




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

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	November 21, 2024
SUBJECT/REPORT NO:	Inclusion of Studies in the 2024 Development Charges By-law (FCS24051) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Carolyn Paton (905) 546-2424 Ext. 4371
SUBMITTED BY:	Kirk Weaver, Acting Director Financial Planning, Administration and Policy Division Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That Appendix "A" attached to Report FCS24051 respecting a By-Law to Amend By-Law 24-072, Respecting Development Charges on Lands within the City of Hamilton, which has been prepared in a form satisfactory to the City Solicitor, be passed and enacted.

EXECUTIVE SUMMARY

On May 8, 2024, Council approved the City's new 2024 Development Charges (DC) By-law 24-072 which came into effect June 1, 2024.

Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185) received Royal Assent on June 6, 2024. This Bill reversed or altered several of the key changes related to Development Charges that were implemented through Bill 23, *More Homes Built Faster Act* (Bill 23) and considered in the development of the City's 2024 DC By-law.

The Bill 185 changes related to DCs are summarized below:

- Introduction of a process for making Minor Amendments to DC By-laws;
- Removal of the requirement of a mandatory five- year phase-in of DC rates;
- Addition of Growth Studies as an eligible capital cost to be recovered from DCs;

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- Reduction of a DC Rate Freeze timeframe imposed on developments subject to a site plan and/or zoning by-law amendment application from a two-year timeline to 18 months; and
- Modernizing Public Notice Requirements.

The primary purpose of Report FCS24051 is to amend the City’s 2024 DC By-law to add the cost of growth studies back into the DC rates using the process outlined in Bill 185. The secondary purpose of Report FCS24051 is to process housekeeping amendments to the City’s 2024 DC By-law related to other changes through Bill 185.

At the time of adoption of the City’s 2024 By-law there was uncertainty around the timing for Royal Assent of Bill 185. As a result, the City drafted the 2024 By-law in such a way that the removal of the mandatory phase-in and change to the DC freeze timeframe was effective the date Bill 185 received Royal Assent, June 6, 2024.

Minor amendments related to By-law 24-072 may be undertaken through a simplified approval process only if the DC by-law being amended was passed after November 28, 2022 and before Bill 185 came into effect, June 6, 2024. The new amending by-law must be passed within six months of Bill 185 taking effect, December 6, 2024. The City, supported by Watson & Associates Economists Ltd. (Watson), has prepared a minor amendment to the existing DC by-law to add growth studies into the DC calculations.

A summary of the net increase to the current DC rates as a result of the addition of growth studies is displayed in Table 1 below. The new calculated rates and a comparison to existing rates are presented in Tables 2 and 3 in Report FCS24051. Appendix “B” provides additional detail on the revised rates.

**Table 1
Increase in DC Rates due to Growth Studies**

Total DC Payable (2023\$)	Residential (Single Detached) Rate - per unit			Non-residential Rate - per sq.ft.		
	Calculated as per By-law 24-072	Calculated as per By-law 24-072 with Growth Studies	Dollar (\$) Increase	Calculated as per By-law 24-072	Calculated as per By-law 24-072 with Growth Studies	Dollar (\$) Increase
Rural Area	\$37,330	\$37,863	\$533	\$17.67	\$18.00	\$0.33
Combined Sewer System Area	\$71,495	\$76,495	\$5,000	\$33.31	\$33.99	\$0.68
Separate Sewer System Area	\$84,682	\$87,339	\$2,657	\$38.06	\$39.98	\$1.92

Alternatives for Consideration – N/A

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FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: DC Rates

Tables 2 and 3 below outline the DC rates as calculated in the 2024 DC By-law versus the changes calculated with the addition of growth studies. In addition, the 2024 indexed rates are provided to align with the Development Charges Information Pamphlet posted on the City’s website.

