



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
*Economic Development Division*  
*and*  
**CORPORATE SERVICES DEPARTMENT**  
*Financial, Planning, Administration and Policy Division*

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	June 11, 2018
<b>SUBJECT/REPORT NO:</b>	City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	(City Wide)
<b>PREPARED BY:</b>	Edward John (905) 546-2424 Ext. 2359 Lindsay Gillies (905) 546-2424 Ext. 2790
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURES:</b>	
<b>SUBMITTED BY:</b>	Mike Zegarac General Manager Finance and Corporate Services
<b>SIGNATURES:</b>	

**RECOMMENDATIONS**

- (a) That Report PED18093 / FCS18054 be recognized as a DC Background Study under Section 10 of the *Development Charges Act, 1997, as amended*, for the purpose of providing background for amending policy of the existing Development Charge By-law 14-153;
- (b) That the approval of Report PED18093 / FCS18054 be considered the Public Release of the DC Background Study as required by Section 10 (4) of the *Development Charges Act, 1997, as amended*;

**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 2 of 13**

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- (c) That the August 15, 2018 Audit, Finance and Administration Committee meeting be designated a public meeting as required under Section 12 (1) (a) of the *Development Charges Act, 1997, as amended*;
- (d) That the City Clerk be directed to provide appropriate notice of the Public Meeting in accordance with Section 12 (1) (b) of the *Development Charges Act, 1997, as amended*;
- (e) That staff be directed to prepare an amending by-law for consideration following any and all public delegations at the August 15, 2018 Public meeting;
- (f) That Item BB respecting amendments to the Downtown Community Improvement Plan be identified as complete and removed from the Planning Committee Outstanding Business List.

## **EXECUTIVE SUMMARY**

On May 9, 2018, Council approved the update to the Downtown Secondary Plan and Zoning By-law. The update provided a clear vision of Downtown Hamilton intended to guide all future development proposals. The purpose of this Report is to present proposed amendments to the Development Charges (DC) By-law and highlight recently approved amendments to the Parkland Dedication By-law with respect to the exemptions provided through the Downtown Hamilton Community Improvement Project Area (CIPA). These amendments are intended to reinforce and protect the newly articulated Council approved vision of Downtown Hamilton. They are as follows:

- Publish Report PED18093 / FCS18054 as a Background Study for the purpose of amending the DC By-law to ensure only those portions of a development that do not exceed Schedule F – Figure 1 of Zoning By-law 05-200 Respecting Downtown Zones are eligible for exemptions; and,
- Highlight the recently amended Parkland Dedication rate to ensure that only those portions of a development that do not exceed Schedule F – Figure 1 of Zoning By-law 05-200 Respecting Downtown Zones (as adopted by Council on April 25, 2018) are eligible for reduced rates.

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 12***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The financial impacts of the recommended alignment of CIPA DC and Parkland incentives with the City's Downtown Secondary Plan and Zoning By-law will result in a potential increase in the amount of these fees collected from developers versus current policy. By aligning the incentives with the Council articulated vision it ensures that the existing tax and rate payers do not experience an increased financial responsibility for incentives outside of the articulated vision.

Through the 2019 DC Background Study and comprehensive 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 \$66.5 M.

**Staffing:** None.

**Legal:** Subsection 28 (7) of *The Planning Act* permits a municipality, in accordance with a Community Improvement Plan, to determine loans and grants which would otherwise be prohibited under Sub-section 106(2) of *The Municipal Act*, to the registered owners, assessed owners, tenants, or their respective assignees, of lands and buildings within the designated Community Improvement Project Areas.

Report PED18093 / FCS18054 functions as the background study required by the *Development Charges Act, 1997, as amended* ("DC Act") to be released at a minimum of 60 days prior to the passing of any new or amended DC by-law. In order to amend a DC By-law there are other legal responsibilities such as holding a public meeting and providing notice of said public meeting.

## **HISTORICAL BACKGROUND**

At the Council meeting of January 24, 2018, Council approved the following Motion:

"That staff be directed to report back on the feasibility of limiting Development Charge reductions, Parkland Dedication Fee reductions, or any Community Improvement Plan (CIP) incentives to the regulated height and density restrictions of the Council adopted Official Plan and / or Zoning By-law with full fees to be applied to all height and density that surpass the restrictions."

On May 9, 2018 Council approved the update to the Downtown Secondary Plan and Zoning By-law. The update provided a clear vision of Downtown Hamilton intended to guide all future development proposals. The Downtown Secondary Plan and Zoning By-law place height restrictions in the downtown, density is not specifically limited and therefore restrictions related to density are not feasible based on the approvals from the May 9, 2018 Council meeting.

In light of the recently approved new vision of the Downtown and in response to the Council Motion, this Report recommends amending one of the most significant incentives directed towards stimulating residential development – Development Charge exemptions, to ensure they reinforce the newly articulated vision of Downtown Hamilton.

