-way. In addition, the tenure of

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each entire laneway would need to be resolved to the extent that the laneways become assumed and officially maintained by the City of Hamilton. While this would secure in perpetuity the ability to provide access and offer the ability to service the laneway, it raises other fiscal and operational concerns from a Public Works perspective. While this will be continued to be reviewed, the alternative approach of maintaining a legal and functional relationship with the principal dwelling as proposed within this Report, would allow the possibility of securing smaller, more affordable rental units within the City.

## **6.0 Monitoring**

City Initiative CI-18-F is a pilot project intended to introduce a series of regulations that are to be comprehensively monitored to evaluate the impacts of regulatory changes on the built form and to assess the ease of administering the regulations. The monitoring program will be undertaken over an 18-24 month period as part of the residential zoning project.

## **7.0 Conclusion**

In conclusion, it is considered that the proposed amendment would provide a meaningful way to secure mild intensification, compact infill development and the potential to bolster declining rental options within the private market. Aspects such as character and amenity have been protected and enhanced through the recommended provisions.

## **8.0 Next steps**

It is noted that the proposed By-law changes represent part of a larger more comprehensive approach to innovative housing solutions within the City of Hamilton. Additional work will be required to review the potential for secondary dwelling units, and in particular, secondary dwelling units within accessory structures to be permitted City wide and, further, that the ability to sever and create small lot homes be explored.

## **ALTERNATIVES FOR CONSIDERATION**

- Option 1: Planning Committee / City Council could choose alternative performance standards.
- Option 2: Planning Committee / City Council could table this Report and direct any future changes to be included in the new residential zones for Zoning By-law No. 05-200.

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Option 3: Planning Committee / City Council could recommend the changes proposed not be approved. The existing conversion policies of By-law No.6593 would remain in effect.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.*

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Draft Zoning By-law Amendment to Zoning By-law No. 6593

Appendix "B" – Background Laneway Review

Appendix "C" – Relationship of Secondary Dwelling Units to Principal Dwelling

EJ:dt:mo

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**Authority:** Item [REDACTED]  
Planning Committee: June 19, 2018  
Report: 18-[REDACTED] (PED16200(a))  
CM: [REDACTED]

**Bill No.**

## CITY OF HAMILTON

### BY-LAW NO. 18-[REDACTED]

#### To Amend Zoning By-law No. 6593 Respecting Second Dwelling Units for Certain Lands Bounded by Highway 403, Burlington Street, Red Hill Valley and the Escarpment

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 18-[REDACTED] of the Planning Committee at its meeting held on the XX day of XX, 2018, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

- 1.0 That the following new Subsection be added to Section 19: Residential Conversion Requirements as follows:

**"(5) "C" and "D" Districts – Second Dwelling Unit on a Single Detached Dwelling Lot**

Notwithstanding anything contained in this by-law, a second dwelling unit on the same lot as a single detached dwelling may be constructed provided all the following requirements are met:

- (i) For the purpose of this Subsection, laneway shall mean a public highway or road allowance having a width of less than 12.0 metres;
- (ii) the lot shall contain a single-detached dwelling unit;
- (iii) the lot shall abut a laneway;
- (iv) Subsection (5) shall apply to lands zoned "C" (Urban Protected Residential, etc.) District and "D" (Urban Protected Residential-One and Two Family Dwellings, etc.) District and identified in Section 22 as Schedule P;
- (v) An accessory structure to the single detached dwelling legally existing at the date of the passing of this by-law {DATE} may be converted to a dwelling unit provided it meets all the following requirements:
  - (a) For any elevation not facing a laneway, windows and doors are permitted only on the ground floor or within a roof.
  - (b) it shall not exceed a gross floor area of 50 square metres, excluding any parking contained within the second dwelling unit.
  - (c) no parking shall be required.
- (vi) A second dwelling unit may be constructed on the same lot as a single detached dwelling unit provided it meets all the following requirements:
  - (a) the maximum height shall be 6.0 metres;
  - (b) it shall not be located in the required rear yard of the principal dwelling;
  - (c) it shall not be permitted in a front yard;
  - (d) A minimum 1.2 metre setback from a side and rear lot line shall be provided and maintained;
  - (e) For any elevation not facing a laneway, windows and doors are permitted only on the ground floor or within a roof;

- (f) it shall not exceed a gross floor area of 50 square metres, excluding any parking contained within the second dwelling unit; and,
  - (g) no parking shall be required.
2. That Section 22: Restricted Areas By-laws Repealed is amended by adding Schedule P.
  3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the *Planning Act*.