**Table 2
City of Hamilton
Rate Comparison – Residential (Single/Semi-Detached)**

Service/Class of Service	2023 Charge Prior to By-law Passage	Calculated as per By-law 24-072	Calculated as per By-law 24-072 with Growth Studies (2023\$)	Calculated as per By-law 24-072 with Growth Studies (2024\$)
City Wide Services/Classes:				
Services Related to a Highway	14,528	18,103	18,103	19,596
Services Related to a Highway - Studies	80	-	88	95
Public Works	1,092	1,335	1,335	1,445
Transit Services	2,600	1,601	1,601	1,733
Fire Protection Services	626	1,151	1,151	1,246
Policing Services	711	1,018	1,018	1,102
Parks and Recreation*	3,518	11,065	11,065	11,977
Library Services	6,695			
Growth Studies	1,554	2,061	2,061	2,231
Long-term Care Services	500	-	445	482
Child Care and Early Years Programs	246	231	231	250
Provincial Offences Act Services including By-Law Enforcement	21	-	-	-
Public Health Services	55	52	52	56
Ambulance	3	42	42	45
Waste Diversion	201	325	325	352
	990	346	346	375
Total City Wide Services/Classes	33,420	37,330	37,863	40,985
Water and Wastewater Urban Area Charges				
Wastewater Facilities	5,491	7,125	7,125	7,712
Wastewater Linear Services	7,346	10,630	10,630	11,506
Water Services	6,466	6,856	6,856	7,421
Water and Wastewater Studies	49	-	543	588
Total Water and Wastewater Urban Area Services	19,352	24,611	25,154	27,227
Stormwater Services - Combined Sewer System				
Stormwater Drainage and Control Services	3,121	9,554	9,554	10,341
Stormwater Studies	2,234	-	3,924	4,247
Stormwater Services - Separate Sewer System				
Stormwater Drainage and Control Services	13,622	22,741	22,741	24,616
Stormwater Studies	570	-	1,581	1,711
Grand Total - City Wide	33,420	37,330	37,863	40,985
Grand Total - Urban Area - Combined Sewer System	55,893	71,495	76,495	82,800
Grand Total - Urban Area - Separate Sewer System	66,394	84,682	87,339	94,539

*Parks & Recreation now combined as one D.C. eligible service

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**Table 3
City of Hamilton
Rate Comparison – Non-residential (per square foot)**

Service/Class of Service	2023 Charge Prior to By-law Passage	Calculated as per By-law 24-072	Calculated as per By-law 24-072 with Growth Studies (2023\$)	Calculated as per By-law 24-072 with Growth Studies (2024\$)
City Wide Services/Classes:				
Services Related to a Highway	10.85	13.31	13.31	14.41
Services Related to a Highway - Studies	0.07	-	0.06	0.06
Public Works	0.56	0.80	0.80	0.87
Transit Services	1.32	0.96	0.96	1.04
Fire Protection Services	0.31	0.69	0.69	0.75
Policing Services	0.36	0.61	0.61	0.66
Parks and Recreation*	0.16	0.95	0.95	1.03
Library Services	0.30			
Library Services	1.36	0.18	0.18	0.19
Growth Studies	0.25	-	0.27	0.29
Long-term Care Services	0.02	0.04	0.04	0.04
Child Care and Early Years Programs	-	-	-	-
Provincial Offences Act Services including By-Law Enforcement	0.02	0.03	0.03	0.03
Public Health Services	-	0.01	0.01	0.01
Ambulance	0.02	0.06	0.06	0.06
Waste Diversion	0.17	0.03	0.03	0.03
Total City Wide Services/Classes	15.77	17.67	18.00	19.48
Water and Wastewater Urban Area Charges				
Wastewater Facilities	2.65	4.53	4.53	4.90
Wastewater Linear Services	3.53	6.75	6.75	7.31
Water Services	3.10	4.36	4.36	4.72
Water and Wastewater Studies	0.03	-	0.35	0.38
Total Water and Wastewater Urban Area Services	9.31	15.64	15.99	17.31
Stormwater Services - Combined Sewer System				
Stormwater Drainage and Control Services	-	-	-	-
Stormwater Studies	-	-	-	-
Stormwater Services - Separate Sewer System				
Stormwater Drainage and Control Services	2.29	4.75	4.75	5.14
Stormwater Studies	0.64	-	1.24	1.34
Grand Total - City Wide	15.77	17.67	18.00	19.48
Grand Total - Urban Area - Combined Sewer System	25.08	33.31	33.99	36.79
Grand Total - Urban Area - Separate Sewer System	28.01	38.06	39.98	43.27

