

PETITION TO HALT AND RELOCATE THE TOWER PARK WATER TOWER PROJECT

To:

- Mayor Andrea Horwath and Hamilton City Council

Cc:

- The Honourable Todd McCarthy, Minister of the Environment, Conservation and Parks
 - The Honourable Rob Flack, Minister of Municipal Affairs and Housing
 - MPP Donna Skelly, Flamborough–Glanbrook
 - Ontario Ombudsman, Municipal Services Branch
 - Ontario Land Tribunal (OLT)
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We, the undersigned residents of Carlisle and concerned citizens across Ontario, urgently call for an immediate halt to construction activities at Tower Park (46 Woodend Drive) and the lawful relocation of the proposed 49-metre industrial water tower to a safer, properly planned location.

We support responsible investment in Carlisle's water infrastructure.

We do not support the reckless, unlawful, and short-sighted decision to site a massive industrial tower in the middle of a protected children's park, beside family homes, and on top of the town's drinking water supply — without lawful environmental review, public consultation, or zoning compliance.

For the significant public funds being spent, Carlisle deserves better.

Instead of safeguarding our future, the City's plan destroys critical parkland, endangers our aquifer, threatens nearby homes, and cripples Carlisle's ability to grow responsibly.

Grounds for Opposition:

1. Ignoring the Lessons of Walkerton and Violating Drinking Water Safety

The Walkerton tragedy proved that neglecting groundwater protection has catastrophic consequences. In 2000, contaminated runoff entered municipal wellheads during a period of negligent construction and maintenance oversight, leading to widespread E. coli poisoning, seven deaths, and over 2,300 people sickened.

The same dangerous conditions are now being recreated in Carlisle:

- The proposed Tower Park construction site lies within approximately 15–21 metres of active municipal wellheads supplying Carlisle's drinking water, based on site maps and engineering documents.
- Tower Park has an elevation that varies by approximately 5 metres, sloping from about 278 metres above sea level (AMSL) at its highest point, down to 273 metres AMSL at the construction staging area, and further down to approximately 272 metres AMSL in adjacent residential yards.

- The usable flat portion of the site is only approximately 0.9 acres, despite the City incorrectly claiming a 3-acre project area.
- Tower Park was intentionally graded by Flamborough Hills Developments to serve as a groundwater recharge zone for these municipal wells.

Due to the natural downhill slope of the land toward the wellheads, contaminants introduced by excavation, concrete leachate, diesel emissions, construction dust, vibration, chemical spills, and dewatering activities will naturally flow downhill — infiltrating both surface and subsurface pathways.

The City's own Hydraulic Modelling Technical Memo (Appendix 3) warned:

"The site is located in a Wellhead Protection Area-A and Wellhead Protection Area-B. This introduces additional constraints and may trigger regulatory review."

It further stated:

"Depending on the level of disturbance and construction scope, this project may be better suited to a full Schedule C process."

Despite these direct expert warnings, the City exempted itself from conducting the required full Environmental Assessment, bypassed mandatory soil testing, and proceeded without informing residents of the extreme proximity risks to the drinking water supply.

This violates the requirements of Ontario's Clean Water Act, 2006, which mandates rigorous protection of highly vulnerable drinking water sources — particularly those with a vulnerability score of 10, as Tower Park is classified.

Groundwater contamination, once it occurs, cannot easily be reversed and may permanently degrade the municipal water supply — just as it did in Walkerton.

The lessons of Walkerton were not optional suggestions.

They were binding warnings — and they are being ignored at Carlisle.

BREACH: Clean Water Act, 2006 (Ontario); Source Protection Technical Rules (Ontario); Municipal Class Environmental Assessment Manual (Ontario)

2. Illegal Site Selection and Misrepresentation of Zoning and Ownership

The Tower Park site (46 Woodend Drive) is legally zoned P1 (Neighbourhood Park) under Hamilton's Zoning By-law No. 05-200, which strictly prohibits large utility infrastructure like water towers on passive parkland.

