



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Transportation Planning and Parking Division
and
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 6, 2021
SUBJECT/REPORT NO:	Temporary Amendments to the Cash-In-Lieu of Parking Policy for the Downtown Secondary Plan Area (PED21028) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Brian Hollingworth (905) 546-2424 Ext. 2953 Steve Robichaud (905) 546-2424 Ext. 4281
SUBMITTED BY: SIGNATURE:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
SUBMITTED BY: SIGNATURE:	Steve Robichaud Director, Planning Planning and Economic Development Department

RECOMMENDATION

- (a) That the revised and updated City of Hamilton Cash-In-Lieu of Parking Policy attached as Appendix “B” to Report PED21028 be adopted;
- (b) That staff be directed to track the usage of the Cash-In-Lieu of Parking Policy, and report back to Planning Committee after 18 months, that being November, 2022, with an Information Report on the number of projects that utilized the Cash-In-Lieu of Parking option, the revenues generated, and the parking spaces that were foregone.

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EXECUTIVE SUMMARY

On December 16, 2020, following a recommendation of the Mayor's Task Force on Economic Recovery, Council directed staff to report back to Planning Committee with options for modifying the City's existing Cash-In-Lieu of Parking (CILP) Policy to provide for a temporary, reduced cash-in-lieu of parking fee within the Downtown Secondary Plan (DTSP) Area for a temporary period.

The City's current CILP Policy authorizes the City to consider a cash-in-lieu payment for all or part of the parking required under the applicable in force Zoning By-law.

The methodology for calculating the cash-in-lieu payment is contained in the CILP Policy and is based on 50% of the cost of constructing an off-site parking space. The calculation takes into account both the land costs and the capital construction costs.

The most recent use of the CILP Policy was calculated in September 2018 for eight parking spaces for a project in downtown Hamilton. The total cost was estimated to be \$35,100 per parking space and resulted in the payment of \$140,400 to the City (approximately \$17,550 per parking space).

Given the high cost of the cash-in-lieu payments, the policy has been rarely used. There have only been two projects that have utilized the policy since 2015, both in downtown Hamilton.

In response to the Task Force recommendations, staff are proposing a temporary reduced rate of 25% of the cost of a parking space for new development in the DTSP Area.

In addition, the current CILP Policy was adopted by the Council of the former City of Hamilton in 1986, and as such, revisions to update the policy to reflect the existing operational structure are also required.

Alternatives for Consideration – See Page 13

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no additional costs associated with this Report. It is anticipated that the changes to the CILP Policy recommended in this Report will result in higher utilization of the CILP option for meeting the City's parking requirements, which will generate additional revenues for the City. The City's current CILP Policy states that all funds collected "will be deposited in the Reserve Funds for Off-street Parking for the purposes of increasing the amount of municipal off-street parking in the City." The

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City's Official Plan echoes this direction in Policy F.1.20.1 which states that "Such funds shall be used for the acquisition of lands and/or the provision of off-street parking as deemed appropriate by the City." Staff are not recommending any changes to these aspects of the CILP Policy or the Official Plan. Therefore, any funds collected would need to be allocated to Reserve 115085 HMPS CILP consistent with past practise. The current balance of Reserve 115085 is \$656,496.79 as of January 31, 2021. The use of any funds from Reserve 115085 would be subject to Council approval through the normal budget process.

It is important to note that should Council wish to change this direction and utilize the CILP revenues for purposes other than those stated in the Official Plan, and Amendment to the Official Plan would be required, which would require a separate staff report and statutory public process.

Staffing: None.

Legal: None. Legal staff will be involved in the drafting of any required agreements to implement the CILP Policy, consistent with current practice.

HISTORICAL BACKGROUND

The City of Hamilton has provided developers with the option of meeting their parking requirement through a "cash-in-lieu provision" for many years.

