



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

TO:	Chair and Members Development Charges Stakeholder Sub-Committee
COMMITTEE DATE:	June 14, 2018
SUBJECT/REPORT NO:	2019 Development Charges By-law Policy (FCS18062) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 2790
SUBMITTED BY:	Brian McMullen Director of Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the Downtown Hamilton Community Improvement Project Area Development Charge Exemption be set at 50% effective July 6, 2019 and be reduced 10 basis points annually thereafter, subject to the results of the independent incentive review;
- (b) That the annual indexing transition policy, Section 37 of By-law 14-153, not be included in the 2019 Development Charges By-law;
- (c) That the 2019 Development Charge By-law not contain phasing provisions for the specific policy changes in Recommendations (a) and (b) Report FCS18062.

EXECUTIVE SUMMARY

Staff is currently undertaking the 2019 Development Charge (DC) Background Study. The background study will calculate the DC per unit of residential and non-residential growth required to fund the City's capital requirements due to growth according to the terms permitted in the *Development Charges Act, 1997, as amended* (DC Act).

The City's DC By-law has always provided exemptions from the calculated DC in addition to the DC Act mandated exemptions for specific types of development. An incentive review is in progress to provide a third party, independent review of the existing incentives and their effectiveness in moving the City towards its vision and strategic goals. This review is anticipated to be completed towards the end of 2018 which provides sufficient time to incorporate the results into the 2019 DC By-law Policy. However, there are some policies, specifically the Downtown Hamilton Community Improvement Project Area (CIPA) DC Exemption, that require more notice than the independent review will be able to provide.

This Report intends to obtain direction on the future of the Downtown Hamilton CIPA DC Exemption and the annual indexing transition policy.

The Downtown Hamilton CIPA DC Exemption is an exemption that has been provided to encourage development in the Downtown Hamilton core. The current DC By-law provides annual reductions of five basis points. At the July 5, 2019 expiry of the current DC By-law, the exemption will be 70%. In order to allow developers to plan proposals and alleviate some of the uncertainty in the future, it is prudent to communicate the City's plan for the Downtown Hamilton CIPA DC exemption. Due to increases in development and unit sales prices over the past several years, staff is proposing that the Downtown Hamilton CIPA DC Exemption be set at 50% effective July 6, 2019 with an annual reduction of 10 basis points thereafter.

Staff is also recommending removing the annual indexing transition policy contained in Section 37 of the current DC By-law 14-153 which allows some building permits to pay the previous year's DC rates. The transition policy is unique to Hamilton and places an added pressure on the tax and rate payers.

Due to the length of notice being provided with the DC By-law Policy changes contained in Report FCS18062, staff is recommending that no phase-in of the changes be considered. A phase-in of significant changes has been provided in the past with the rationale that developers need time to adjust budgets, pro-forma financial statements and business plans for significant changes.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The recommendations in this Report do not have an immediate financial impact on the City.

The purpose of the Report is to provide advance notice of potential DC policy changes so that the development community can prepare for the changes.

Through the 2019 DC Background Study and independent review of DC exemptions, staff will prepare a financial strategy to fund all DC exemptions. The five year (2013 to 2017) total of unfunded DC exemptions, including the Downtown Hamilton CIPA DC exemptions, is \$66.5M.

The CIPA DC Exemption is provided to encourage development in the downtown. As the frequency of development proposals and building permit issuances increases in the Downtown CIPA, the cost to the City of providing the exemption also increases if the reduction does not keep pace.

The annual transition policy provides a reduced rate to developers who have applied for building permits prior to the annual indexation, places an added pressure on tax and rate payers and is unique to Hamilton.

Staffing: None.

Legal: None.

