



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

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	March 25, 2021
SUBJECT/REPORT NO:	Amendment to the 2019 Development Charges Background Study and Development Charges By-law (FCS21025) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shivon Azwim (905) 546-2424 Ext. 2970 Alexandra Di Domenico (905) 546-2424 Ext. 1434 Lindsay Gillies (905) 546-2424 Ext. 5491
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Development Charges Update Study prepared by Watson & Associates Economists Ltd. and dated March 5, 2021, be released to the public;
- (b) That staff be directed to incorporate language into the Draft Amending Development Charges By-law, included in the Development Charges Update Study, attached as Appendix “A” to Report FCS21025, 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 development charges;
- (c) That “Academic and Student Residence Development Grant Program” be removed from the Audit, Finance and Administration Committee’s Outstanding Business List.

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EXECUTIVE SUMMARY

Report FCS21025 and the Development Charges Update Study attached as Appendix “A” to Report FCS21025 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.

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 Draft Amending DC By-law, included in the Development Charges Update Study, attached as Appendix “A” to Report FCS21025, 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	– Included in amended By-law – The City adopted an interest rate policy with the legislated change through Report FCS20028 at the May 27, 2020 Committee of the Whole
DC rate freeze at site plan application, including interest policy	Bill 108	– Included in amended By-law – The City adopted an interest rate policy with the legislated change through Report FCS20028 at the May 27, 2020 Committee of the Whole

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Legislated Change	Related Bill	Amending By-law Response
Mandatory exemption for new ancillary units	Bill 108	<ul style="list-style-type: none"> – Included in amended By-law – The City adopted this practice when the legislation was enacted
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 amended 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"> – Amended the By-law schedules to allow the City to continue to collect for airport and parking services until they become ineligible on September 18, 2022
Create Classes of Services where required	Bill 197	<ul style="list-style-type: none"> – Included in amended By-law – Largely a housekeeping change that enables the City to continue collecting for growth studies and public works fleet and facilities
Mandatory exemption for universities receiving operating funds from the Government	Bill 213	<ul style="list-style-type: none"> – Included in amended By-law – The City adopted this practice when the legislation was enacted

Incorporating the legislated changes into the City’s DC By-law both creates clarity for users and enables the City to collect more funds to service growth projects.

In order to amend the City’s existing DC By-law 19-142, the City needs to release a DC Background Study and follow a legislated process which is summarized in Table 4. Report FCS21025 recommends that the Development Charges Update Study, prepared by Watson & Associates Economists Ltd. and dated March 5, 2021, attached as Appendix “A” to Report FCS21025 be released to the public per the requirements for a municipality to pass a DC By-law (Section 12 of the *Development Charges Act, 1997* (DC Act)).

Additionally, staff is recommending that in addition to the mandatory DC exemption for new ancillary units, that staff be directed to incorporate 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) and provide numerous benefits to the Hamilton community as outlined in the Analysis and Rationale for Recommendation(s) section of Report FCS21025.

The Audit, Finance and Administration Committee's (AF&AC's) Outstanding Business List includes direction for staff to report back with options for an academic and student residence development grant program following the resolution of the 2019 DC By-law academic appeals. Through Bill 213, the Province has provided a mandatory DC exemption to universities receiving operating funds from the Government. The Province's mandatory exemption for universities negates the need to develop a grant program for the same form of development. Therefore, staff recommends that the AF&AC remove this Outstanding Business Item from its Outstanding Business List.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The release and subsequent passing of the amended DC By-law will enable the City to continue to levy a charge for new development, net new development, redevelopment or change of use in developments to recover some of the capital costs that the City will incur in order to service the increased needs arising from new development, net new development, redevelopment or change of use of development.

The figures presented in Table 2 detail how the Development Charges Update Study prepared by Watson & Associates Economists Ltd., attached as Appendix "A" to Report FCS21025, will impact the current City DC rates by dwelling type.