**PASSED and ENACTED** this \_\_\_\_ day of \_\_\_\_, 2018.

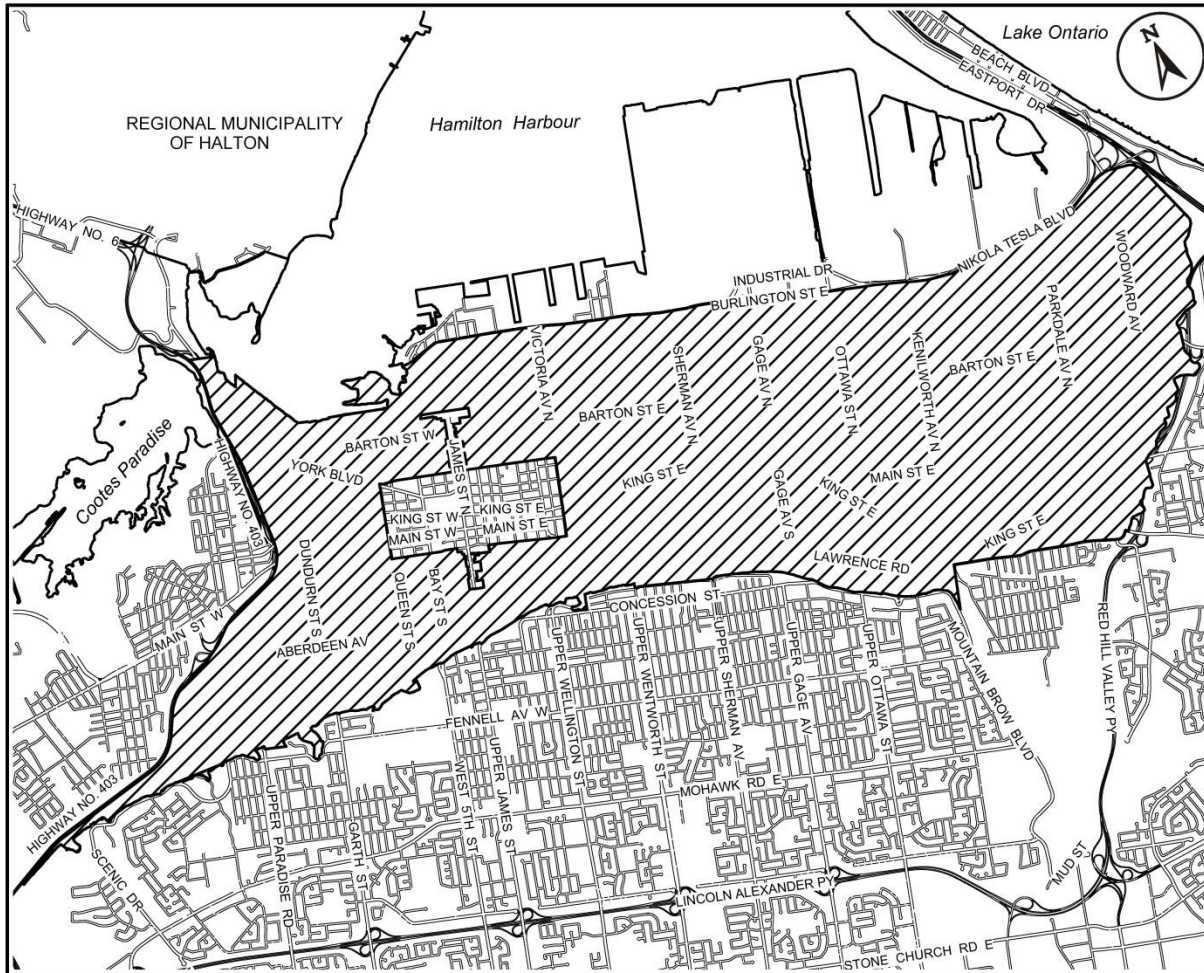
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F. Eisenberger  
Mayor

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R. Caterini  
Clerk

CI 18-F



This is Schedule "A" to By-law No. 18-  Passed the ..... day of ....., 2018	_____ Mayor  _____ Clerk
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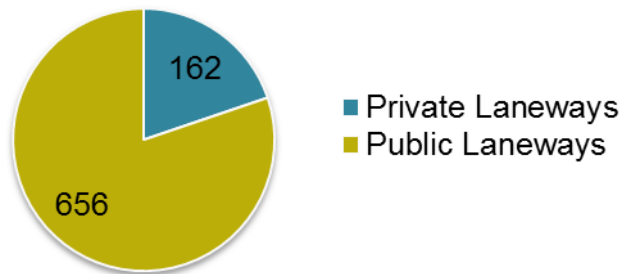
<h2>Schedule "A"</h2>  Map Forming Part of By-law No. 18-_____  to Amend By-law No. 6593	<b>Add to Section 22 Schedule P</b>  Geographical area where Secondary Dwelling units for properties adjoining a laneway are permitted
---	--

Scale: N.T.S.	File Name/Number: CI-18-F	
Date: May 17, 2018	Planner/Technician: EJ/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		Hamilton

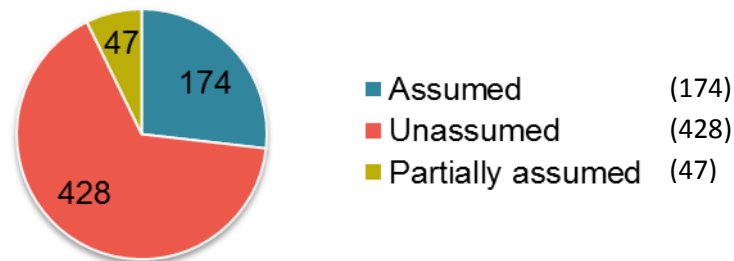
Laneway Overview

There are 818 laneways in the City of Hamilton. In total, there are approximately 100 kilometres and 38 hectares of laneways. Laneway widths range between three and four meters. The large majority of laneways are City-owned (656), while the remainder are privately owned (162) (see Figure 1). Of the publicly owned laneways, 174 are assumed, 428 are unassumed, and 47 are partially assumed laneways (see Figure 2).