*Parks & Recreation now combined as one D.C. eligible service

Based on the revised calculations, the addition of growth studies results in an increased DC rate of \$2,876 (2024\$) per residential single detached dwelling unit and \$2.07 (2024\$) per square foot of non-residential gross floor area within the separated sewer system area. With respect to the combined sewer system area, the charge would increase \$5,412 (2024\$) per residential single detached dwelling unit and \$0.73 (2024\$) per square foot of non-residential gross floor area.

Subject to Council approval of this report a revised DC Pamphlet will be posted on the City's DC website and made available to the public on December 1, 2024. The Pamphlet provides a summary of the current rates and provisions contained within the DC By-law including eligible capital study costs. Special Area Charges, GO Transit DCs and educational DCs are also outlined, where applicable.

Budget Impact

The City has identified \$100.6 M in gross costs for growth-related studies (in 2023 dollars) across all services from 2023-2032. These studies include various master plans, an official plan update, various secondary plan studies and space needs studies. After deductions to recognize the benefit to the existing community and the portion of the costs related to non-DC eligible services, the total potential DC recoverable cost is \$76.35 M over the forecast period.

Staffing: None

Legal: The draft DC By-law has been prepared by staff from Legal Services, Financial Planning, Administration and Policy and Watson & Associates Economists Ltd. The by-law is being prepared as a minor amendment under the revisions to the DC Act as a result of Bill 185. Accordingly, Legal Services will not be required to provide advice on appeals given that minor amendments are not appealable to the OLT under the DC Act.

HISTORICAL BACKGROUND

DCs are fees imposed on land development and redevelopment projects to help pay for the capital costs of growth-related infrastructure that is needed to service new residential and non-residential development within a municipality.

The Province released several pieces of legislation affecting development charges, including: *Smart Growth for Our Communities Act, 2015* (Bill 73), *More Homes, More Choice Act, 2019* (Bill 108); *Plan to Build Ontario Together Act, 2019* (Bill 138); *COVID-19 Economic Recovery Act, 2019* (Bill 197); *Better for People, Smarter for Business Act, 2020* (Bill 213); *More Homes for Everyone Act, 2022* (Bill 109); *More Homes Built Faster Act, 2022* (Bill 23); and *Affordable Homes and Good Jobs Act, 2023* (Bill 134). The impacts of these legislative changes have been addressed through previous staff reports as legislation was released. A communication update was prepared in August to update Council on this change in legislation and the timelines for amending the 2024 DC By-law.

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On November 28, 2022, Bill 23 received Royal Assent which removed Growth studies from the definition of eligible capital costs. As a result, costs related to studies could not be included in any new by-laws passed after this date. The City passed its new DC by-law on May 8, 2024. On June 6, 2024, Bill 185 received Royal Assent which reintroduced studies as an eligible capital cost. Municipalities were given six months from the date of Royal Assent to pass a minor amending by-law (discussed in more detail below) to provide for growth studies within their by-laws.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The following section provides details on the revisions to the *Development Charges Act, 1997* (DC Act) as a result of Bill 185

Process for Minor Amendments to DC By-laws

Section 19 of the DC Act requires that a municipality must follow sections 10 through 18 of the DC Act (with necessary modifications) when amending DC by-laws. Sections 10 through 18 of the DC Act generally require the following:

- Completion of a DC background study, including the requirement to post the background study 60 days prior to passage of the DC by-law;
- Passage of a DC by-law within one year of the completion of the DC background study;
- A public meeting, including notice requirements; and
- The ability to appeal the by-law to the Ontario Land Tribunal.