The former City of Hamilton adopted operational guidelines on how the cash-in-lieu of parking payment was to be calculated and, in accordance with the City of Hamilton Act, 1999 S.O. 1999, CHAPTER 14, SCHEDULE C, this Policy is still in force and effect. The policy outlines that a staff report to Planning Committee/Council is required after the application and fee are paid to the City. In accordance with the Policy, Council approval of the cash payment is required, and the City Solicitor is then authorized to prepare the necessary agreements.

The City's Official Plan also provides for CILP.

The Policy has been rarely used, owing largely to the high cost assigned to the cash-in-lieu provision. Since 2015, only two development projects utilized the CILP provisions:

- 46-52 James Street North (cash-in-lieu payment of \$265,600 for 16 spaces); and,
- 11-15 Cannon Street (cash-in-lieu payment of \$140,400 for 8 spaces).

In June, 2020, the City established the Mayor's Task Force on Economic Recovery with a mandate to provide multi-sectoral advice to Council to guide Hamilton's sustainable

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and equitable recovery during, and in the aftermath of the pandemic. The final report of the Task Force that was received by Council in December 2020 included the following recommended action from the Transportation, Building & Infrastructure Working Group:

Encourage staff and Council to explore changes to parking requirements as an opportunity for economic recovery and stimulus.

The recommendation of the Task Force has precedent in the City. The City previously used a temporary reduction in parking requirements to stimulate downtown development, through a Temporary Use By-law for the period November 1, 1996 to September 1, 1999.

In response to the Task Force report, on December 16, 2020, Council approved the following motion:

That Planning staff be directed to report back to Planning Committee with options for modifying the City's existing cash-in-lieu of parking policy to provide for a temporary, reduced cash-in-lieu of parking fee within the Downtown Secondary Plan Area for a temporary period

Report PED21028 responds to the December 16, 2020 Council direction.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Section 40(1) and 40(2) of the Planning Act allows municipalities to enter into an agreement with an owner or occupant of a building that effectively allows for the payment of "cash-in-lieu" of any parking requirement.

The former City of Hamilton adopted operational guidelines on how the cash-in-lieu of parking payment was to be calculated and, in accordance with the City of Hamilton Act, 1999 S.O. 1999, CHAPTER 14, SCHEDULE C, this policy is still in force and effect.

The City's current CILP Policy is attached as Appendix "A" to Report PED21028.

The City's Official Plan also provides for cash-in-lieu of parking through the following policy F.1.20:

F.1.20 Cash-in-Lieu of Parking

1.20.1 Where a proponent is required, under the Zoning By-law, to provide and/or maintain parking facilities, the City may require a cash payment in lieu of all or part of the parking requirements. Such funds shall be used for the

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acquisition of lands and/or the provision of off-street parking as deemed appropriate by the City.

Both the CILP Policy and the Official Plan direct that revenues collected through the CILP provisions be utilized by the City for the provision of off-street parking. Providing for a more flexible approach to parking requirements, through an off-site provision, is consistent with the City's Transportation Master Plan and Draft Parking Master Plan.

Specifically, the Draft Parking Master Plan, which will be finalized in Spring 2021, identifies the challenges with respect to providing parking supply specific to individual sites and uses, and conversely the benefits of an alternative strategy that seeks to facilitate shared parking among different buildings and facilities in an area to take advantage of different peak periods.

Shared off-site parking is already permitted under Zoning By-law 05-200, Section 5.1 a) ii) which states that

“where the provision of parking on the same lot as the use requiring the parking is not possible, such off-site parking may be located on another lot within 300.0 metres of the lot containing the use requiring the parking.”