**Figure 1 – Laneway Ownership in the City of Hamilton**



**Figure 2 – Laneway Assumption in the City of Hamilton**

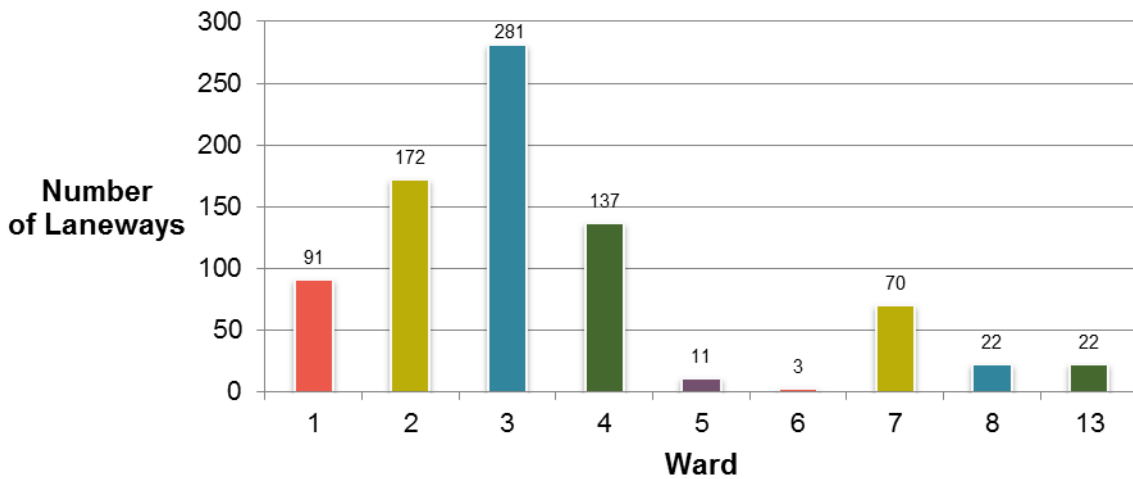


The majority of laneways are located in the lower city in the area bounded by Burlington Street to the north, Parkdale Avenue to the east, the Niagara Escarpment to the south, and Dundurn Street to the west (see Appendix "A" of Report PED16200). Ten percent of laneways are located within the Downtown Urban Growth Centre. Ward 3 contains the most laneways with 281 (34 percent of all laneways), followed by Ward 2 with 172 (21 percent), and Ward 4 with 137 (17 percent) (see Figure 3).

Laneways are also found in the upper city between Concession Street, Upper Gage Avenue, Fennell Avenue, and West 5<sup>th</sup> Street. A small pocket of laneways also exists in

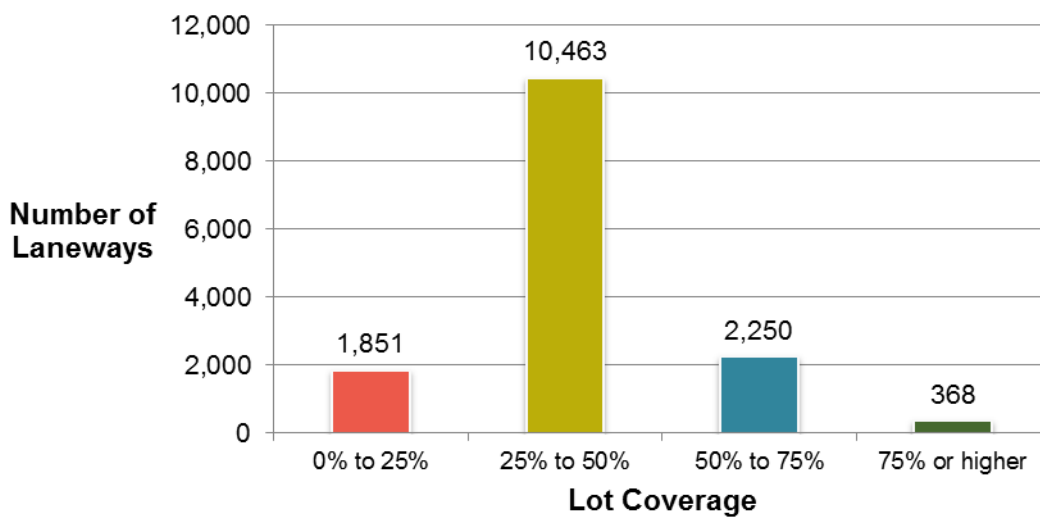
the upper city between Fennell Avenue, Upper James Street, South Bend Road West, and West 5<sup>th</sup> Street.

**Figure 3 – Location of Laneways in the City of Hamilton by Ward**



Approximately 15,435 properties in Hamilton abut laneways, 13,608 or 88 percent are currently used for residential purposes (see Appendix "B" of Report PED16200). Zoning for those existing residential units that abut a laneway vary, but are typically lower density zones.

**Figure 4 – Lot Coverage of Properties Abutting Laneways**



Laneway Housing



A laneway home is typically a small, detached home located at the centre of the block and fronting a laneway. Laneway homes are a form of secondary suite typically created through the conversion of an existing accessory building or new construction separate from the principal dwelling (see Figures 5 and 6 for examples of laneway homes in Hamilton).