However, the DC Act, as amended by Bill 185, allows municipalities to undertake minor amendments to DC by-laws for the following purposes without adherence to the requirements noted above (with the exception of the notice requirements):

1. To repeal a provision of the DC by-law specifying the date the by-law expires or to amend the provision to extend the expiry date (subject to the 10-year limitations provided in the DC Act.);
2. To impose DCs for studies, including the DC background study; and
3. To remove the provisions related to the mandatory phase-in of DCs.

Removal of Mandatory Phase-in

Bill 23 required the phase-in of charges imposed in a DC by-law over a five-year term for any by-laws passed after January 1, 2022. Bill 185 removed this mandatory phase-in.

Reduction of DC Rate Freeze Timeframe

Changes to the DC Act in 2020 provided for the requirement to freeze DCs imposed on developments subject to a site plan and/or a zoning by-law amendment application. The DC rate for these developments is “frozen” at the rates that were in effect at the time the site plan and / or zoning by-law amendment application was submitted (subject to applicable interest).

Once the application is approved by the municipality, if the date the DC is payable is more than two years from the approval date, the DC rate freeze would no longer apply. Bill 185 reduced the two-year timeframe to 18 months. Note, this change is not subject to the minor amendment provisions introduced and must follow the full DC by-law amendment process.

It is noted that the timeframe for the rate freeze provided in the City’s by-law refers directly to the clause in the DC Act which establishes the timeframe. As a result, the by-law has established the reduction in the rate freeze timeframe and has been in effect since Bill 185 received Royal Assent, June 6, 2024. No further amendments are required to the City’s by-law to align with this legislative change.

Modernizing Public Notice Requirements

The DC Act sets out the requirements for municipalities to give notice of public meetings and of by-law passage. These requirements are prescribed in Sections 9 and 10 of O.Reg. 82/98 and include giving notice in a newspaper of sufficiently general circulation in the area to which the by-law would apply. The regulatory changes modernize the public notice requirements by allowing municipalities to provide notice on a municipal website if a local newspaper is not available. Note, this change is in effect as of July 1, 2024.

RELEVANT CONSULTATION

Internal

- Planning and Economic Development Department
- Public Works Department
- Healthy and Safe Communities Department
- Community Services Department
- City Manager’s Office – Communications and Strategic Initiatives
- Corporate Services Department – Office of the City Clerk, Legal and Risk Management Services
- Hamilton Police Service
- Hamilton Public Library

External

- Watson & Associates Economists Ltd.

Communication

Under Bill 185, municipalities are permitted to undertake minor amendments to DC By-laws in order to include DC studies and update the DC rate. The process for minor amendments provided through Bill 185 also does not require the City to hold public meetings and prepare a new Background Study, prior to the by-law amendment. Further, any new By-law amendment undertaken through the minor amendment process is not appealable to the Ontario Land Tribunal. Despite there being limited requirements for communication staff did reach out to DILG and other stakeholders. The City will continue to communicate through the DC website and advise members of Council and members of the Development Industry Liaison Group (DILG) of these upcoming changes. The City will also post publicly upon anticipated By-law passage in the Hamilton Spectator, despite not being required to do so.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The purpose of the Development Charge Background Study (DCBS) and DC By-law is to ensure that the City can continue collecting DCs from net new development across the City to fund growth related capital infrastructure needs in accordance with the DC Act.

The City is undertaking a minor amendment to the existing DC by-law, using new provisions provided for through the enactment of Bill 185 on June 6, 2024. The amendment, if adopted, will add growth studies into the DC calculations and by-law and perform a housekeeping amendment to remove the clause related to the mandatory phase-in (note: the removal of the phase-in has been in effect since Bill 185 received Royal Assent on June 6, 2024). It is proposed that the new rates take effect December 1, 2024, to facilitate a clean transition date and to align with the date that has been tentatively referenced in DC calculations in anticipation of this amendment. Appendix “B”, Memorandum from Watson and Associates Economists Ltd., provides a summary of the legislative changes, the growth studies included in the DC and the details of the calculation of the updated DC. A summary of individual costs is conveyed below.