The City falsely merged multiple parcels — 40, 42, and 46 Woodend — and misrepresented the zoning to Council and the public as S1 (Utility/Open Space).

In reality:

- Only 40 and 42 Woodend are zoned S1.
- 46 Woodend, where the majority of construction and tower staging would occur, remains zoned P1.
- No lawful rezoning has occurred under Ontario's Planning Act.
- No Site Plan Control Application was submitted as required by the City's Site Plan Control By-law No. 03-294.

By blending land parcels and hiding critical zoning restrictions, the City materially misled decision-makers and residents — violating both the Planning Act and procedural fairness obligations.

This is a fundamental flaw that invalidates the project's approval process.

BREACH: *Planning Act, R.S.O. 1990; Hamilton Zoning By-law No. 05-200*

3. Circumvention of Environmental Safeguards and Public Consultation

Despite clear expert warnings from their own technical consultants, the City of Hamilton self-exempted from conducting a full Schedule C Environmental Assessment.

The Hydraulic Modelling Memo (Appendix 3) explicitly stated:

"Depending on the level of disturbance and construction scope, this project may be better suited to a full Schedule C process."

Schedule C assessments are mandatory under Ontario's Municipal Class Environmental Assessment (MCEA) framework for large water infrastructure projects impacting sensitive areas.

By improperly claiming exemption, the City avoided:

- Full public notice
- Public meetings
- Comparative site analysis
- Environmental Impact Study

This constitutes a violation of the Environmental Assessment Act, 1990, and the rights of residents to be consulted before high-risk infrastructure projects proceed in vulnerable locations.

BREACH: *Environmental Assessment Act, R.S.O. 1990; Municipal Class Environmental Assessment Manual*

4. Reckless Threat to Drinking Water and Aquifer Safety

Tower Park lies within a Wellhead Protection Area-A (WHPA-A), classified with a vulnerability score of 10 — the highest possible threat level under Ontario's Clean Water Act, 2006.

The City's construction activities — including:

- Deep excavation
- Dewatering operations
- Diesel machinery use
- Concrete mixing and chemical runoff

all present severe risks to groundwater quality, especially given the park's natural slope directing contaminants toward the municipal wellheads.

Despite these dangers, the City conducted no updated hydrogeological study or risk mitigation plan before approving construction — a breach of duty under the Clean Water Act's preventive principles.

BREACH: *Clean Water Act, 2006 (Ontario); Environmental Protection Act (Ontario)*

5. Exposure of Homes and Families to Moderate Construction Risks

The City's own Construction Impacts Assessment (Appendix 11) openly admitted:

"Moderate risk levels are anticipated to nearby residences from construction dust, debris, vibration, and traffic during the multi-year construction phase."

Despite acknowledging these threats, no property protections, compensation measures, or health safeguards have been offered to affected residents.

Families living as close as 15 metres from heavy diesel equipment and industrial construction operations face unjustified and unlawful health and safety risks.

BREACH: *Environmental Protection Act (Ontario); Occupational Health and Safety Act (Ontario)*

6. Violation of Setback, Infrastructure, and Community Safety Standards

The new water tower itself would sit only 25 metres from existing homes.

Worse, the construction staging area (cranes, materials, diesel generators) would operate just 15 metres from residential property lines.

Tower Park lacks the critical infrastructure required under Hamilton's Site Plan Control By-law No. 03-294 and Zoning By-law No. 05-200, including:

- No curbs

- No sidewalks
- No stormwater management systems
- No industrial-access roads

Proceeding without these minimum protections exposes children, seniors, and the entire community to preventable harm.

BREACH: *Hamilton Site Plan Control By-law No. 03-294; Hamilton Zoning By-law No. 05-200*

7. Irreparable Harm to Childhood Development and Vulnerable Residents

Construction noise levels at Tower Park are expected to exceed 90 decibels (comparable to jackhammers), sustained for months or years.