RELEVANT CONSULTATION

Staff in the following divisions were consulted in the preparation of this Report:

- Planning Division, Planning and Economic Development Department;
- Transportation Planning & Parking Division, Planning and Economic Development Department;
- Growth Management Division, Planning and Economic Development Department;
- Housing Services, Healthy and Safe Communities Department;
- Legal Services; and,
- Finance.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Current Parking Provisions in the Downtown Secondary Plan (DTSP) Area

In May, 2018, City Council adopted a new DTSP, and Zoning By-Law No. 18-114 that amends parking provisions in the Hamilton Zoning By-law No. 05-200, Section 5: Parking. The plan and associated Zoning By-law amendment was approved by the LPAT in August 2019 except for one property where a site specific appeal remains.

The boundaries of the DTSP are shown in Appendix “C” to Report PED21028.

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Zoning By-Law No. 18-114 introduced a reduction and in some cases an elimination of parking requirements in Downtown Hamilton compared to the previous standards for this area. The intent was to support and implement the policies of the Downtown Hamilton Secondary plan that encourage the development and use of public transit, active transportation, live, work and play opportunities, a pedestrian focused public realm, and the re-use of existing buildings. In addition, the new parking regulations reduce requirements that would have been prohibitive in the development of critical affordable housing.

The most notable change brought forward in amending Zoning By-law No. 18-114, is that the parking requirements for residential development has been eliminated for buildings with fewer than 12 units and reduced for the remaining units within a building. The elimination of parking for buildings with fewer than 12 units applies to duplex, single-detached, semi-detached, townhouse and multiple dwellings alike. Parking requirements for institutional and commercial uses have also been reduced and simplified. Furthermore, where an existing multiple dwelling is now deemed to have surplus parking as a result of the new lower parking standards in the DTSP Area, the zoning has been revised to allow these spaces to be rented out as a commercial parking facility.

The following is a summary of the parking requirements for All Downtown Zones:

Use	Parking Requirement
Single, Semi Detached and Duplex Dwellings Street townhouse, and a Dwelling Unit	0 spaces
Multiple Dwelling with units less than 50 square metres and units with 3 or more bedrooms	Units 1 – 12: 0 per unit (min) and 1.25 (max) Units 13+: 0.3 per unit (min) and 1.25 (max)
Multiple Dwelling with units greater than 50 square metres	Units 1-12: 0 per unit (min) and 1.25 (max) Units 13-50: 0.5 per unit (min) and 1.25 (max) Units 51+: 0.7 per unit (min) and 1.25 (max)
Commercial Uses (ie Banks, Medical Clinic and Office). No parking will be required for Commercial uses that are not	1 for each 50 square metres of gross floor area in excess of 450 square metres

listed in the By-law (ie retail and restaurant)	
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Current Cash-In-Lieu of Parking (CILP) Policy

The City's current CILP Policy is attached as Appendix "A" to Report PED21028.

The current CILP Policy authorizes the City to consider a cash-in-lieu payment for all or part of the parking required under the applicable in force Zoning By-law requirements. An owner wishing to pursue CILP would be required to make an application and pay the application fee to the Planning Division. The policy outlines that a staff report to Planning Committee/Council is required after the application and fee are paid to the City. In accordance with the policy, Council approval of the cash payment is required, and the City Solicitor is then authorized to prepare the necessary agreements.

The methodology for calculating the cash-in-lieu payment is contained in the CILP Policy and is based on 50% of the cost of constructing an off-site parking space. The calculation takes into account both the land costs and the capital construction costs, but not lifecycle replacement or operating costs. The 50% provision is based on the assumption that the off-site space would not only be utilized by the contributing development, but would also be available to the general public, and therefore have a benefit beyond the contributing development.

The most recent use of the CILP Policy was calculated in September 2018 for eight parking spaces for a project in downtown Hamilton. The total cost was estimated to be \$35,100 per parking space, including \$30,000 as the estimated construction cost and \$5,100 in land value per space. It resulted in the payment of \$140,400 to the City (approximately \$17,550 per parking space). It is important to note that this calculation was based on provision of the parking in a parking structure. In other parts of the City where surface parking is permitted, the expected cost of the cash-in-lieu option would be expected to be less.