Growth Studies – All Services Other than Water, Wastewater, Stormwater and Services Related to a Highway

The City has identified \$33.40 M in costs for growth-related studies (in 2023 dollars, Appendix “B”, page 8/28). These studies include various master plans, an official plan update, various secondary plan studies and space needs studies.

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Based on the calculations provided, Growth Studies for all services other than water, wastewater, stormwater and services related to a highway, results in an increased DC charge of \$445 per residential single detached dwelling unit and \$0.27 per square foot of non-residential gross floor area.

Growth Studies – Water, Wastewater, Stormwater and Services Related to a Highway

Studies related to water and wastewater, stormwater and services related to a highway are calculated separately from all other services, given that the growth targets used for these services differ from all other services calculated on a 10-year forecast. The following provides a brief overview of these studies and their impact on the City's DC rate.

Services Related to a Highway

The City has identified \$3.03 M in costs for growth-related studies related to services related to a highway (in 2023 dollars, Appendix "B", page 11/28). These studies include various master plans, transportation plans an interchange study, etc. A deduction of \$756,300 has been made to account for the share of the studies that is anticipated to benefit the existing development. As result, the net DC recoverable cost for studies for services related to a highway is \$2.27 M.

Based on the calculations provided herein, growth studies for services related to a highway, result in an increase of \$88 per residential single detached dwelling unit and \$0.06 per square foot of non-residential gross floor area.

Water and Wastewater Services

The City has identified \$17.99 M in costs for growth-related studies related to water and wastewater services (in 2023 dollars, Appendix "B", page 14/28). These studies include the water and wastewater master plan, servicing studies, neighbourhood studies, etc. A deduction of \$4.38 M has been made to account for the share of the studies that is anticipated to benefit the existing development. As result, the net DC recoverable cost for studies related to water and wastewater services is \$13.62 M.

Based on the calculations provided herein, growth studies for water and wastewater services, result in an increase of \$543 per residential single detached dwelling unit and \$0.35 per square foot of non-residential gross floor area.

Stormwater Services

Separate Sewer System

The City has identified \$35.29 M in costs for growth-related studies related to stormwater services in the separate sewer system area (in 2023 dollars, Appendix “B”, page 16/28). These studies include master plans and various servicing studies. A deduction of \$1.06 M has been made to account for the share of the studies that is anticipated to benefit the existing development. As result, the net DC recoverable cost for studies for stormwater within the separate sewer system area is \$34.23 M.

Based on the calculations provided herein, growth studies for stormwater services in the separate sewer system area, result in an increase of \$1,581 per residential single detached dwelling unit and \$1.24 per square foot of non-residential gross floor area.

Combined Sewer System

The City has identified \$10.93 M in costs for growth-related studies related to stormwater services in the combined sewer system area (in 2023 dollars, Appendix “B”, page 19/28). A deduction of \$142,000 has been made to account for the share of the studies that is anticipated to benefit the existing development. As result, the net DC recoverable cost is \$10.79 M.

Based on the calculations provided herein, stormwater growth studies for stormwater in the combined sewer system area, result in an increase of \$3,924 per residential single detached dwelling unit. There is no DC for non-residential development related to stormwater growth studies in the combined sewer system area. Additional details are provided in Appendix “B”.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES ATTACHED

Appendix “A” to Report FCS24051 – By-Law To Amend By-Law 24-072, Respecting Development Charges on Lands within the City of Hamilton

Appendix “B” to Report FCS24051 – Memorandum from Watson & Associates Economists Ltd. Dated November 14, 2024 re 2024 Development Charges Background Study Update – Amendments as per Bill 185

CP/dt