**Figure 5 – 20 and 22 Wheeler Lane, Hamilton**



**Figure 6 – Fanning Street, Hamilton**



Many of the laneway homes in the City of Hamilton were originally built as outbuildings or carriage houses, but have since been adaptively reused to accommodate habitable space. There are approximately 70 known laneway homes in existence in the City of Hamilton, most of which are located in the lower city.

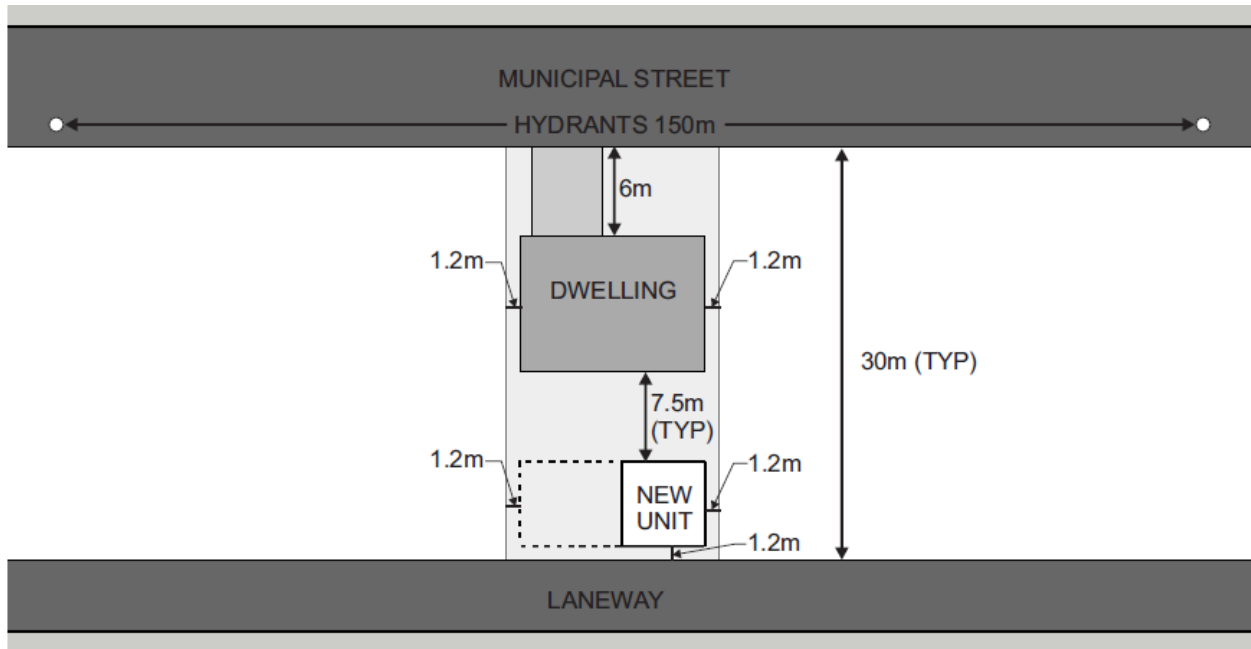
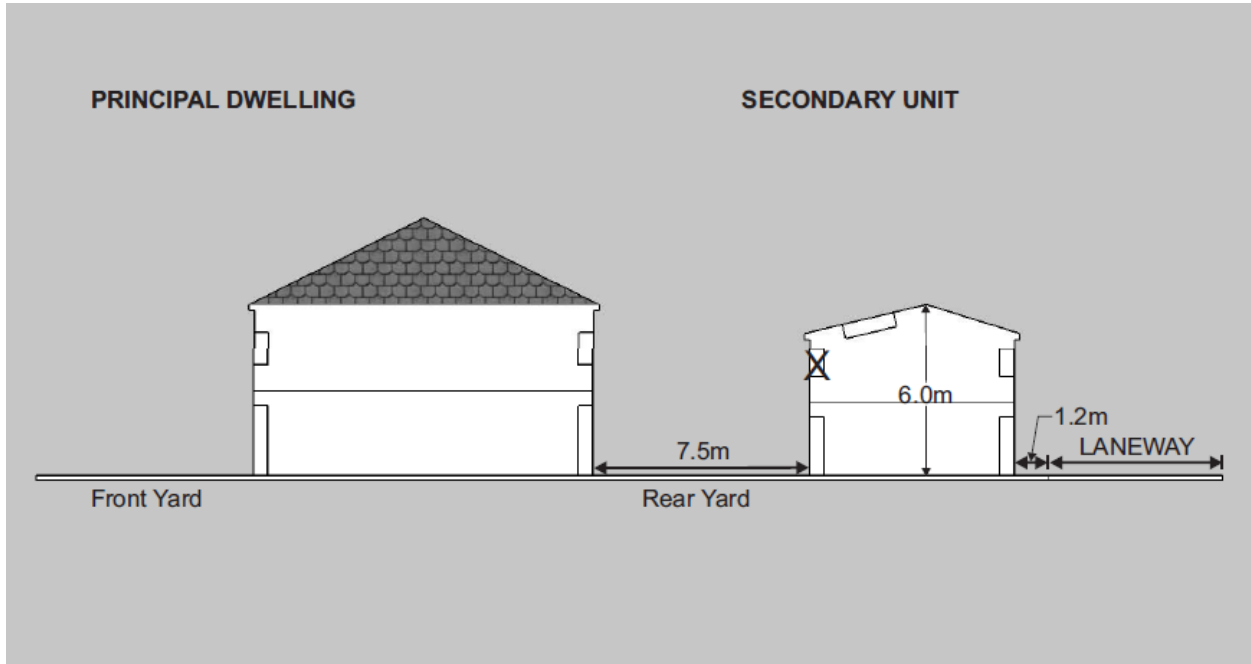
On the vast majority of abutting properties (10,463 properties), 25 to 50 percent of the lot is covered with a building or structure. Table 1 provides examples of setbacks and percent of existing building envelope for ten laneway homes that currently exist in Hamilton. Laneway house building envelopes are smaller than that of the principal dwelling unit, with the median percent of primary building envelope being approximately 41 percent. Front and side yard setbacks for laneway homes are also minimal (See Table 1).

