



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

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 3, 2021
SUBJECT/REPORT NO:	2019 Development Charges Amending By-law and Background Study Update (FCS21048) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shivon Azwim (905) 546-2424 Ext. 2790 Alexandra Di Domenico (905) 546-2424 Ext. 1434 Lindsay Gillies (905) 546-2424 Ext 5491
SUBMITTED BY: SIGNATURE:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department

RECOMMENDATION(S)

- (a) That the Development Charges Update Study prepared by Watson & Associates Economists Ltd. and dated March 5, 2021, attached hereto as Appendix "A" of Report FCS21048, be approved;
- (b) That, having considered the matters in Report FCS21048 including the changes incorporated into the 2019 Development Charges Amending By-law, attached hereto as Appendix "B" of Report FCS21048, no further meeting under s. 12 of the *Development Charges Act, 1997* is required;
- (c) That Appendix "B" attached to Report FCS21048 respecting the 2019 Development Charges Amending By-law, prepared in a form satisfactory to the City Solicitor, be passed and enacted;

EXECUTIVE SUMMARY

Report FCS21048 and the 2019 Development Charges Amending By-law (Amending By-law), attached as Appendix “B” to Report FCS21048 have been prepared in response to changes in legislation affecting Development Charges (DCs). While some of the legislated changes were adopted at the time the legislation changed, others required an update to the DC By-law for the City to adopt the changes. In order to address these legislated changes, staff and consultants have worked to compile and release the Development Charges Update Study, attached as Appendix “A” to Report FCS21048. The information in this Development Charges Update Study has been incorporated into the Amending By-law.

Since June 12, 2019, the date that Council adopted DC By-law 19-142, the following pieces of legislation were released and enacted by the Province:

- *Bill 108, More Homes, More Choice Act, 2019* (Bill 108);
- *Bill 138, Plan to Build Ontario Together Act, 2019* (Bill 138);
- *Bill 197, COVID-19 Economic Recovery Act, 2019* (Bill 197); and
- *Bill 213, Better for People, Smarter for Business Act, 2020* (Bill 213).

The changes through legislation and incorporated into the Amending By-law, attached as Appendix “B” to Report FCS21048, are summarized in Table 1.

Table 1
Legislated Changes to Development Charges since DC By-law 19-142

Legislated Change	Related Bill	Amending By-law Response
DC instalment payments, including interest policy for Rental Housing, Institutional Developments and Non-profit Housing Developments	Bill 108 Bill 138 removed Commercial developments from being eligible to pay in instalments which had been proposed in Bill 108	- The City adopted this practice when the legislation came into effect on Jan. 1, 2020 - The City adopted an interest rate policy through Report FCS20028 / PED20105, approved by Council on May 27, 2020

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Legislated Change	Related Bill	Amending By-law Response
DC rate freeze at site plan application, including interest policy	Bill 108	<ul style="list-style-type: none"> - The City adopted this practice when the legislation came into effect on Jan. 1, 2020 - The City adopted an interest rate policy through Report FCS20028 / PED20105, approved by Council on May 27, 2020
Mandatory DC exemption for new ancillary units	Bill 108	<ul style="list-style-type: none"> - Included in Amending By-law - The City adopted this practice when the legislation was enacted on Sept. 18, 2020
Removal of the 10% statutory deduction for DC eligible services	Bill 197	<ul style="list-style-type: none"> - Incorporated into the DC rates in the Amending By-law - The City needs to pass a By-law amendment in order to implement the change
List of services that are DC eligible	<p>Bill 108 significantly reduced DC eligible services</p> <p>Bill 197 added back many services that Bill 108 would have removed</p>	<ul style="list-style-type: none"> - Amending By-law schedules allow the City to continue to collect for services that will become ineligible as of September 18, 2022
Create Classes of Services where required	Bill 197	<ul style="list-style-type: none"> - Included in Amending By-law - Largely a housekeeping change that enables the City to continue collecting for growth studies and public works fleet and facilities
Mandatory DC exemption for universities receiving operating funds from the Government	Bill 213	<ul style="list-style-type: none"> - Included in Amending By-law - The City adopted this practice when the legislation was enacted on Dec. 8, 2020

Incorporating the legislated changes into the City's DC By-law creates clarity for users and enables the City to recover a greater portion of growth-related capital costs.

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In order to amend the City's existing DC By-law 19-142, the City needs to follow a legislated process which is summarized in Table 3. Report FCS21048 recommends that the Development Charges Update Study prepared by Watson & Associates Economists Ltd. and dated March 5, 2021, attached as Appendix "A" to Report FCS21048, be approved and that the Amending By-law, attached to Report FCS21048 as Appendix "B", be passed and enacted.