It should be noted that Parkland Dedication rates were amended in a similar approach through report PED18105, which was subsequently approved by Council on May 23.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Downtown Secondary Plan and Zoning By-law**

In a significant update to the existing Downtown Secondary Plan and Zoning By-law approved by Council on April 25, 2018, specific height limits were established for the entire downtown area.

The proposed heights in the Downtown Secondary plan were carefully assessed by evaluating numerous design approaches and considerations such as shadowing and pedestrian experience. This review resulted in a detailed and responsive height schedule that forms part of Zoning By-law 05-200 (Schedule “F” Figure 1 of Zoning By-law 05-200 attached as Appendix “A” to Report PED18093 / FCS18054).

Based on the extensive review and public consultation process in creating the Downtown Secondary Plan, it is considered prudent that incentives be tailored to ensure they do not undermine the vision of growth. To do this, development beyond that envisioned within the updated policy environment should not be eligible for financial incentives. The exemptions for both DCs, through this Report, and Parkland, through the May 2018 Report PED18105, are to be capped at the Council approved heights (Appendix “A” to Report PED18093 / FCS18054), subsequent amendments that may occur to the Zoning By-law 05-200, either through Local Planning Appeal Tribunal decisions or Council approved site specific modifications, would not change the eligibility of exemptions.

**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 5 of 13**

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Bonusing under Section 37 of the *Planning Act* is also included in the Downtown Secondary Plan. Limiting the DC CIPA Exemption to the Council approved Zoning By-law heights aligns with the introduction of utilizing Section 37 Bonusing provisions under the *Planning Act*. Section 37 provides a municipality the right to request the provision of community benefits where the City authorizes development beyond those permitted as of right in the Zoning By-law. The purpose of the DC exemption is to incentivize development according to the City's articulated vision.

#### Development Charges By-law Amendment

Report PED18093 / FCS18054 would function as a background study for the purpose of amending the existing policy contained within DC By-law 14-153 which is attached for reference as Appendix "C" to Report PED18093 / FCS18054. The background study is required to be public for a minimum of 60 days before Council may pass the amendments.

There must be at least one public meeting prior to passing the amendments. Staff, including the City Clerk's Office, will work to meet the legislative requirements and finance staff will bring a report to the August 15, 2018 Audit, Finance and Administration Committee meeting which could amend the existing DC By-law. A draft of the By-law amendment has been included as Appendix "B" to Report PED18093 / FCS18054.

Section 19 of the DC Act requires that Sections 10 through 18 of the DC Act be applied to an amendment of an existing DC By-law. Section 10 requires a background study with some prescribed detail. The by-law amendments being considered, namely changes to the Downtown CIPA exemption policy, impact only the by-law and do not necessitate a change to the growth forecast, capital costs or calculation of the quantum as prepared by Watson & Associates Economists Ltd. through the detailed work in the 2014 DC Study. The full document can be accessed on the Development Charges Overview webpage on [www.hamilton.ca](http://www.hamilton.ca).

Watson & Associates Economists Ltd. have reviewed potential amendments and have confirmed that Report PED18093 / FCS18054 meets the requirements of a background study. The confirmation from Watson & Associated Ltd. is included as Appendix "D" to Report PED18093 / FCS18054.

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

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**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 6 of 13**

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**Table 1: DC Act Requirements of What is to be Included in a Background Study**

Section		Applicability to amendment
10 (1)	Before passing a development charge by-law, the council shall complete a development charge background study	Report PED18093 / FCS18054 is the background study.
10 (2)	The development charge background study shall include,	
	(a) the estimates under paragraph 1 of subsection 5 (1) of the anticipated amount, type and location of development;	The estimate of the anticipated amount, type and location of development considered in the original 2014 Development Charges Background Study which was used in the calculation of DC rates for the current DC By-law has not materially changed as a result of the amendment proposed. A full review and update will occur with the replacement by-law due to be in place prior to expiry of DC By-law 14-153.
	(b) the calculations under paragraphs 2 to 8 of subsection 5 (1) for each service to which the development charge by-law would relate;	The calculations under paragraphs 2 to 8 of subsection 5 (1) for each service to which the development charge by-law relates in the original 2014 Development Charges Background Study which was used in the calculation of DC rates for the current DC By-law has not materially changed as a result of the amendment proposed. A full review and update will occur with the replacement by-law due to be in place prior to expiry of DC By-law 14-153.
	(c) an examination, for each service to which the development charge by-law would relate, of the long term capital and operating costs for capital infrastructure required for the service;	The long term capital infrastructure and operating costs for capital infrastructure required for each service work performed in the original 2014 Development Charges Background Study which was used in the calculation of DC rates for the current DC By-law has not materially changed as a result of the amendment proposed. A full review and update will occur with the replacement by-law due to be in place prior to expiry of DC By-law 14-153.

