

CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
Financial Planning and Policy Division

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| TO: Mayor and Members General Issues Committee | WARD(S) AFFECTED: City-Wide |
| COMMITTEE DATE: February 15, 2012 | |
| SUBJECT/REPORT NO: Development Charge Exemption Policies for the Expanded Downtown Hamilton Community Improvement Project Area and Protected Heritage Properties Across the City and Demolition Credit Extension for 85 Robinson Street (FCS12015) (City-Wide) | |
| SUBMITTED BY: Roberto Rossini, General Manager Finance & Corporate Services | PREPARED BY: Joseph Spiler (905) 546-2424 ext. 4519 Adam Smith (905) 546-2424 ext. 1434 |
| SIGNATURE: | |

RECOMMENDATION

- (a) That developments in the new expanded Downtown Hamilton Community Improvement Project Area (CIPA) (refer to Appendix "A" of report FCS12015), as per the expanded boundary approved by Council November 16, 2011, be exempted 90% from Development Charges (DC's), with the exemption being applied after any and all other credits and exemptions have been applied;
- (b) That subject to the approval of recommendation (a) of report FCS12015, the remaining DC Liability be exempted Dollar for Dollar based on the development's voluntary contribution to a Downtown Public Art Reserve;
- (c) That subject to the approval of recommendation (b) of report FCS12015, staff of the Planning and Economic Development Department report back to the General Issues Committee on the terms and conditions for the use of a Downtown Public Art Reserve;

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- (d) That a Development Charges (DC) Exemption Policy of 100% be applied to the Adaptive Reuse of Protected Heritage Properties within the existing building envelope, across the City of Hamilton;
- (e) That the expired Municipal Development Charges Demolition Credit in the amount of \$291,342 for 85 Robinson Street (formerly Hamilton Thistle Club) be extended to December 31, 2012;
- (f) That the amending Development Charges By-law, attached hereto as Appendix B of report FCS12015, being an amendment to Development Charges By-laws 09-143, 11-174 and 11-175, be passed and enacted;
- (g) That staff of the Corporate Services Department and the Planning & Economic Development Department be directed to undertake and report back to the General Issues Committee on a comprehensive review of City Development Charges and their impact on intensification;
- (h) That Council determine that no further public meeting is required.

EXECUTIVE SUMMARY

DC Exemption Policies

Existing City of Hamilton DC By-laws 09-143, 11-174 and 11-175 have a 100% DC exemption for the Downtown Hamilton CIPA generally bounded by Cannon Street, Victoria Avenue, Hunter Street, and Queen Street (refer to Appendix C of report FCS12015).

On November 8, 2011, the Planning Committee approved report PED11188 regarding the Downtown and Community Renewal Community Improvement Plan and Project Area Review which expanded the Downtown Hamilton CIPA (refer to Appendix A of report FCS12015). Specific to City of Hamilton Development Charges was the following direction to staff:

- “(m) That subject to the approval of recommendation (a), staff of the Urban Renewal Section and Finance and Corporate Services report back to the General Issues Committee on the financial implications of extending the Downtown development charge exemption area to the expanded boundary of the Downtown Hamilton Community Improvement Project Area, and to projects involving the adaptive reuse of designated heritage properties. In the subsequent report per recommendation (m) staff will present to Council options regarding amendments to

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the existing Development Charge By-laws with regards to extending the Downtown Development Charge exemption area;”

Following approval of report PED11188 by Council on November 16, 2011, staff of the Urban Renewal Section and the Corporate Services Department have met, reviewed and discussed the issues and agreed to recommend the following:

- That the DC Exemption should be extended to include the Expanded Downtown Hamilton CIPA;
- That in lieu of the DC's which have been exempted, the City should seek a contribution to a Public Art reserve to help fund art projects within the downtown core; and,
- That the Adaptive Reuse of Protected Heritage Properties within the existing building envelope should be exempted from Development Charges.

Recommendation (b) of Report FCS12015 reflects staff's initiative to increase funding for the Arts in the Downtown.

In summary, a development's 90% DC exemption could be increased to a maximum of 100% based upon the amount of the development's voluntary contribution to a City Downtown Public Art Reserve. Staff are recommending this two-tiered exemption policy as an incentive for developers to contribute to the need for Public Art in the Downtown area.

Based on historical development activity in the Downtown Hamilton CIPA (refer to Table 2 of report FCS12015), the following positive net financial impacts are forecasted;

- If no voluntary development contributions were to be made to the City's Downtown Public Art Reserve, foregone DC revenues due to the Downtown exemptions would **decrease** by approximately \$100,000 annually.
- Voluntary contributions to a Downtown Public Art Reserve could contribute non-tax funding for this program area in the City's tax-supported Capital Budget.