The Audit, Finance and Administration Committee, through its meeting of March 25, 2021 and approval of Report FCS21025 "Amendment to the 2019 Development Charges Background Study and Development Charges By-law" directed staff to incorporate language into the Amending By-law to provide a residential intensification exemption, such that, new or existing single detached dwellings, semi-detached dwellings or row-dwellings can add up to two secondary dwelling units (SDUs) without paying DCs. Expanding the residential intensification exemption to semi-detached and row-dwellings will align the DC treatment for SDUs to mirror the permissions and re-zoning by-laws being proposed by Planning and Economic Development as a result of changes to the *Planning Act, 1990, as amended* (Planning Act).

Once passed, the changes in DC rates arising out of the Amending By-law will become effective on July 6, 2021 which aligns with the annual date of indexing of DC rates. This date is recommended so that all changes can occur at one time in the year rather than having multiple DC rate changes in 2021. The DC rates below are consistent with the annual indexing Information Report FCS21033 which was received by the Audit, Finance and Administration Committee on May 6, 2021 and identified the DC Rates that will become effective on July 6, 2021.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The annualized effect of implementing the changes in the Development Charges Update Study prepared by Watson & Associates Economists Ltd., attached as Appendix "A" to Report FCS21048, is an estimated increase in forecasted 2021 DC collections of \$3.1 M (to \$114.1 M from \$111.0 M).

Staffing: None.

Legal: The proposed Amending By-law has been reviewed by Legal Services. Once approved, the Amending By-law is subject to a 40-day appeal period. Any appeals to the Amending By-law will require further involvement from Legal Services' staff.

HISTORICAL BACKGROUND

The City's 2019 DC Background Study and 2019 DC By-law were approved by Council through Report FCS19050 on June 6, 2019. Since the 2019 DC Background Study and 2019 DC By-law were passed, the Province has passed several new pieces of legislation that affect the DC Act, as outlined in Table 2.

Where a proposed amendment was presented through a Bill and later revoked through another Bill, the details have not been included with the original Bill. This exclusion allows the reader to focus on what has changed.

Table 2
Legislated Changes to Development Charges since DC By-law 19-142

Bill	Relevant Dates	Description of Changes
<i>Bill 108, More Homes, More Choice Act, 2019</i> (Bill 108)	<ul style="list-style-type: none">- Introduced on May 2, 2019- Received Royal Assent on June 6, 2019- Portions of Bill 108 were proclaimed and became effective as of January 1, 2020, others were proclaimed on September 18, 2020	<p>The DC rate charged to a development will be based on the application date of a Site Plan Application or a Site-specific Zoning Amendment, only where such application is applied for on or after January 1, 2020.</p> <ul style="list-style-type: none">- The City is permitted to charge interest on the frozen DC rate from the date the rate is frozen, the Site Plan Application date, to the date of permit issuance at an interest rate that cannot exceed a prescribed rate. The City of Hamilton has adopted an interest policy through Report FCS20028 / PED20105, which was approved by Council on May 27, 2020. The interest rate is fixed at the Bank of Canada Prime as of the date of complete site plan application. <p>Rental Housing and Institutional Developments will pay DCs in six equal annual payments commencing at occupancy. Non-profit housing developments will pay DCs in 21 equal annual payments.</p>

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Bill	Relevant Dates	Description of Changes
		<p>- The City is permitted to charge interest from the date of building permit issuance to the date the instalment is paid. The City of Hamilton has adopted an interest policy through Report FCS20028/PED20105, which was approved by Council on May 27, 2020. The interest rate is fixed at the Bank of Canada Prime plus 2% as of the date of building permit issuance.</p> <p>Removal of the requirement to deduct 10% from “soft” services.</p> <p>A requirement to expand the residential intensification exemption to secondary dwelling units within, or ancillary to, new or existing dwellings in accordance with prescribed restrictions.</p>
<i>Bill 138, Plan to Build Ontario Together Act, 2019 (Bill 138)</i>	<p>- Introduced on November 6, 2019</p> <p>- Received Royal Assent on Dec. 10, 2019</p>	<p>Mainly removed changes that had been proposed through Bill 108 such as requiring instalment payments for commercial and industrial developments.</p>