The majority of laneway homes in Hamilton are non-complying and non-conforming uses with respect to the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law.

**Table: 1 Examples of Setbacks and % Building Envelope for Existing Laneway Homes in Hamilton**

	<b>Setback from Laneway (metres)</b>	<b>Combined Side Setback (metres)</b>	<b>Primary Dwelling Envelope (sq. meters)</b>	<b>Laneway House Envelope (sq. meters)</b>	<b>% of Primary Dwelling Envelope</b>
1	2.3	6.9	208	60	29%
2	0	4	136	54	40%
3	0	1.3	157	88	56%
4	0	8.8	162	56	35%
5	0	2.5	96	69	72%
6	0	11.2	294	122	41%
7	0.4	0.3	128	61	48%
8	0	5.3	204	66	32%
9	0.6	5.5	139	33	24%
10	0.8	0	97	73	75%
<b>Median*</b>	<b>0.6</b>	<b>4.65</b>	<b>148</b>	<b>63.5</b>	<b>41%</b>
<b>Average*</b>	<b>0.82</b>	<b>4.6</b>	<b>162.1</b>	<b>68.2</b>	<b>45%</b>

\*If more than one "zero" value occurred in a column, only one "zero" value was used to calculate median and average.





Hamilton

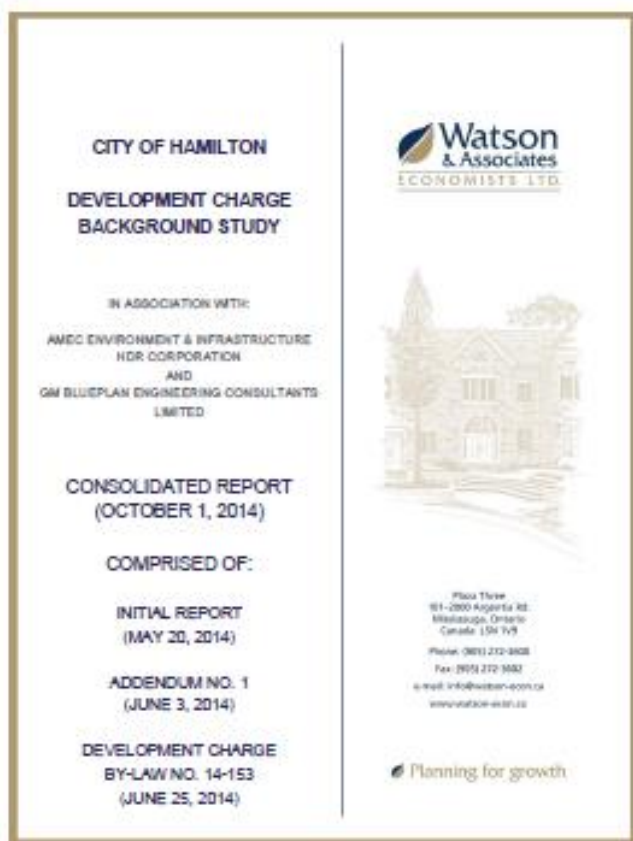
# 2019 DEVELOPMENT CHARGES – DRAFT DC BY-LAW POLICY RECOMMENDATIONS

Development Charges Stakeholders Sub-Committee  
February 19, 2019

- Schedule
- DC Background Study Components
- Motion
- Decisions Required
- Exemption Review (Appendix B to Report FCS18062(a))

2019 DC Background Study including draft 2019 DC by-law available to public	<b><u>Targeting March 18, 2019 or sooner (amended from March 25 )</u></b> Via website in advance of March 25 DC Stakeholders Sub-Committee
Public Meeting ad placed in newspaper(s)	<b>March TBD, 2019</b> <i>At least 20 days prior to the public meeting</i>
Public Meeting	<b>April 18, 2019</b> to be held at Audit, Finance and Administration Committee, and/or a separate evening session <i>at least two weeks after proposed background study and by-law are available to the public</i>
Council considers passage of by-law	<b>AF&amp;A – May 16, 2019 or June 6, 2019</b> <b>Council – May 22, 2019 or June 12, 2019</b> (Date dependent on outcome of the Public Meeting)  <i>No less than 60 days after the background study is made available to the public</i>
Newspaper and written notice given of by-law passage	<i>By 20 days after passage</i>
Last day for by-law appeal	<i>40 days after passage</i>
City makes available pamphlet (where by-law not appealed)	<i>By 60 days after passage</i>

# DC Background Study – Components



- Current City of Hamilton Policy
- Anticipated development in the City of Hamilton
- Development Charge calculation and eligible cost analysis by service
- DC Policy recommendations and DC By-law rules
  - definitions,
  - development charges, and
  - exemptions