Staff of the Planning and Economic Development Department will report back to the General Issues Committee (GIC) upon approval of this report regarding the terms and conditions for the use of any funds that are contributed to a Downtown Public Art Reserve.

The recommendation to extend the exemption to the expanded boundary of the Downtown Hamilton CIPA is based on the success of the exemption in the original

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Downtown Hamilton CIPA, increasing assessment and tax collections, as well as, the need to align the incentives available.

Recommendation (d) of report FCS12015 recommends to exempt DC's from the Adaptive Reuse of Protected Heritage Properties across the City encourages redevelopment of these properties rather than having them fall into disrepair.

For the purposes of this report and by-law, Adaptive Reuse means the alteration of an existing heritage building:

- For compliance of its continuing or resumed use(s) with current building code requirements; and/or,
- For compliance of its proposed new use(s) with current building code requirements; and/or,
- For ensuring its structural integrity; and/or,
- For optimizing its continued, resumed or new use(s); and,
- While maintaining the cultural heritage value or interests of the subject building; and,
- In compliance with the conditions of any Heritage Permit required for the subject alterations.

For the purposes of this report and by-law, Protected Heritage Properties means a property:

- Designated under Part IV of the Ontario Heritage Act; or,
- Designated under Part V of the Ontario Heritage Act; or,
- Subject to a Heritage Easement under Part II of the Ontario Heritage Act; or,
- Subject to a Heritage Easement with Part IV of the Ontario Heritage Act; or,
- Subject to a covenant or agreement on title held between the property owner and a conservation authority or level of government in the interest of conserving built heritage.

DC By-law Amendments

In order to implement the recommended DC exemption policies, a number of DC By-law amendments are required. These amendments include:

- Addition of definitions for 'Adaptive Reuse' and 'Protected Heritage Properties';
- Addition to Partial Exemptions section of Adaptive Reuse of Protected Heritage Properties within the existing building envelope, across the City;
- Replacement of Downtown Hamilton CIPA map;
- Replace Downtown Hamilton Community Improvement Project Area Exemption section with new section to provide partial (90%) exemption after any and all other exemptions and credits have been applied; and,

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- Addition to Downtown Hamilton Community Improvement Project Area Exemption section to allow for voluntary contributions to a Downtown Public Art Reserve to offset remaining DC's.

The process for a Development Charges By-law amendment is as follows (as per the DC Act):

- Public Meeting would need to be held concerning the amendment;
- Newspaper advertisement of the public meeting at least twenty (20) days prior to the public meeting;
- Ensure that the proposed by-law amendment is made available to the public fourteen (14) days prior to the public meeting;
- At the public meeting, citizens may make representations concerning the amendment;
- The City Clerk shall give written notice of the passing of the by-law no later than twenty (20) days after the passing, and of the last day for appealing the by-law, which shall be the day that is forty (40) days after the day the by-law is passed;
- The amendment would be subject to a forty (40) day appeal period whereby appeals can be made to the Ontario Municipal Board (OMB);

In order to meet these timelines, staff will have posted an advertisement no later than January 26th, 2012, based on the GIC meeting date of February 15th, 2012.

Similarly, staff will have made available to the public, the By-law amendment no later than February 1st, 2012.

Demolition Credit Extension – 85 Robinson Street

Given that this report was forthcoming to Council, staff have also included a recommendation to extend the demolition DC credit for 85 Robinson Street. In 2009, Council approved report FCS09074 which extended the demolition credit of \$1,084,962 to June 30, 2011. The developer made use of \$793,620 of the exemption, and is now considering additional development on the site and has requested that the remaining demolition credit be further extended to allow them to make use of it in an effort to improve the business case to proceed with further development. As can be seen in Table 1 of report FCS12015, the remaining credit would be worth \$291,342:

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TABLE 1 - Calculation of Remaining DC Credit - 85 Robinson St

| | | |
|---|----|-----------|
| Demolition Credit Extended in FCS09555: | \$ | 1,084,962 |
| Amount of Credit used June 29, 2011: | \$ | 793,620 |
| Remaining Credit Available for Extension: | \$ | 291,342 |

Providing this demolition credit extension would fall within the intended purpose of the limited life of demolition credits – that being to expedite redevelopment of the site.