The CILP Policy authorizes, but does not obligate, the City to consider cash-in-lieu as a means for a particular development to meet the parking requirement. City staff first determine the parking requirement based on the in-force zoning. The applicant then has the option to meet the requirement on-site, or through an off-site agreement with an adjacent property owner.

If an applicant cannot meet the parking requirement, or does not wish to meet the parking requirement, they can seek an amendment through either a Minor Variance or Zoning By-law Amendment application.

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The cash-in-lieu option provides an additional option for an applicant. Rather than seek a Minor Variance or a Zoning By-law Amendment, they can instead request that they meet the requirement through a cash-in-lieu payment. The cash-in-lieu option can apply to all or part of the parking requirement.

As noted above, the CILP Policy does not obligate the City to accept cash-in-lieu of parking. Staff from the Transportation Planning and Parking Division, Real Estate, the Building Division and the Planning Division would review the application, and if supportable given the nature and context of the proposed development, would determine the cost of each parking space. Council approval of the cash payment is required and then the City Solicitor would receive authorization to prepare the necessary CILP agreement. The payment of the cash-in-lieu is deemed to have met the parking requirement, and therefore no Minor Variance or Zoning By-law Amendment application is required.

The CILP payment, agreement and issuance of the CILP certificate is done prior to final Site Plan Approval and prior to the application for a Building Permit.

Proposed Changes to the Cash-In-Lieu of Parking (CILP) Policy

The recommended revised CILP Policy is attached as Appendix “B” to Report PED21028.

The key changes being recommended are summarized below.

1) Temporary Reduced Rate in the Downtown Secondary Plan Area

The current CILP Policy states that payments will not be less than 50% of the total cost of the parking not provided. Most recently, in September 2018, this amount was calculated to be \$17,550 per parking space (50% of \$35,100).

Staff are recommending that a temporary reduced rate be applied within the DTSP area of not less than 25% (which would be approximately \$8,750 per parking space).

It is expected that the recommended reduced rate would result in more applicants seeking to take advantage of the cash-in-lieu option, and providing less on-site parking. Staff will need to assess these on a case-by-case basis, based on the merits and context of each proposal.

Recent developments have generally sought a reduction in parking requirements as outlined in the table below.

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Project	# of Units	Commercial GFA	Minimum Parking Required Based on ZBL (as-of-right)	Minimum Parking Requirement as Modified through MV or ZBLA	Actual Parking Spaces Built
212 King William St. SPA-18-136	266	437.47 sq. m.	134	No Modification	135
43-51 King St. E. & 60 King William St. DA-18-016	581	1,192 sq. m.	526 *Based on By-law in Effect (old Downtown Zoning)	395 HM/A-19:125	415 (Not yet Final Approved)
14 – 18 Augusta St. DA-20-084	40	347 sq. m.	14	13 HM/A-20:243	13 (Not yet Final Approved)
1 Jarvis St. DA-20-035	375	314 sq. m.	157	156 HM/A-20:235	156 (Not yet Final Approved)
46-50 King St. E. SPA-15-110	n/a	4,617.0 sq. m.	84 *Based on By-law in Effect (old Downtown Zoning)	11 HM/A-15:186	11
20-22 George St.	242	635.28 sq. m.	242	145	Residential: 149

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DA-16-155			*Based on By-law in Effect (old Downtown Zoning)	HM/A-16:323 & HM/A-18-371	Commercial: 435
15 Queen St. S. DA-18-114	292	197.0 sq. m. Place of Worship: 423.0 sq. m.	131	160 spaces Special Exception 625	175 spaces *per site statistics on site plan
44 Hughson St. S. and 77 James St. S. DA-19-174	403	1,290.0 sq. m.	215	Modification required	165 spaces *per Zoning comments (Not yet Final Approved)

Where permitted, the reduction in on-site parking would reduce the cost of development, thereby helping to meet the objective stated by the Mayor’s Task Force on Economic Recovery to explore changes to parking as an opportunity for economic recovery and stimulus. In the downtown area, where in almost all cases parking is provided through above- or below-grade parking structures, the cost of providing parking can be several million dollars. Recently approved projects in the downtown have included anywhere from 11 parking spaces (46-50 King Street East) to 415 parking spaces (43-51 King Street East & 60 King William Street). Assuming a cost of \$35,000 per space, this would amount to \$385,000 to \$14,525,000 million per project to provide parking.