HISTORICAL BACKGROUND

Downtown Hamilton CIPA DC Exemption History

- The Downtown Hamilton CIPA was initially 100% exempted with the first post amalgamation DC By-Law (2004).
- In August 2008, the 100% exemption was maintained when the DC By-Law was updated following Council's endorsement of expanded CIPA borders.
- In February 2012, through Report FCS12015, the DC By-law was once again updated for a Council approved expansion to the CIPA borders and the DC exemption was decreased from 100% to 90%.
- In June 2014, through Report FCS14033, DC By-law 14-153 was passed and included the following:

Downtown Hamilton Community Improvement Project Area (CIPA) Exemption

Date	Percentage of Exemption (%)	Percentage of Development Charge Payable (%)
July 6, 2014 to July 5, 2015	90	10
July 6, 2015 to July 5, 2016	85	15
July 6, 2016 to July 5, 2017	80	20
July 6, 2017 to July 5, 2018	75	25
July 6, 2018 to July 6, 2019	70	30

- In June 2018, Council will consider releasing a DC Background Study that would limit the Downtown Hamilton CIPA DC Exemption to the maximum heights in the City's Downtown Hamilton Secondary Plan adopted by Council on May 9, 2018.

Annual Indexing Transition Policy History

The current DC By-law contains a transition policy related to the annual indexation of DCs (Section 37) as well as a transition policy for development with site plans that have been approved prior to May 1 in the year of the new By-law (Section 38).

Staff's recommendation is limited to the annual indexation transition (Section 37).

The annual indexation transition policy has been included in the DC By-law since amalgamation. The concept of a transition period with the annual indexation of the DC is relatively unique to Hamilton.

Other Policy

The following motions related to the DC Policy have also been put forward and will be addressed in a future report.

Agriculture:

May 25, 2016 Planning Committee, Item 9.1

- (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 fourth 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.

Affordable Housing:

May 23, 2018 Audit Finance and Administration Committee, Item 6.2

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

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The recommendations of Report FCS18062 provide the community with the City's intent to amend DC policy to be contained within the 2019 DC By-law.

Legislatively, a DC by-law must contain an express statement of any exemptions to be provided and a draft DC by-law must be released two weeks prior to its passing.

RELEVANT CONSULTATION

Economic Development, Planning and Economic Development Department

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Downtown Hamilton CIPA DC Exemption

Staff is recommending that Council endorse a change to the CIPA DC Exemption a year in advance of the new DC By-law being effective in order to provide developers with existing projects time to plan for the change and provide a sense of what new development applications in the CIPA they can expect in July 2019 and beyond.

Table 1 illustrates the current Downtown Hamilton CIPA DC Exemption rates and the recommended future rates based on the approval of Recommendation (a) of Report FCS18062.

Table 1 – Current and Recommended CIPA DC Exemption

Period	% of Exemption	% DC Payable
Current		
July 6, 2017 – July 5, 2019	75	25
July 6, 2018 – July 5, 2019	70	30
Recommended		
July 6, 2019 – July 5, 2020	50	50
July 6, 2020 – July 5, 2021	40	60
July 6, 2021 – July 5, 2022	30	70
July 6, 2022 – July 5, 2023	20	80
July 6, 2023 – July 5, 2024	10	90
July 6, 2024 and future	0	100

The Downtown Hamilton CIPA DC Exemption commenced an annual 5% reduction in 2015. Table 2 shows that even with a reduction in the exemption, an increase in development has increased the cost of providing the exemption year over year.

Table 2 – History of Downtown Hamilton CIPA Development

Year	# of Dwellings	# of Non-Res (Sq.Ft.)	Value of DC Exemption
2015	165	1,721	\$1,118,464
2016	325	8,084	\$4,891,965
2017	359	217,395	\$5,820,647

The market justification to reduce the exemption, provided by Planning and Economic Development, comes from evidence which shows that increased demand and the resultant increased multi-residential unit prices in the downtown have partially offset the need for the DC exemption. This trend suggests that the City can begin to reduce its incentive / subsidy for the downtown CIPA. Specifically, condominium sales have greatly increased over recent years, both in numbers of starts and the prices achieved. In 2011, the average selling price for the very few condos on the market was below \$300 per square foot. In 2015, the units were achieving prices of around \$400+ per square foot. Currently, the units are achieving prices of around \$500 per square foot. Although these prices are still far below Toronto prices (as are the development cost parameters), there is an increased ability for developers to earn a fair rate of return on their investment with a reduced DC exemption. There is also the recurring issue of fairness to other developers who are just outside of the CIPA boundaries and receive no DC exemption.