Alternatives for consideration - See page 10

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: The proposed recommendations may have a positive financial impact, as the City will now collect 10% of the previously exempted DC's (in the former boundary of the Downtown Hamilton CIPA) for either DC funded projects, or Public Art. The new area encompassed by the expanded Downtown Hamilton CIPA has had very limited development, and so if the partial exemption spurs development, the DC's and/or Public Art contributions received would be over and above what would have otherwise been collected. To maximize the potential positive financial impact, the Downtown Hamilton CIPA DC exemption will be applied after any and all other credits and exemptions have been applied.

Also, much of the development which occurs within the Downtown Hamilton CIPA is actually redevelopment, which means that there are generally credits which would apply against the redevelopment, and most of the time, the impact on the infrastructure is relatively limited, especially when compared to development in a Greenfield. Therefore, the forfeited DC exemptions are also limited.

As can be seen in Table 2 of report FCS12015, past Downtown Hamilton CIPA Exemptions have resulted in increased property assessment and tax collections. While the return on exemption does vary from one development to the next, the overall average payback period is approximately 3.8 years.

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| Table 2 - Tax Implications of Downtown CIPA DC Exemption Analysis | | | |
|--|---------------------|-----------------------------------|------------------|
| Year | DC Exemption Amount | Increase in Annual Tax Collection | |
| Pre-2005 | \$ 1,311,122 | \$ | 459,104 |
| 2005 | \$ 544,794 | \$ | 118,531 |
| 2006 | \$ 1,300,558 | \$ | 253,274 |
| 2007 | \$ 231,782 | \$ | 85,898 |
| 2008 | \$ 81,748 | \$ | 19,699 |
| 2010 | \$ 336,467 | \$ | 177,607 |
| 2011 | \$ 1,425,509 | \$ | 271,308 * |
| Total | \$ 5,231,980 | \$ | 1,385,421 |

Average Payback Period: 3.8 Years

*Estimated Increase

For the Adaptive Reuse of Protected Heritage Properties exemption, the financial impact to the City will be limited. Because it only covers reuse of the Protected Heritage Properties, it will generally result in a small development charge payable and there are a limited number of properties eligible. The few potential exceptions include the adaptive reuse of properties which were previously exempt from DC's, such as Schools and Churches. Under the existing by-laws, any redevelopment would pay full DC's and not receive any credits, which could be substantial in a larger building. If recommendation (d) of report FCS12015 is approved, the City would forfeit on the collection of these DC's.

The redevelopment of the former Hamilton Thistle Club site at 85 Robinson Street will result in DC's payable over and above unused demolition credits. The property developer has noted that without the extension of the credit, they will not be able to move forward with the next phase of the redevelopment at this time, and that the remainder of the site may then sit undeveloped for a potentially lengthy period of time. Therefore, the extension of the credit may accelerate the realization of the property tax benefit from an accelerated development.

Staffing: None

Legal: Staff's recommendations require that the City's current DC By-laws (09-143, 11-174 and 11-175) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period.

HISTORICAL BACKGROUND (Chronology of events)

DC By-law Amendments

Currently, DC exemptions exist within the original Downtown Hamilton CIPA, approved by Council August 27, 2008. Under the provisions of the current DC By-laws 09–143, 11-174 and 11-175, all development within the boundaries of the previous Downtown Hamilton CIPA is exempt.

On November 16, 2011, City Council approved Report PED11188, including recommendation (m) which directed staff to review a Development Charges exemption extension to the expanded Downtown Hamilton CIPA, as illustrated in Appendix A of report FCS12015, as well as, reviewing the potential to exempt the Adaptive Reuse of Designate Heritage Properties.

Staff have now brought back this report to address recommendation (m) from report PED11188.

Demolition Credit Extension – 85 Robinson Street

On August 11, 2009, Report FCS09074 was presented to Council recommending an extension of the Demolition DC Credit from August 31, 2009 to June 30, 2011. The June 30, 2011, date coincided with the Parkland Dedication Reduction deadline that had previously been approved. The rationale, given at the time, was that the extension would meet one of the City objectives of promoting intensification, as well as, generate direct economic benefits to the local community. It was assumed, at the time of the report, that the entire credit would have been used by the June 30, 2011, deadline.

In June 2011 the Developers made an application for their building permit for the first phase of the redevelopment, using almost 75% of the available credit. The Developers have now approached the City to discuss Phase 2 of the redevelopment of the site, and have requested that the unused credit be further extended to provide them with the ability to move the project forward.

POLICY IMPLICATIONS

In the past, all development in the Downtown Hamilton CIPA was 100% exempt. However, with the exemption decreased to 90%, other exemptions and credits will also need to be considered when determining DC's payable. As a result, the Downtown Hamilton CIPA DC exemption will be applied after all other exemptions and credits have been applied.