By reducing the cost of development, a reduction in on-site parking would also be anticipated to reduce the unit costs for new development, thereby contributing positively to affordability.

A reduction in on-site parking would also have a benefit from a climate change perspective. Specifically, materials used in the construction of parking (namely concrete, asphalt and steel) generate high amounts of greenhouse gas emissions in their production. In addition, surface lots also add to the urban heat effect, amplifying the impacts of climate change.

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It is important to note that it is unlikely that sufficient cash-in-lieu revenues would be generated from new development to construct a new municipal parking structure in the short-term.

For example, in the DTSP Area, 1,009 units were approved in 2018-2020 and these approvals included 633 parking spaces. If developers had adopted for CILP for all 633 spaces, this would have generated approximately \$11 million in capital. Conversely, the cost of a 600 space garage would require at least \$20-\$30 Million to construct depending on location and configuration.

Therefore, expanded use of the cash-in-lieu option at the reduced rate could create a risk of constrained supply in the short-term, should residents move into the new units and then seek a parking space off-site. However, at present the majority of municipally operated off-street parking spaces assigned to monthly parkers in the downtown are utilized by commuters. Of the some 2,800 municipal off-street spaces in the downtown, it is estimated that less than 5% of these spaces would be used by downtown residents opting to purchase a monthly permit. Additionally, within the Downtown, the majority of on-street parking is metered or time-limited parking and not assigned to residential users.

Staff are recommending that the temporary reduced rate be limited to the DTSP Area, as this is the area with the highest levels of transit service, the highest existing mode shares for walking and cycling, and is therefore the area of the City that is most likely to be able to accommodate parking-free residential units and/or commercial space in the short-term.

Secondly, outside of the downtown, there are very few off-site municipal or commercial parking facilities that could be available as an alternative to on-site parking.

Thirdly, outside of the downtown area there would be greater potential for conflicts for on-street parking spaces given that there are few locations outside of the downtown where permits are required for on-street parking.

Finally, under the DTSP, permission has recently been granted for existing residential buildings to offer any surplus parking within their buildings to the public as commercial parking. This permission creates new opportunities for off-site parking supply.

2) Flat Fee for the Temporary Reduced Rate

Currently, the calculation of the cash-in-lieu amount is done on a case-by-case basis. This requires an assessment of land values at each specific location and can be a cumbersome and time-consuming process. It is also has only a minor impact on the

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calculated rate, as land costs tend to be a much smaller component of the cost compared to construction costs.

To streamline the application of the Policy, and provide certainty for applicants, staff are recommending that a flat fee be established for the duration of the temporary reduced rate in the DTSP Area. One flat fee will be established for “surface parking” and one for “multi-level parking” based on the application of the reduced rate to an average downtown land value and construction cost. This flat rate will be applied for the duration of the temporary program.

3) Downtown Residential Areas

The current CILP Policy does not apply to residential zones within the City. The majority of the Downtown Secondary Plan Area is designated for Mixed Use Development, and is therefore eligible for the CILP Policy. There are a few, limited areas that are designated for Residential Use. Staff are recommending that the CILP Policy also apply in these areas in order to provide consistent application across the Secondary Plan Area.

4) Time Limited with a “Sunset Clause”

As noted previously, when an applicant pays cash-in-lieu of parking, they are deemed to have met the provisions of the Zoning By-law. Therefore, provided all other requirements have been met (e.g. Site Plan Approval), once payment is made the applicant can proceed with a Building Permit application.