Residential unit assessments in the Downtown Hamilton CIPA will vary depending on the unit size and other factors. For information, a residential condo unit in the Downtown Hamilton CIPA assessed at \$300,000 will pay \$3,276 in municipal property taxes in 2018. A unit assessed at \$500,000 will pay \$5,460 in municipal property taxes in 2018. Apartment units realize a significantly smaller increase in property taxes.

Financially, the reduction in the DC exemption reduces the foregone DC revenues and consequential pressure on the property tax and rate payers to fund the exemptions by holding the developers responsible for a greater share of the DCs.

A balance needs to be met between encouraging development in the Downtown Hamilton CIPA and the cost of providing that incentive on the existing tax and rate payers. The recommended 10% annual reduction in the Downtown Hamilton CIPA DC Exemption recognizes that development is increasing in the CIPA and plans for a controlled phasing out of the exemption.

With the 2014 DC Background study, the reduction in the Downtown Hamilton CIPA DC Exemption was delayed one year from the implementation date of By-Law 14-153 in order to provide the developers with advance notice of the change and to allow developers to plan for the resultant increase in fees. Due to the advance notice being provided for the intended change in the 2019 DC By-law, staff is recommending that no phase-in of the change be considered.

An independent incentive review is underway. Any recommendations that arise out of this review will be considered in the final policy included in the 2019 DC By-law. Should the review suggest that the Downtown Hamilton CIPA DC Exemption cannot be reduced to 50%, then staff will support and recommend the independent review recommendation. Should the review suggest that the exemption can be set at a lower percentage, then staff will bring the recommendation to Council and explore phasing options, if appropriate, depending on the magnitude of the difference.

Annual Indexing Transition Policy

Sections 37 and 38 of DC By-law 14-153 provided below are the transition policies.

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.

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.

The staff recommendation is limited to Section 37. Staff is not making a recommendation on Section 38 at this time because unlike Section 37, it is effectively a phase-in policy that is more appropriately addressed alongside any other phase-in discussions.

Staff is recommending removing the annual indexing transition in Section 37 of DC By-law 14-153. The reason staff is recommending removal of this exemption is because it is not a targeted exemption, it is not a common practice and it is a burden on the tax and rate payers.

In 2018, the annual indexing transition policy will cost the City \$1,149 per single family dwelling and \$0.60 per square foot of non-residential space. In 2017, the annual indexing transition policy cost the City \$533,585.

**Table 3
Other Municipalities and Date of DC Calculation**

Municipality	DC Calculated as at date of:
Brantford	permit issuance
Burlington	permit issuance
Cambridge	permit issuance
County of Brant	permit issuance
Guelph	permit issuance
London	permit application
Milton	permit issuance
Niagara Falls	permit issuance
Niagara Region	permit issuance
Oakville	permit issuance
Ottawa	permit issuance
Oxford County	permit issuance
Vaughn	permit issuance
Welland	permit application provided the permit is issued by March 1 (indexing on January 1)
West Lincoln	permit issuance
Woodstock	permit issuance
York	permit issuance

Table 3 shows other municipalities and the calculation date identified in their by-laws for payments linked to building permits. Note that some municipalities have partial payments due at subdivision agreement and the balance due at permit issuance. With the exception of London, who calculates as the application date for all permits, only Welland had a similar provision to the City's current practice. Welland provides a two-month transition period compared to the City's existing six-month period.

The annual indexing transition policy is not specifically targeted to any one of the City's strategic priorities and therefore, staff recommends removing the policy to enable exemption funding to be strategically applied to the incentives that the independent incentive review determines are necessary for the achievement of the City's Strategic Plan.

ALTERNATIVE FOR CONSIDERATION

Alternative: Delay decisions regarding policy changes until the results of the independent incentive review are available

Financial: There is no immediate financial impact to the City.

Staffing: None.

Legal: None.

Pros: Would be able to support policy changes with the recommendations from an independent review.

Cons: The results of the independent review will not be available until late 2018. The uncertainty related to the Downtown Hamilton CIPA Exemption may be a frustration to the development community. A future phase-in of any reductions in the Downtown Hamilton CIPA Exemption will place pressure on tax and rate payers.

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.

Built Environment and Infrastructure

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

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

None.

LG/dt