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Any changes to current DC policies require amendments be made to the DC By-laws. In order to amend the DC By-law, the following process must take place according to the 1997 *Development Charges Act*.

- A Public Meeting would need to be held concerning the amendment.
- 20 days public notice will be given prior to this meeting.
- This proposed amendment will be made available to the public 14 days prior to the meeting.
- At the Public Meeting, people may make representations concerning the amendment.
- The amendment would be subject to a 40 day appeal period whereby appeals can be made to the Ontario Municipal Board (OMB).
- The following City By-laws would be amended: 09-143, 11-174, and 11-175.

Staff have met all requirements for the amendments to be made.

RELEVANT CONSULTATION

Staff of the Urban Renewal Section, Planning and Economic Development Department – recommended applying the DC Exemption to the expanded Downtown Hamilton CIPA to have the area align to that used for other incentives. To help fund a proposed Downtown Public Art Reserve, staff also suggested a two-tier DC Exemption, where those contributing to the Public Art Reserve would be eligible to receive a greater DC Exemption.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Application of Exemption to Expanded Downtown Hamilton CIPA

The staff recommendation to apply an exemption to the Expanded Downtown Hamilton CIPA would encourage redevelopment and intensification within the CIPA, as well as, create more consistency and clarity regarding what area these incentives apply to. These are areas where new developments or redevelopments would make use of existing infrastructure, limiting the overall impact on the City Infrastructure. The Downtown Hamilton CIPA exemption has had some success in attracting development and increasing assessment in the downtown core (refer to Table 2 of report FCS12015).

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Adapting the Expanded Downtown Hamilton CIPA would further assist in increasing property assessment in the downtown core. This exemption would apply to the three City controlled Development Charges By-laws – 09-143 (Municipal Wide Development Charges), 11-174 (Water, Wastewater & Stormwater Development Charges), & 11-175 (GO Transit Development Charges).

Currently, there are several potential developments within the Expanded Downtown Hamilton CIPA which have indicated that they would move forward if the exemption was approved, but would either have to revise their plans for smaller developments, or delay their plans until a time when the market would make them more economically feasible, should the recommendation not be approved.

Having the entire new Downtown Hamilton CIPA subject to a 90% DC exemption instead of the previous 100% is believed to be a small enough difference that it would not impact any future developments from moving forward. Also, now that the Downtown Hamilton CIPA DC Exemption rate is only 90%, it will be applied after any and all other credits and exemptions have been taken into account.

Downtown Public Art Reserve

Allowing voluntary contributions to a Downtown Public Art Reserve to reduce any remaining DC liability within the Downtown Hamilton CIPA will provide the potential to alleviate some of the funding shortfall for the Public Art program area in the City's tax-supported Capital Budget. Providing a choice to developers between DC's and a Downtown Public Art Reserve allows the developer to ensure the funds they pay will be used within the Downtown Hamilton CIPA should they choose to contribute to the Downtown Public Art Reserve.

Had such a program been in place, based on the exemptions noted above in Table 1 of report FCS12015, the City could have potentially collected up to \$523,198 towards a Public Art Fund.

If recommendation (c) is approved, a follow-up report to set up the reserve and the terms and conditions for its use will be brought forward to the Committee for consideration.

Adaptive Reuse of Protected Heritage Properties

Providing an exemption for the Adaptive Reuse of Protected Heritage Properties within the existing building envelope, across the City of Hamilton, will aid in the conservation of these heritage buildings by allowing them to continue or resume their function as actively used properties. Significant work may be required to bring such buildings up to current building code standards when they are being redeveloped, and any

Development Charges that are assessed against these properties pose a barrier to the redevelopment work being done. In addition, such Development Charges do not take into consideration the existing building fabric being re-used or rehabilitated, the existing infrastructure and servicing previously installed, and prior development charges collected. The recommendation to provide an exemption will support the City's goals of ensuring the conservation maintenance and active use of these heritage properties.

Extension of Demolition Credit

Extending the Demolition Credit for 85 Robinson Street would meet the City objective of promoting intensification and ensure it happens in a timely manner. While choosing to not extend the Demolition Credit may result in the City realizing the DC collections, there is the potential that it may not be realized for a number of years with the undeveloped portion of the lot sitting vacant until such a time as property values increase to a level which makes the project more financially feasible.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Option A – 100% DC Exemption for the Expanded Downtown Hamilton CIPA

Under this option, the DC exempt area would expand to the new CIPA boundaries, however the exemption would be a full 100% DC exemption (similar to the current exemption for the previous Downtown Hamilton CIPA), as opposed to the recommended 90% exemption. It is believed that the difference between a 90% exemption and 100% exemption would not impact the feasibility of any potential projects within the expanded Downtown Hamilton CIPA.