- That staff provide comparators for agriculture DCs in surrounding municipalities - West Lincoln, Lincoln, Haldimand, Halton, Brantford, Brant County
  - Provided to Sub-Committee
- And that the entire draft DC Background Study be released ASAP
  - Schedule amended



# Decisions Required

1. Staff are requesting that draft DC Policy (Appendix B) be included in the DC Background Study to ensure its inclusion in the public consultation process
2. Staff be directed to prepare the necessary reports and draft by-laws to amend the City's GO Transit By-law 11-174
3. That a number of items be removed from Outstanding Business List (as they are complete)

# Exemption Review

## Appendix B to Report FCS18062(a)

# Guiding Principles

- A continued revitalization of Downtown Hamilton
- Commercial revitalization of all the City's Community Improvement Project Areas (CIPAs) and Business Improvement Areas (BIAs)
- Continued support for the City's Industrial Sector
- Promoting economic growth in the City's Office sector

# Summary of Proposed Exemption Changes Page 108 of 130

Exemption	High Level Recommendation	Annualized Cost
Parking Structure	Remove	\$ -
Covered Sports Field	Remove	\$ -
Small Industrial Rate	Remove	\$ -
Academic – Post secondary / Not-for- profit	Remove	\$ -
Affordable Housing	Remove	Alternate program
Places of Worship	Maintain	\$ 400,000
Public Hospitals	Maintain	\$ 5,000
Public Art	Maintain	\$ 180,000
Heritage Buildings	Maintain	\$ 150,000
Redevelopment for Residential Facility	Maintain	\$ 6,000
Industrial Rate	Maintain	\$ 2,600,000
Expansion of existing industrial (in excess of Act requirement)	Maintain	\$ 1,500,000
Transition Policy	Maintain	\$ 1,690,000
Student Residences	Modify	\$ 960,000
Agriculture	Modify	\$ 360,000
New non-industrial stepped rates	Modify	\$ 1,000,000
Expansion of existing non-industrial	Modify	\$ 160,000
Downtown Hamilton CIPA	Modify	\$ 3,250,000
Laneway Houses	Add	\$ 230,000
<b>TOTAL</b>		<b>\$ 12,491,000</b>

# Parking Structures

## Current Policy:

Parking garages and structures, including outdoor parking lots located at grade are 100% exempt from City DCs.

## DC Exemption Review Recommendation:

Continue to exempt parking structures which are associated with the development of, and serve the needs of, residential, mixed use or non-residential uses; charge DCs for other parking structures (e.g. standalone revenue generating parking facilities) – no requirement to fund other parking exemptions.

## Staff Recommendation:

**Remove** exemption, charge DCs for commercial parking.

## Alternative:

Continue to exempt all forms of parking.  
Estimated cost: \$4.0 M over 10 years.

Staff Recommended	Policy: Annualized Cost
-	-
-	-
-	-
-	-
Alternate	
	\$400,000
	\$5,000
	\$180,000
	\$150,000
	\$6,000
	\$2,600,000
	\$1,500,000
	\$1,690,000
	\$960,000
	\$360,000
	\$1,000,000
	\$160,000
	\$3,250,000
	\$230,000
	<b>\$12,491,000</b>



# Covered Sports Field

## Current Policy:

A covered sports field is 100% exempt from City DCs. Spectator and commercial areas are charged.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

Remove exemption, charge covered sports fields.

## Alternative:

Continue to provide an exemption to covered sports fields.  
 Estimated cost: \$0.9 M over 10 years.

Staff Recommended
Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
\$1,690,000
\$960,000
\$360,000
\$1,000,000
\$160,000
\$3,250,000
\$230,000
<b>\$12,491,000</b>



# Small Industrial Rate

## Current Policy:

For new industrial developments that are less than 10,000 square feet, the industrial rate is set at 75% of the effective non-residential industrial rate.

## DC Exemption Review Recommendation:

Not applicable.

## Staff Recommendation:

**Remove** exemption, do not provide a lower rate for small industrial developments.

## Alternative:

Continue to discount new industrial developments under 10,000 square feet by levying only 75% of the industrial rate.

Estimated cost: \$1.3 M over 10 years.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
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\$960,000
\$360,000
\$1,000,000
\$160,000
\$3,250,000
\$230,000
<b>\$12,491,000</b>



# Academic – Post Secondary / Not-for-profit elementary/secondary

## Current Policy:

Development of Academic Space is exempt from City DCs, save and except for the transit component of the City DC.

## DC Exemption Review Recommendation:

Remove exemption where permitted (Crown Agents exempt).

## Staff Recommendation:

Remove academic space exemption.

Require documentation from developer to support mandatory exemption as a Crown agent.

## Alternative:

Continue to charge only the Transit component of the DC for academic space.  
 Estimated cost: \$85.0 M over 10 years.

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Alternate
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\$1,000,000
\$160,000
\$3,250,000
\$230,000
<b>\$12,491,000</b>





# Affordable Housing

## Current Policy:

An affordable housing project that has been approved to receive other government funding, where funding is not provided for DC liabilities, is 100% exempt from City DCs.

## DC Exemption Review Recommendation:

It is recommended that a new affordable housing incentive program be developed that is outside the DC By-law.

