



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

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

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;

- (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

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.

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.

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.

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:

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.

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).

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.

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