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Bill	Relevant Dates	Description of Changes
<i>Bill 197, COVID-19 Economic Recovery Act, 2019 (Bill 197)</i>	<ul style="list-style-type: none"> - Tabled on July 8, 2020 in response the COVID-19 global pandemic - Received Royal Assent on July 21, 2020 - Proclaimed on Sept. 18, 2020 	<p>Bill 108 initially introduced a revised list of DC eligible services, where “hard” services would be included under the DC Act while “soft” services would be included under a separate Community Benefits Charge (CBC). Bill 197 revised this proposed change and specified which services are eligible under the DC Act. These services include:</p> <ul style="list-style-type: none"> - Parkland Development and Indoor Recreation Services (Now “Parks and Recreation Services”; - Library Services; - Paramedics (now Ambulance Services); - Long-Term Care Services; - Health Services (now Public Health Services); - Social and Child Services (now “Child Care and Early Years Services”); - Social Housing (now Housing Services) - Provincial Offenses Act Services; - Waste Diversion Services; and - Administrative Studies – Community Based (now a class of service: “Growth Studies”); - Airport Lands Services; - Parking Services. <p>Maintained the removal of the requirement to deduct 10% from “soft” services that was contained in Bill 108.</p> <p>Classes of services may be established for components of a service or combination of services.</p>

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Bill	Relevant Dates	Description of Changes
		Removed the 10-year planning horizon limit for all services except for transit. Bill 197 provided further guidance on the CBC. The legislation permits the creation of a CBC for lower-tier and single-tier municipalities only. The charge is limited at 4% of market value of land for eligible properties. Municipalities have two years (until September 18, 2022) to transition to the new CBC authority.
<i>Bill 213, Better for People, Smarter for Business Act, 2020 (Bill 213)</i>	<ul style="list-style-type: none">- Introduced in October 2020- Received Royal Assent on December 8, 2020	Amending the Ministry of Training, Colleges and University Act to exempt the payment of DCs for developments of land intended for use by a university that receives operating funds from the Government.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Concurrent with the approval of the 2019 DC By-law Council approved that, whenever appropriate, the City requests that grants, subsidies and other contributions be clearly designated by the provider as being to the benefit of existing development or new development. This policy enables the City to maximize DC funding towards growth projects and staff will continue to look for opportunities to apply this policy.

The DC Act outlines the requirements for a municipality to pass a DC By-law. Table 3 outlines the municipality's requirements under the DC Act and schedule of dates in 2021 related to the adoption of the proposed Amending By-law.

**Table 3
Schedule of Dates**

Event	Date
Background Study and Proposed By-law available to public	March 25, 2021
Public Meeting ad placed in newspapers	Hamilton Community News – March 25, 2021 Hamilton Spectator – March 26, 2021 <i>At least 20 days prior to the public meeting</i>
Public Meeting	AF&AC – April 22, 2021 Received Public Meeting Presentation: - Hamilton Community Benefits Network Received Public Correspondence: - Roberto D. Aburto, Gowling WLG on behalf of McMaster University - Lakewood Beach Community Council
Council considers passage of By-law	AF&AC – June 3, 2021 Council – June 9, 2021 <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	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

In addition to the legislated requirements, staff held two DC Stakeholder sub-committee meetings on January 29, 2021 and March 11, 2021 and utilized the City's Twitter account and LinkedIn profile to raise awareness about the DC Background Update Study process and how interested persons can get involved.

Staff considered the input received through the public process. Some of the input from Lakewood Beach Community Council was not related to the 2019 DC Background Study Update and, therefore, is not addressed here. Key messaging provided back to Lakewood Beach Community Council questions which pertain to the 2019 DC Background Study Update is as follows:

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- New recreation centres are eligible for DC funding provided that the City's historical service standard is not exceeded. The lists used in the DC Background Study update are the same lists used in the 2019 DC Background Study.
- The changes arising out of the Amending By-law will be effective on a prospective basis, not retroactive.

RELEVANT CONSULTATION

Various staff divisions and sections were involved in the creation of the DC Update Study attached as Appendix "A" to Report FCS21048.

Internal

- Planning and Economic Development Department
- Public Works Department
- Healthy and Safe Communities Department
- Corporate Services Department – Legal and Risk Management Services
- CityHousing Hamilton
- Hamilton Public Library

External

- Watson & Associates Economists Ltd.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The main impact from the Amending By-law and accompanying 2019 DC Background Study Update is the removal of the 10% statutory deduction. The removal of the 10% statutory deduction means that 100% of growth-related capital costs are now eligible for inclusion in the DC calculations allowing the City to collect more for DC eligible services.