The U.S. Environmental Protection Agency (EPA) and the World Health Organization (WHO) warn that:

"Noise levels above 75 decibels can impair children's learning, speech development, and emotional regulation."

A ten-month-old infant currently resides approximately 70 metres from the site.

At least three elementary-aged children live approximately 80 metres away and play daily in Tower Park.

Moreover, a person [REDACTED] — directly adjacent to the construction staging zone (15 metres away) — and is highly vulnerable to sensory overload, vibration, and diesel exposure.

The City's decision to proceed without proper accommodation considerations violates the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act (AODA).

BREACH: *Ontario Human Rights Code; Accessibility for Ontarians with Disabilities Act (AODA)*

8. Availability of Safer, Lawful Alternatives

Fully serviced, properly zoned lands exist east of Highway 6, offering safer and lawful locations for Carlisle's future water infrastructure expansion.

Despite available options, the City failed to conduct a genuine alternative site assessment — a required step under the Municipal Class Environmental Assessment (MCEA) framework.

BREACH: *Planning Act (Ontario); Environmental Assessment Act; Municipal Class EA Manual*

9. Violation of Wildlife Protection Setbacks

The proposed construction zone lies approximately 60 metres from P6/P7 designated conservation areas.

Under Ontario's Provincial Policy Statement (PPS) 2020, Section 2.1.8, and the Natural Heritage Reference Manual:

"Development and site alteration shall not be permitted within 120 metres of significant wildlife habitat unless it has been demonstrated through an Environmental Impact Study (EIS) that there will be no negative impacts."

The City conducted no EIS.

No mitigation measures were proposed.

This constitutes a direct violation of Ontario's land use and conservation policies.

BREACH: Provincial Policy Statement (PPS) 2020, Section 2.1.8; Natural Heritage Reference Manual

10. Destruction of Protected Parkland Character

Tower Park is legally designated as P1 (Neighbourhood Park) under Hamilton's Zoning By-law No. 05-200.

The site is protected for:

- Passive recreation
- Naturalized green space
- Community health and aesthetic value

The City's construction plan involves:

- Removal of mature trees
- Destruction of wildlife corridors
- Conversion of a naturalized environment into a concrete industrial zone

This violates the spirit and letter of parkland protection zoning.

Allowing industrial construction on protected parkland sets a dangerous precedent city-wide.

BREACH: Hamilton Zoning By-law No. 05-200; Municipal Official Plan Policies

11. Destruction of a Naturalized Aquifer Recharge Area

Tower Park was specifically graded by Flamborough Hills Developments decades ago to function as a groundwater recharge zone, feeding the underlying municipal aquifer.

Regrading the site for tower construction, heavy crane staging, and truck operations will:

- Increase runoff
- Reduce natural infiltration
- Risk chemical migration into the drinking water source

The City failed to provide any stormwater management plan or groundwater protection strategy — a reckless omission in a WHPA-A zone.

BREACH: *Clean Water Act, 2006 (Ontario); Source Protection Technical Rules (Ontario); Municipal Class EA Manual*

Relief Requested:

We respectfully demand:

- Immediate halt to all construction, staging, and preparation activities at Tower Park.
 - Completion of a full Schedule C Environmental Assessment, with proper public, ecological, and Indigenous consultation.
 - Enforcement of zoning, planning, accessibility, and environmental laws.
 - Formal investigation by the Ontario Ombudsman into the project's procedural irregularities.
 - Relocation of the project to a safer, lawfully zoned site that protects drinking water, children, wildlife, and public green space.
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Additional Relief Requested:

Immediate Suspension, Legal Review, and Referral to the Ontario Land Tribunal (OLT)

We further demand:

- Immediate suspension of the by-law approving the Tower Park water tower project.
 - Quashing of the by-law due to procedural defects, zoning misrepresentation, and failure to disclose material environmental risks.
 - Referral to the Ontario Land Tribunal for adjudication if the City refuses to halt the project voluntarily.
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End of Petition Text

(Signatures Below)