**Table 2
Impact of DC Background Study Update on 2020-2021 DC Rates**

Dwelling Type	Separated Sewer System	Combined Sewer System
Single- & Semi-Detached Dwelling (per dwelling unit)		
New DC	\$ 53,150	\$ 46,381
Current DC	51,964	45,195
Increase	1,186	1,186
Townhouses & Other Multiple Unit Dwellings (per dwelling unit)		
New DC	38,041	33,196
Current DC	37,193	32,348
Increase	848	848
Apartments – 2-Bedrooms+ (per dwelling unit)		
New DC	31,127	27,163
Current DC	30,430	26,466
Increase	697	697
Apartments – Bachelor & 1-Bedroom (per dwelling unit)		
New DC	21,292	18,581
Current DC	20,816	18,105
Increase	476	476
Residential Facility Dwelling (per bedroom)		
New DC	17,172	14,984
Current DC	16,784	14,597
Increase	388	387
Non-Residential (per square foot of gross floor area)		
New DC	22.05	19.80
Current DC	21.00	18.76
Increase	1.05	1.04

Note that all DC rates are in 2020-2021 dollars and will be subject to indexing on July 6, 2021

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 FCS21025, is an estimated increase in forecasted collections of \$3.1 M (to \$114.1 M from \$111.0 M). Note that due to the change occurring as of July 6, 2021, the City’s DC transition policies and the Provincial requirement that freezes DC rates at the date of site plan application, this annualized increase is not expected to be fully realized in 2021.

The figures presented in Table 3 detail the services that the City will no longer be able to collect as of the earlier of the Community Benefits Charge (CBC) By-law adoption and September 18, 2022. Table 3 factors in the current DC rates and the rates in the Development Charges Update Study prepared by Watson & Associates Economists Ltd., attached as Appendix “A” to Report FCS21025.

Note that the CBC is a new policy tool under the Planning Act that will be considered for implementation through a separate process than the amendment to the DC Background Study and By-law being brought forward for recommendation in FCS21025.

**Table 3
Ineligible Services as of earlier of CBC By-law adoption or September 18, 2022**

Dwelling Type	Airport Lands	Parking Services	Total
Single- & Semi-Detached Dwelling (per dwelling unit)	\$ 489	\$ 581	\$ 1,070
Townhouses & Other Multiple Unit Dwellings (per dwelling unit)	350	416	766
Apartments – 2-Bedrooms+ (per dwelling unit)	287	340	627
Apartments – Bachelor & 1-Bedroom (per dwelling unit)	196	233	429
Residential Facility Dwelling (per bedroom)	158	188	346
Non-Residential (per square foot of gross floor area)	0.25	0.31	0.56

Note that all DC rates are in 2020-2021 dollars and will be subject to indexing on July 6, 2021

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.

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, therefore, an estimated increase of \$2.0 M.

Through the 2021 Tax Capital Budget process, staff became aware that the funding model assumed in the 2019 DC Background Study for the capital / infrastructure costs for the Macassa D-wing expansion were no longer valid due to a refined scope and known government funding options. The capital costs and grant financing for this project have been updated in DC Study Update attached as Appendix “A” to Report FCS21025. The update results in the City including \$7.1 M in the DC calculation versus the \$5.5 M that had previously been considered. The financial impacts of this change are included in the financial analysis above.

Staffing: None

Legal: The proposed amending By-law has been drafted by Watson & Associates Economists Ltd. Prior to adoption, the Legal and Risk Management Services Division will review and advise on any language amendments that should be incorporated. Once approved, the By-law is subject to a 40-day appeal period. Any appeals to the By-law will require further involvement from the staff of Legal Services.

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 below.

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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.

Bill 108, More Homes, More Choice Act, 2019 (Bill 108)

On May 2, 2019, the Province introduced Bill 108, which introduced changes to the DC Act. The Bill received Royal Assent on June 6, 2019. Portions of Bill 108 were proclaimed and became effective as of January 1, 2020, while others were proclaimed on September 18, 2020 with a two-year transition that would end on September 18, 2022.

- 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.
 - 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.
- 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.
 - 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.
- Removal of the requirement to deduct 10% from “soft” services, meaning that up to 100% of growth-related capital costs are now eligible for inclusion in the DC calculations.
- 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.

Bill 138, Plan to Build Ontario Together Act, 2019 (Bill 138)

On November 6, 2019, the Province released Bill 138, which provided further amendments to the DC Act. The Bill received Royal Assent on December 10, 2019. This Bill largely removed changes that had been proposed through Bill 108 such as requiring instalment payments for commercial and industrial developments.

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Bill 197, COVID-19 Economic Recovery Act, 2019 (Bill 197)

Bill 197 was tabled on July 8, 2020 in response to the COVID-19 global pandemic. The Bill's effect on the DC Act further revised some of the proposed changes that had been identified in Bill 108. The Bill received Royal Assent on July 21, 2020 and was proclaimed on September 18, 2020. The changes include:

- 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 are outlined in the Analysis and Rationale for Recommendation(s) section of Report FCS21025.
- Bill 197 maintained the removal of the requirement to deduct 10% from “soft” services that was contained in Bill 108.
- Under the pre-Bill 108 / 197 legislation, the DC Act permitted categories of services to be grouped together into a minimum of two categories. Under Bill 197, classes of services may be established for components of a service or combination of services and a class may be composed of any number or combination of services and may include parts or portions of the eligible services or of the capital costs in respect of those services.
- The 10-year planning horizon limit has been removed 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.