The annualized effect of implementing the changes in the Development Charges Update Study prepared by Watson & Associates Economists Ltd., attached as Appendix "A" to Report FCS21048, is an estimated increase in forecasted 2021 DC collections of \$3.1 M (to \$114.1 M from \$111.0 M).

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Concurrent with the changes to DC legislation, the Province introduced a new tool through the Planning Act, namely a Community Benefits Charges (CBC) regime. In effect, the CBC replaces the former Density Bonus Provisions (Section 37) of the Planning Act and moves some services from the DC legislation over to the newly created CBC regime with a two-year transition period. Accordingly, the City will no longer be able to collect DCs for those services as of the earlier of the CBC By-law adoption or September 18, 2022. The effect of removing the ineligible services (Airport Lands and Parking Services) has an estimated annual decrease in forecasted collections of \$1.1 M. The loss of \$1.1 M in annual DC collections will occur regardless of whether or not the City's 2019 DC By-law is amended.

Therefore, ignoring the potential replacement of Airport and Parking services through a CBC By-law, the net effects on annual DC collections, after considering the future reduction due to the loss of Airport Lands and Parking Services becoming ineligible, is an estimated increase of \$2.0 M.

The City has yet to adopt a CBC By-law as staff is preparing a workplan to meet the transition deadline of September 18, 2022. While it is anticipated that a CBC By-law will be able to offset some or all of the annual DC collections previously captured for Airport and Parking growth costs, that analysis has yet to be completed.

The figures presented in Tables 4 to 7 detail how the Development Charges Update Study will impact the current City DC rates by dwelling type.

The Development Charges Update Study presents information in 2019 dollars. Tables 4 through 7 illustrate what the DC Rates will be as of July 6, 2021 and the impact of the Amending By-law versus annual indexing.

Table 4 illustrates the Residential City DC rates for developments in combined sewer system areas and Table 5 illustrates the Residential City DC rates for developments in separated sewer system areas.

Table 4
Residential City DC Rates for Combined Sewer System

Residential DCs (\$ per unit unless otherwise stated)	City DCs July 6, 2020- July 5, 2021 (\$)	City DCs With By-law Amendment (\$)	City DCs Indexed July 6, 2021- July 5, 2022 (\$)	Increase Due to By- law Amendment (\$)	Increase Due to Indexing (\$)
Single / Semi	45,195	46,381	47,576	1,186	1,195
Townhouse / Other Multiple	32,348	33,196	34,050	848	854
Apartment (2+ bedrooms)	26,466	27,163	27,862	697	699
Apartment (1 bedroom)	18,105	18,581	19,059	476	478
Residential Facility (\$ per bed)	14,597	14,984	15,369	387	385

Note: The City DCs above do not include Special Area Charges which are not subject to annual indexing or affected by the removal of the 10% statutory deduction.

**Table 5
Residential City DC Rates for Separated Sewer System**

Residential DCs (\$ per unit unless otherwise stated)	City DCs July 6, 2020- July 5, 2021 (\$)	City DCs With By-law Amendment (\$)	City DCs Indexed July 6, 2021- July 5, 2022 (\$)	Increase Due to By-law Amendment (\$)	Increase Due to Indexing (\$)
Single / Semi	51,964	53,151	54,520	1,187	1,369
Townhouse / Other Multiple	37,193	38,041	39,020	848	979
Apartment (2+ bedrooms)	30,430	31,127	31,928	697	801
Apartment (1 bedroom)	20,816	21,292	21,840	476	548
Residential Facility (\$ per bed)	16,784	17,172	17,613	388	441

Note: The City DCs above do not include Special Area Charges which are not subject to annual indexing or affected by the removal of the 10% statutory deduction.

Table 6 illustrates the Non-Residential City DC rates for developments in combined sewer system areas. Table 7 illustrates the Non-Residential City DC rates for developments in separated sewer system areas.

**Table 6
Non-Residential City DC Rates for Combined Sewer System**

Non-Residential DCs (\$ per sq. ft.)	City DCs July 6, 2020- July 5, 2021 (\$)	City DCs With By-law Amendment (\$)	City DCs Indexed July 6, 2021- July 5, 2022 (\$)	Increase Due to By-law Amendment (\$)	Increase Due to Indexing (\$)
Non-Industrial	18.76	19.80	20.32	1.04	0.52
Industrial	11.44	N/A ^[2]	11.74	-	0.30
New Non-Industrial ^[1]					
1 st 5,000 sq. ft.	9.38	9.90	10.16	0.52	0.26
2 nd 5,000 sq. ft.	14.07	14.85	15.24	0.78	0.39
10,000+ sq. ft.	18.76	19.80	20.32	1.04	0.52

Notes:

^[1] New non-industrial developments within a CIPA or BIA and new office development (medical clinic excluded) receive reduced stepped rates as illustrated above.