## Staff Recommendations:

**Remove** exemption, do not exempt affordable housing within the DC By-law.


### AND

That Housing Services be directed to draft an **affordable housing grant program** prior to the passing of the 2019 DC By-law.

## Alternative:

Continue to exempt affordable housing in the DC By-law, edit wording to apply on a unit basis rather than a project basis.

Estimated cost: \$5.5 M over 10 years.

Staff Recommended Policy: Annualized Cost
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Alternate 
\$400,000
\$5,000
\$180,000
\$150,000
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\$3,250,000
\$230,000
<b>\$12,491,000</b>

# Places of Worship

## Current Policy:

A place of worship is 100% exempt from City DCs.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

Maintain exemption, clarify that revenue generating space is not exempt.

## Alternative:

Do not provide an exemption for places of worship.

Estimated cost: \$0

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
\$1,690,000
\$960,000
\$360,000
\$1,000,000
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<b>\$12,491,000</b>



# Public Hospitals

## Current Policy:

Development of a Public Hospital is exempt from 50% of the City DCs otherwise payable under the DC By-law.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

Maintain 50% exemption.

## Alternative:

Do not provide an exemption for public hospitals.

Estimated cost: \$0.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
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<b>\$12,491,000</b>



# Downtown Public Art Reserve voluntary contributions

## Current Policy:

Developments within the Downtown Hamilton CIPA are eligible to receive a dollar-for-dollar exemption for voluntary contributions made to the Downtown Public Art Reserve, to a maximum of 10% of the calculated City DC before CIPA exemption.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

**Maintain** exemption, place an annual limit of \$250K on the contributions that will be accepted by the City under this program.

## Alternative:

Remove exemption, budget annually through the City's budget process.  
Estimated cost: \$1.8 M over 10 years.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
\$1,690,000
\$960,000
\$360,000
\$1,000,000
\$160,000
\$3,250,000
\$230,000
<b>\$12,491,000</b>



# Heritage Buildings

## Current Policy:

Adaptive Reuse of Protected Heritage Properties is exempt from City DCs within the existing building envelope.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

**Maintain** exemption, within existing building envelope except for sections that are not covered by the Heritage designation.

## Alternative:

Do not provide an exemption for the Adaptive Reuse of Heritage Properties.  
Estimated cost: \$0.

Staff Recommended
Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
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<b>\$12,491,000</b>



# Redevelopment for Residential Facility

## Current Policy:

50% DC exemption where residential facility units are being added inside an existing residential building. 100% credit for previous residential facility units.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation: Maintain exemption.

## Alternative:

Do not provide any exemption for redevelopment for use as a residential facility. Estimated cost: \$0.

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Alternate
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# Industrial Rate

## Current Policy:

Industrial developments are only charged 100% of the water and wastewater and 65% of the services related to a highway components of the DC. This equates to a 39% reduction from the calculated rate.

## DC Exemption Review

### Recommendation:

Reduced rate exemption (39% reduction) should continue.

## Staff Recommendation:

**Maintain** exemption, continue with 39% reduction, by charging 100% of the water and wastewater and adjust the percentage charged for services related to a highway component to achieve a combined reduction of 39%.

## Alternative:

None.

State Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
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# Expansion of an existing Industrial development

## Current Policy:

An industrial development can expand, whether attached or detached, up to 50% of the existing gross floor area (gfa) on site each time a permit is issued. Any expansion in excess of the 50% calculation is charged the industrial rate.

## DC Exemption Review Recommendation:

Not applicable.

## Staff Recommendation:

Maintain the 50% Industrial expansion exemption as written in the current DC By-law.

## Alternative:

Require that industrial expansions be attached to an existing structure in order to receive 50% expansion exemption.

Estimated cost: \$0.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
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\$2,600,000
\$1,500,000
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# Transition Policy

## Current Policy:

The 2014 DC By-law phased in the DC rate increase, provided a one-time transition based on site plan application date and provides an annual transition based on permit application date.

## DC Exemption Review Recommendation:

No specific recommendation provided.

## Staff Recommendation:

Maintain the transition policy tied to building permit application.

## Alternative:

None.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
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\$6,000
\$2,600,000
\$1,500,000
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\$160,000
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<b>\$12,491,000</b>



# Student Residences

## Current Policy:

Development of a student residence by a university, college of applied arts, or other accredited post-secondary institution is exempt from 50% of the City DCs otherwise payable under the DC By-law.

## DC Exemption Review Recommendation:

Remove exemption.

## Staff Recommendation:

Maintain exemption until June 30 2020, then **remove** the 50% exemption effective July 1, 2020.

## Alternative:

Remove 50% exemption effective immediately.

Estimated cost: \$0.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
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<b>\$12,491,000</b>



# Agriculture

## Current Policy:

Agriculture, including farm help houses, is 100% exempt from DCs.

## DC Exemption Review

### Recommendation:

No specific recommendation provided.

## Staff Recommendations:

- **Do not exempt** farm help houses.
- Require a farm business registration number to receive the agriculture DC exemption.
- **Phased approach to the DC exemption for agriculture:**  
 July 6, 2019 – July 5, 2020 – 100% exemption  
 July 6, 2020 – July 5, 2021 – 75% exemption  
 July 6, 2021 – July 5, 2024 – 50% exemption
- **Redefine agriculture definition** to exclude cannabis growing and processing, charge the industrial DC rate.