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**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 7 of 13**

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Section		Applicability to amendment
10 (2) Cont'd	(c.1) unless subsection 2 (9) or (11) applies, consideration of the use of more than one development charge by-law to reflect different needs for services in different areas;	While not a requirement when the original 2014 Development Charges Background Study was published, any work related to area specific charges would not be materially changed as a result of the amendment proposed. A full review and update will occur with the replacement by-law due to be in place prior to expiry of the current by-law.
	(c.2) an asset management plan prepared in accordance with subsection (3); and	<p>While not a requirement when the original 2014 Development Charges Background Study was published, the impact on any work related to asset management plans would not be materially changed as a result of the amendment proposed.</p> <p>This amendment does not involve the addition of any capital projects or changes to the cost of any capital projects included in the 2014 Development Charges Background Study. Further, it will not increase any operating costs for any new infrastructure to be funded, in part, from development charges.</p> <p>A full review and update will occur with the replacement by-law due to be in place prior to expiry of the current by-law.</p>
	(d) such other information as may be prescribed	No other information has been prescribed to date

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**Table 2: Schedule of Dates for the DC By-law Amendment Process**

Background Study and proposed by-law amendment available to public	June 11, 2018
Public Meeting ad placed in newspaper(s)	July 2018 At least 20 days prior to the public meeting
Public Meeting	August 15, 2018
Council considers passage of by-law	AF&A – August 15, 2018 Council – August 17, 2018  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

## **RELEVANT CONSULTATION**

Legal Services Division, Corporate Services Department  
Watson & Associates Economists Ltd.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The Downtown Secondary Plan review process included a comprehensive evaluation, assessment, and update of the vision, goals, objectives, policies and mapping of the Downtown Hamilton Secondary Plan and implementing Zoning By-law. The revised Secondary Plan builds upon the vision and policies of “Putting People First”, the existing Secondary Plan for Downtown Hamilton, while providing updated direction for development and change. Updates to the policies of the Secondary Plan reflect current Provincial land use policy direction as well as existing conditions and changes that have occurred since the Plan’s adoption in 2001.

The Secondary Plan review process included an extensive process of public consultation with the community. Key participants in the consultation process included the City’s Technical Advisory Committee (TAC), the Downtown Hamilton Community Liaison Committee (CLC), and stakeholders (Hamilton Advisory Committee for Persons with Disabilities, BIAs, Arts community, Chamber of Commerce), the City’s Development Industry Liaison Group and Design Review Panel. These meetings provided opportunities for technical input, community discussions and feedback related to the Secondary Plan review. In addition to these meetings, the study team met with other various stakeholders in informal meetings to discuss the updates to the Plan.

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**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 9 of 13**

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Given the extensive consideration provided within the approved documents and in response to the Motion approved by Council, staff reviewed the potential for amending current City of Hamilton Financial Incentives to ensure they aligned and reinforced the newly articulated vision.

Table 3 represents the requirements of DCs and Parkland dedication rates for Downtown Hamilton CIPA without and with the current downtown exemptions.

**Table 3: Full City Requirements of DCs and Downtown Parkland Dedication (Cash-in-lieu) Rates**

	One-Bedroom Apartment	Two-Bedroom Apartment
City DC (rate as of July 6, 2018)	\$16,277.00	\$23,396.00
Parkland Dedication (cash-in-lieu)	\$17,422.00 (Avg. per unit)	\$17,422.00 (Avg. per unit)
<b>Total Full Requirement</b>	<b>\$33,699.00</b>	<b>\$40,818.00</b>
Downtown DC Rate (rate as of July 6, 2018)	\$4,883.10	\$7,018.80
Parkland Dedication (cash-in-lieu)	\$1,161.00 (Avg. per unit)	\$1,161.00 (Avg. per unit)
<b>Total Downtown with exemptions</b>	<b>\$6,044.10</b>	<b>\$8,179.80</b>

The DC By-law currently provides a 75% exemption which will be reduced to 70% effective July 6, 2018. Table 3 has been prepared using the July 6, 2018 rates and the 70% exemption that will be in effect at that time. The current DC By-law expires on July 5, 2019 and any changes to the Downtown CIPA DC exemption will be implemented through the DC Background Study and By-law process.

With regard to Parkland Dedication, generally when a property is developed or redeveloped, a certain amount of land for parkland, or other recreational facilities, must be set aside for public use. This assists with the number of public parks available to serve the City.