Bill 213, Better for People, Smarter for Business Act, 2020 (Bill 213)

Bill 213 was introduced in October 2020 and received Royal Assent on December 8, 2020. One of the changes included in the Bill was 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.

Recommendation (c) to Report FCS21025 has been included in response to Bill 213.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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 DCs for other types of development.

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Table 4 outlines the municipality’s requirements under the DC Act and schedule of dates in 2021 related to the adoption of the proposed amendment to the 2019 DC By-law.

**Table 4
Schedule of Dates**

Event	Date
DC Stakeholder Sub-Committee Meeting	March 11, 2021
Background Study and Proposed By-law available to public	March 6, 2021 via City Website) March 25, 2021 via Committee direction
Public Meeting ad placed in newspapers	Hamilton Community News – to be determined Hamilton Spectator – to be determined At least 20 days prior to the public meeting
Public Meeting	AF&AC – April 22, 2021 At least two weeks after proposed by-law is available to the public
Council considers passage of By-law	AF&AC – June 3, 2021 Council – June 9, 2021 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
Effective Date of amended DC By-law	July 6, 2021
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

Various staff divisions and sections were involved in the creation of the DC Update Study attached as Appendix “A” to Report FCS21025.

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 Development Charges Update Study, attached as Appendix “A” to Report FCS21025, was completed in order to update the City’s DC By-law to be consistent with the most recent legislation introduced by the Province.

The following provides an overview of the considerations for the DC Background Study update:

- Update of the DC analysis to remove the 10% mandatory deduction for:
 - 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 & Child Services (now “Child Care and Early Years Services”);
 - Social Housing (now Housing Services);
 - Provincial Offences Act Services;
 - Waste Diversion Services;
 - Administrative Studies – Community Based (now a class of service: “Growth Studies”);
 - Airport Lands Services; and
 - Parking Services.
- Amend the By-law schedules to allow the City to continue to collect for services that will become ineligible as of September 18, 2022 (Parking, Airport, Social Services – ineligible components).
- Create Classes of Services where required (e.g. Public Works, Growth Studies).
- Update DC policies within the by-law with respect to:
 - DC instalment payments;
 - DC rate freeze;
 - Interest policies;
 - Mandatory exemption for new ancillary units;
 - Mandatory exemption for universities receiving operating funds from the Government; and
 - Additional and refined definitions, where required.

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Residential Intensification Exemption

Under Bill 108, the Planning Act now requires that every municipality in Ontario amend their Official Plan and Zoning By-law to permit up to two Secondary Dwelling Units in single detached, semi-detached and street townhouse dwellings.

The current DC By-law permits a residential intensification exemption from DCs for up to two additional dwelling units within an existing Single Detached Dwelling or for one additional dwelling unit in any Semi-detached Dwelling, a Townhouse Dwelling or any other existing Residential Dwelling. The exemption is limited based on Gross Floor Area such that that DCs are still charged if the Gross Floor Area of the one or two additional units exceeds the Gross Floor Area of the existing dwelling unit. Laneway Houses and Garden Suites also receive an exemption from DCs in the City's current DC By-law without any Gross Floor Area limitations.

Staff is recommending that language be incorporated into the DC By-law to expand the residential intensification exemption above what the DC Act requires so that it is in line with Planning Act changes and the rezoning By-laws being proposed by Planning and Economic Development through a future report currently planned for the April 6, 2021 meeting of the City's Planning Committee. The additional exemption would mean that up to two SDUs could be added to Semi-detached Dwellings and Row-dwellings (townhouse dwellings) without incurring City DCs whereas the DC Act only requires exemptions for up to one SDU on Semi-detached Dwellings and row-dwellings.

There are numerous benefits to the community that can be gained through SDUs:

- **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.
- **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.

The uptake is expected to be minimal and will ensure that all SDUs receive consistent treatment across the City whether they are added to Single Detached Dwellings, Semi-detached Dwellings or Townhouse Dwellings.

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.

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

Appendix “A” to Report FCS21025 – Development Charges Update Study – City of Hamilton, March 5, 2021

SA/AD/LG/dt