## Alternatives:

1. Continue to exempt agriculture at 100%. Estimated cost: \$5.5 M over 10 years (\$2.8 M over five years). Direct staff to review increasing the farmland class tax ratio.
2. Do not define redefine agriculture to exclude cannabis growing and processing. Estimated cost: \$13.0 M over 10 years.

Staff Recommended	Policy: Annualized Cost
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	Alternate
	\$400,000
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	\$180,000
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	\$6,000
	\$2,600,000
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	\$230,000
	<b>\$12,491,000</b>



# New Non-industrial (Commercial/Institutional) stepped rates

## Current Policy:

- 1<sup>st</sup> 5,000 square feet pay 50% of calculated charge
- 2<sup>nd</sup> 5,000 square feet pay 75% of calculated charge
- 10,000+ square feet pay 100% of calculated charge

## DC Exemption Review Recommendations:

Non-industrial stepped rate DC exemption should be removed from non-office based commercial and institutional developments.

DC exemption should be maintained for office development, excluding medical office.

## Staff Recommendations:

**Continue** stepped DC rates for office, **excluding medical office.**

**Continue** stepped DC rates within the City's CIPAs and BIAs.

**Remove** stepped rates for all other development.

## Alternative:

Continue stepped rates for all non-industrial development.  
 Estimated cost: \$27.5 M over 10 years.

Staff Recommended Policy: Annualized Cost
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Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
\$1,690,000
\$960,000
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\$230,000
<b>\$12,491,000</b>



# Expansion of Existing Non-Industrial (Commercial/Institutional)

## Current Policy:

That the initial 5,000 ft<sup>2</sup> of gross floor area of an expansion be exempted, provided that the development did not receive the stepped DC rates in the past.

## DC Exemption Review Recommendation:

Remove non-industrial expansion exemption.

## Staff Recommendation:

**Continue** to provide a 5,000 ft<sup>2</sup> exemption for office, **excluding medical office**.

**Remove** exemption for all other non-industrial development.

## Alternative:

Remove non-industrial expansion DC exemption.

Estimated cost: \$0.

Staff Recommended Policy: Annualized Cost
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-
-
-
Alternate
\$400,000
\$5,000
\$180,000
\$150,000
\$6,000
\$2,600,000
\$1,500,000
\$1,690,000
\$960,000
\$360,000
\$1,000,000
\$160,000
\$3,250,000
\$230,000
<b>\$12,491,000</b>



# Downtown Hamilton CIPA

## Current Policy:

All development within the Downtown Hamilton CIPA receives a 70% exemption for all height that is within the heights that were approved with the Downtown Hamilton Secondary Plan.

## DC Exemption Review Recommendations:

Reduce CIPA exemption (phased approach). Continue to apply to residential, non-residential and mixed use development except for standalone major office development. Continue to provide 70% CIPA exemption for standalone major office developments (Class A) greater than 20,000 ft<sup>2</sup> gross floor area.

## Staff Recommendations:

**Continue** to provide 70% CIPA exemption for standalone major office developments (Class A - greater than 20,000 ft<sup>2</sup> gross floor area).

For other development within the **Phased approach to the Downtown Hamilton CIPA exemption:**

July 6, 2019 – July 5, 2020: 60% exemption  
 July 6, 2020 – July 5, 2021: 50% exemption  
 July 6, 2021 – July 5, 2024: 40% exemption

## Alternative:

A different phased approach could be used.

Year 1 – 50%, Year 2 – 40%, Year 3 – 30%, Year 4 – 20%, Year 5 – 10%

Estimated cost: \$10.1 M over five years

Staff Recommended	Policy: Annualized Cost
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Alternate	
	\$400,000
	\$5,000
	\$180,000
	\$150,000
	\$6,000
	\$2,600,000
	\$1,500,000
	\$1,690,000
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	\$360,000
	\$1,000,000
	\$160,000
	\$3,250,000
	\$230,000
	<b>\$12,491,000</b>



# Laneway Housing

## Current Policy:

None.

## DC Exemption Review Recommendation:

Not applicable.

## Staff Recommendation:

Exempt laneway housing.

## Alternative:

Do not provide an exemption for laneway housing.

Estimated cost: \$0.

Staff Recommended	Policy: Annualized Cost
-	-
-	-
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Alternate	
\$400,000	
\$5,000	
\$180,000	
\$150,000	
\$6,000	
\$2,600,000	
\$1,500,000	
\$1,690,000	
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\$3,250,000	
\$230,000	
<b>\$12,491,000</b>	



# Non-industrial uses charged industrial rate

## Current Policy:

Self-storage facilities and hotels are charged the industrial DC rate.

## DC Exemption Review

### Recommendation:

Not applicable.

## Staff Recommendation:

**Do not provide the industrial rate** for self-storage facilities or hotels.

**Provide the industrial rate for film,** production and artists studios.

**Estimated cost:** minor, able to be covered by existing allocation for reduced industrial rate.

## Alternative:

Only provide the industrial rate to industrial developments.

Estimated cost: \$0.



## Proposed Amendments

- ERASE
  - Formalize through DC Deferral
- DC Deferrals
  - Increase Staff authority to deal with extensions, podium developments and ERASE

## No Proposed Changes

- Temporary buildings
- Redevelopment/Demolition credits
- Indexing
- Demolition credit extensions



Hamilton

THANK YOU