**SUBJECT: City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (PED18093 / FCS18054) (City Wide) - Page 10 of 13**

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Obtaining parkland is a City priority. However, in certain cases, where the City does not find the land to be desirable for parkland or where not feasible, cash-in-lieu of parkland conveyance or a combination of land and cash may be accepted. City Council, at its meeting held on September 9, 2015, reduced Parkland Dedication Fees for an 18-month period as follows:

- i) A maximum land dedication of five percent of the Net land area, or cash-in-lieu thereof, will apply to a maximum of six apartment dwellings above a commercial use and street townhouses fronting on a public street where such developments are not part of a registered plan of subdivision;
- ii) If a second dwelling unit is added in an existing single detached dwelling, a cash-in-lieu flat fee of \$500 applies; and,
- iii) Where additional dwelling units are created within a building “designated” under the *Ontario Heritage Act*, a cash-in-lieu flat fee of \$500 per unit applies.

In addition, Council established a \$7,500 cap on the per-unit Parkland Dedication fee and indexed for inflation as it relates to densities of 300 units per hectare or greater. By-law 09-124 was also amended in order to delete a schedule and replace it with the Downtown Hamilton CIPA boundary. Therefore, the parkland dedication reduction of five percent of the Net land area, or cash-in-lieu thereof, applies to residential development regardless of density in the entire Downtown Hamilton CIPA rather than the Urban Growth Centre only.

It is noted that DC exemptions and Parkland reductions as detailed above represent the most attractive incentives available to the development industry with respect to providing upfront financial assistance. As such, while it is noted that a comprehensive review of these matters is underway, it is considered prudent to implement immediate measures to ensure that financial incentives are limited to not incentivizing development that is contrary to the updated downtown policy documents.

It is therefore the opinion of staff that in order to further augment the updated and clear articulation of the vision for growth of the Downtown, the alignment of the Development Charge Exemptions and Parkland Dedication to this vision will serve to reinforce and protect the vision of the Downtown.

In order to achieve this, this Report recommends that only development consistent with the Council approved policy vision for the Downtown CIP be eligible for Development Charge exemptions. In those instances whereby development is proposed beyond that contemplated through Schedule “F” Figure 1 of Zoning By-law 05-200 (attached as Appendix “A” to Report PED18093 / FCS18054), Development Charge exemptions shall not be available to that portion of the proposal beyond the height articulated within the Zoning By-law Schedule.

Similarly, as detailed in the May 15 2018 Report PED18105 compiled by Real Estate, Parkland Dedication rates for any portion of the proposed development in excess of the height contemplated in Schedule “F” Figure 1 of Zoning By-law 05-200 (attached as Appendix “A” to Report PED18093 / FCS18054) be applied at an unreduced rate.

The exemptions for both DCs, through this Report, and Parkland Dedication, through the May 2018 Report PED18105, are to be capped at the Council approved heights, subsequent amendments that may occur to the Zoning By-law 05-200, either through Local Planning Appeal Tribunal decisions or Council approved site specific modifications, would not increase the eligibility of exemptions.

Therefore, units constructed above the height articulated in Schedule “F” Figure 1 of Zoning By-law 05-200 (attached as Appendix “A” to Report PED18093 / FCS18054) will be charged the full City rate for DCs and Parkland Dedication as illustrated in Table 3. Specifically, the developer will be required to pay the full City rate approximated at \$33,699.00 versus \$6,044.10 for a one-bedroom unit exceeding the height limits with these amendments.

#### Other Incentives

It is noted that the initial Council Motion spoke to other potential incentives that may be amended in a similar approach to the Development Charge Exemptions and Parkland Dedication rate. Staff however does not recommend amending these programs for a number of reasons which are as follows:

- 1) Complexity – programs such as the Tax Increment Grant are calculated holistically and to pro-rate the figure based on which portions are within the vision versus those that are beyond the vision would be cumbersome and difficult to quantify accurately.
- 2) Consistency – It is recognized that unlike the Development Charge Rebate Program and the flat 5% parkland fee which are exclusive programs to the Downtown, the other Incentive Programs are standard and identical throughout other CIP areas.

## **ALTERNATIVE FOR CONSIDERATION**

Alternatively, Council could not take any action at this time. Under this alternative staff would utilize the background information contained within PED18093 / FCS18054 with the 2019 DC Background Study and any resulting change to the DC CIPA policy would be determined at a later date.

Finance: The current DC CIPA exemption policies would be applied and DCs charged and collected according to those policies.

Staffing: None

Legal: None

Pros: Developers would have additional time to adjust their budgets for development in excess of the current heights identified in Appendix “A” to Report PED18093 / FCS18054.

Cons: The City would be responsible providing exemptions for any development in excess of the City’s articulated vision in the Downtown Hamilton CIPA which effectively becomes a burden on the existing tax and rate payers.

## **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 – Zoning By-law 05-200 Height Schedule

Appendix B – Draft Development Charges By-law Amendment

Appendix C – DC By-law 14-153

Appendix D – Memo from Watson & Associates Ltd.

EJ/LG/dt