^[2] The removal of the 10% statutory deduction will not impact Industrial DC rates. Industrial developments only pay the Wastewater (linear and plant) and Stormwater services plus a portion of the Services Related to a Highway; none of these are impacted by removing the 10% statutory deduction.

Table 7
Non-Residential City DC Rates for Separated Sewer System

Non-Residential DCs (\$ per sq. ft.)	City DCs July 6, 2020- July 5, 2021 (\$)	City DCs With By-law Amendment (\$)	City DCs Indexed July 6, 2021- July 5, 2022 (\$)	Increase Due to By-law Amendment (\$)	Increase Due to Indexing (\$)
Non-Industrial	21.00	22.04	22.62	1.04	0.58
Industrial	12.81	N/A ^[2]	13.14	-	0.33
New Non-Industrial ^[1]					
1 st 5,000 sq. ft.	10.50	11.02	11.31	0.52	0.29
2 nd 5,000 sq. ft.	15.75	16.53	16.97	0.78	0.44
10,000+ sq. ft.	21.00	22.04	22.62	1.04	0.58

Notes:

- ^[1] New non-industrial developments within a CIPA or BIA and new office development (medical clinic excluded) receive reduced stepped rates as illustrated above.
- ^[2] The removal of the 10% statutory deduction will not impact Industrial DC rates. Industrial developments only pay the Wastewater (linear and plant) and Stormwater services plus a portion of the Services Related to a Highway; none of these are impacted by removing the 10% statutory deduction.

Staff recommends that the Amending By-law come into effect on July 6, 2021 which is the same date that the DC rates are indexed annually. This date ensures that the City's DC rates are only changed once in 2021.

The Audit, Finance and Administration Committee, through its meeting of March 25, 2021 and approval of Report FCS21025 "Amendment to the 2019 Development Charges Background Study and Development Charges By-law" directed staff that, in addition to the mandatory DC exemption for new ancillary units, that the Amending By-law include language to provide a residential intensification exemption, such that new or existing single detached dwellings, semi-detached dwellings or row-dwellings can add up to two secondary dwelling units (SDUs) without paying DCs. Expanding the residential intensification exemption to semi-detached and row-dwellings will align the DC treatment for SDUs to mirror the permissions and re-zoning by-laws being proposed by Planning and Economic Development as a result of changes to the *Planning Act, 1990* (Planning Act). Additionally, SDUs provide numerous benefits to the Hamilton community:

- **Infrastructure Efficiency:** SDUs make better use of existing hard infrastructure (such as sewers and roads) and soft infrastructure (such as schools and recreational services). Trends show that there has been a decline in household size and composition changes the demand for services. Adding additional population in the community helps to retain these services and businesses within the community.
- **Efficient use of Housing Stock:** Adding an SDU to an existing dwelling can make better use of existing housing stock by converting an unfinished basement or accessory building into a new rental unit.

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- Affordable Home Ownership: Homeowners gain additional income.
- Provide Increased Housing Choice: SDUs increase housing options and the range of rents, especially in parts of the City where there may be few Rental Housing options or low vacancy rates.

Other changes in the Amending By-law are to incorporate legislative changes that have already occurred and are in practice. Updating the DC By-law to reflect the changes that are already in effect alleviates confusion regarding policies that are no longer permitted by the changed legislation. Alongside the legislative changes, staff and legal reviewed the full DC By-law and have included housekeeping changes where sections of the By-law conflicted with current legislation or became redundant as a result of the legislated changes.

Intentionally excluded from the Amending DC By-law are the legislative changes arising from the *Better for People, Smarter for Business Act, 2020* (Bill 213) which affects the ability of a municipality to levy DCs on Universities. This change has been excluded as it is currently part of the resolution process on an active appeal of the 2019 DC By-law and changes to the DC By-law will be followed by that process. The most recent Confidential Report LS19034(a) regarding the appeal was submitted to Council through the General Issue Committee meeting of January 13, 2021.

ALTERNATIVES FOR CONSIDERATION

None

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.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

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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Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS21048 – Hamilton Development Charges Update Study

Appendix “B” to Report FCS21048 – By-law to Amend By-law 19-142

SA/AD/LG/dt