The agreement to accept cash-in-lieu of parking is outlined in a Cash-In-Lieu of Parking Agreement. Once the applicant enters into a CILP Agreement, the City Clerk issues them a CILP Certificate.

Staff are recommending that the reduced rate only be available for a period of two years, ending on May 1, 2023. Therefore, the cash-in-lieu rate for any CILP Agreement entered into after May 1, 2023 would return to 50% of the parking cost.

Staff are further recommending that there be a “sunset clause” for any CILP Agreement in the DTSP Area. Under the current CILP Policy there is no “sunset clause”, so once the City has accepted that cash will be provided in lieu of the parking requirement through a CILP Agreement, there is no “expiry date” on that permission. Staff are proposing that, for the purpose of the reduced rate, that it only be applicable for a period of two years after the execution of the CILP Agreement. After that time, the applicant would be required to pay the full cash-in-lieu amount.

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In summary, staff are proposing that the reduced rate only be available until May 1, 2023, and that it expire if it is not utilized within two years of the date of agreement.

Staff will track the usage of the CILP Policy, and report back to Planning Committee after 18 months with an Information Report on the number of projects that utilized the CILP option, the revenues generated, and the parking spaces that were foregone. Council may at that time wish to consider extending any of these timelines if Council wishes to continue with the reduced rate.

5) Housekeeping Changes and Delegated Authorities

In addition to the changes above, staff are recommending a number of changes to the CILP Policy to modernize the language and ensure it is consistent with the City's current policies and organization structure. The effect of these changes is to clarify that the application of the policy is delegated to the General Manager of Planning and Economic Development, with all Agreements to be in a form that is satisfactory to the City Solicitor.

As required by the Planning Act, a report will be prepared and presented to Planning Committee and Council with an associated recommendation.

ALTERNATIVES FOR CONSIDERATION

Option 1 – Status Quo

Council could make no changes to the current CILP Policy. It is anticipated that this option would result in minimal utilization of the policy, consistent with recent years.

Option 2 – Alternative Reduced Rate

Council could adopt the recommended changes to the CILP Policy, but apply an alternative reduced rate for the Downtown Secondary Plan Area (either greater or lesser than the recommended rate).

Option 3 – City-Wide Reduced Rate For All Non-Residential Development

The current CILP Policy already applies and is available City-wide (outside of residential areas) at the rate of 50% of the cost of providing off-site parking. Council could apply the temporary reduced rate city-wide, instead of just in the Downtown Secondary Plan Area. Staff are not recommending this approach as it could result in increased demand for off-site parking in areas of the City that do not already have existing off-site municipal parking lots or private commercial parking lots. When staff report back on the

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implementation of the recommended amendments in 18 months, Council may wish to consider modifying the geographic scope at that time.

Option 4 – City-Wide Reduced Rate For Affordable Housing Only

The current CILP Policy does not make any exceptions for affordable housing. As a result, affordable housing projects must pay the same cash-in-lieu rate as market developments. Furthermore, given that the policy does not apply in residential zones, it would be not be available at all to some affordable housing projects.

Council could apply the temporary reduced rate to all affordable housing projects City-wide, based on the same definition that is currently used for the waiving of planning and development fees. That definition requires that the applicant be a Not-for-Profit Corporation or Not-for-Profit Co-operative that is creating new non-profit affordable housing, that the land on which the non-profit housing will be located must be owned or leased for a minimum of twenty years, and that the monthly occupancy costs charged be consistent with the affordable housing definition in the City’s Official Plan.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Current City of Hamilton Cash-In-Lieu of Parking Policy

Appendix “B” – Recommended revised City of Hamilton Cash-In-Lieu of Parking Policy

Appendix “C” – Boundaries of the Downtown Secondary Plan Area