Financial: A full 100% DC Exemption would result in no collections for DC's or Public Art in lieu of DC's in the Downtown Hamilton CIPA. As compared to the recommended option, the forecast foregone revenue to support public art would be approximately \$100,000 per annum. There would be no incentive for voluntary contributions to the proposed Downtown Public Art Reserve in lieu of DC's.

Staffing: N/A

Legal: Staff's recommendations require that the City's current DC By-laws (09-143, 11-174 and 11-175) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period.

Pros:

A full 100% DC Exemption would be much simpler to administer, and would provide the maximum possible DC incentive to developers for projects in the Downtown Hamilton CIPA.

Cons:

Development within the Expanded Downtown Hamilton CIPA would make no contribution towards DC's or a Public Art Reserve.

Option B – 75% DC Exemption for the Expanded Downtown Hamilton CIPA

Under this option, the DC exempt area would expand to the new CIPA boundaries; however the exemption would be a 75% DC exemption, as opposed to the recommended 90% exemption. This would be a new exemption within the expanded portion of the Downtown Hamilton CIPA; however, it would be a reduction of the DC Exemption relative to the recommended option and current exemption within the old Downtown Hamilton CIPA.

Financial:

Assuming that the impact of 25% of DC's would not have stopped any of the previously fully exempted developments from moving forward, the City would have collected just over \$1.3 Million based on the figures in Table 2 of report FCS12015. There is the possibility that paying 25% of DC's could have delayed or stopped some of these projects from moving forward, which would have negatively impacted DC collections and property tax assessment and collections.

In the expanded portion of the Downtown Hamilton CIPA there has been minimal development over the last several years. As a result, extending a 75% exemption to the area may have resulted in increased DC collections being realized sooner.

Staffing: N/A

Legal: Staff's recommendations require that the City's current DC By-laws (09-143, 11-174 and 11-175) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period.

Pros:

A 75% exemption would result in the City realizing some DC collections from the Downtown Hamilton CIPA, and provide an incentive for increased development in the expanded portion of the Downtown Hamilton CIPA.

Cons:

A decrease to a 75% exemption in the old Downtown Hamilton CIPA may be a deterrent to new developments coming forward, while an increase to the 75% exemption in the expanded portion of the Downtown Hamilton CIPA may result in additional exemptions and put additional stress on other City infrastructure funding sources.

Option C – 50% DC Exemption for the Expanded Downtown Hamilton CIPA

Under this option, the DC exempt area would expand to the new CIPA boundaries; however the exemption would be a 50% DC exemption, as opposed to the recommended 90% exemption. This would be a new exemption within the expanded portion of the Downtown Hamilton CIPA; however, it would be a reduction of the DC Exemption (increase of DC's) within the old Downtown Hamilton CIPA.

Financial:

Assuming that the impact of 50% of DC's would not have stopped any of the previously fully exempted developments from moving forward, the City would have collected just over \$2.6 Million of the DC Exemptions based on the figures in Table 2 of report FCS12015. However, in all reality, a number of these developments would likely not have moved forward had the Downtown Hamilton CIPA exemption been limited to 50%. Therefore, the financial impact would be that the City would collect some DC's, however less developments would occur within the downtown core, meaning the City would see less tax collection increases.

In the expanded portion of the Downtown Hamilton CIPA there has been minimal development over the last several years. As a result, extending a 50% exemption to the area would likely result in some limited increased development activity and DC collections being realized.

Staffing: N/A

Legal: Staff's recommendations require that the City's current DC By-laws (09-143, 11-174 and 11-175) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period.

Pros:

A 50% exemption may result in the City realizing some DC collections from the Downtown Hamilton CIPA, and provide some incentive for increased development in the expanded portion of the Downtown Hamilton CIPA, however may not accelerate the potential pace of development relative to the recommended option.

Cons:

A decrease to a 50% exemption in the old Downtown Hamilton CIPA would likely be a barrier to the viability of some projects, while an increase to the 50% exemption in the expanded portion of the Downtown Hamilton CIPA would provide a much more limited incentive for new developments.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ More innovation, greater teamwork, better client focus
- ◆ Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- ◆ Financially Sustainable City by 2020
- ◆ Effective and sustainable Growth Management
- ◆ Generate assessment growth/non-tax revenues

Growing Our Economy

- ◆ Competitive business environment

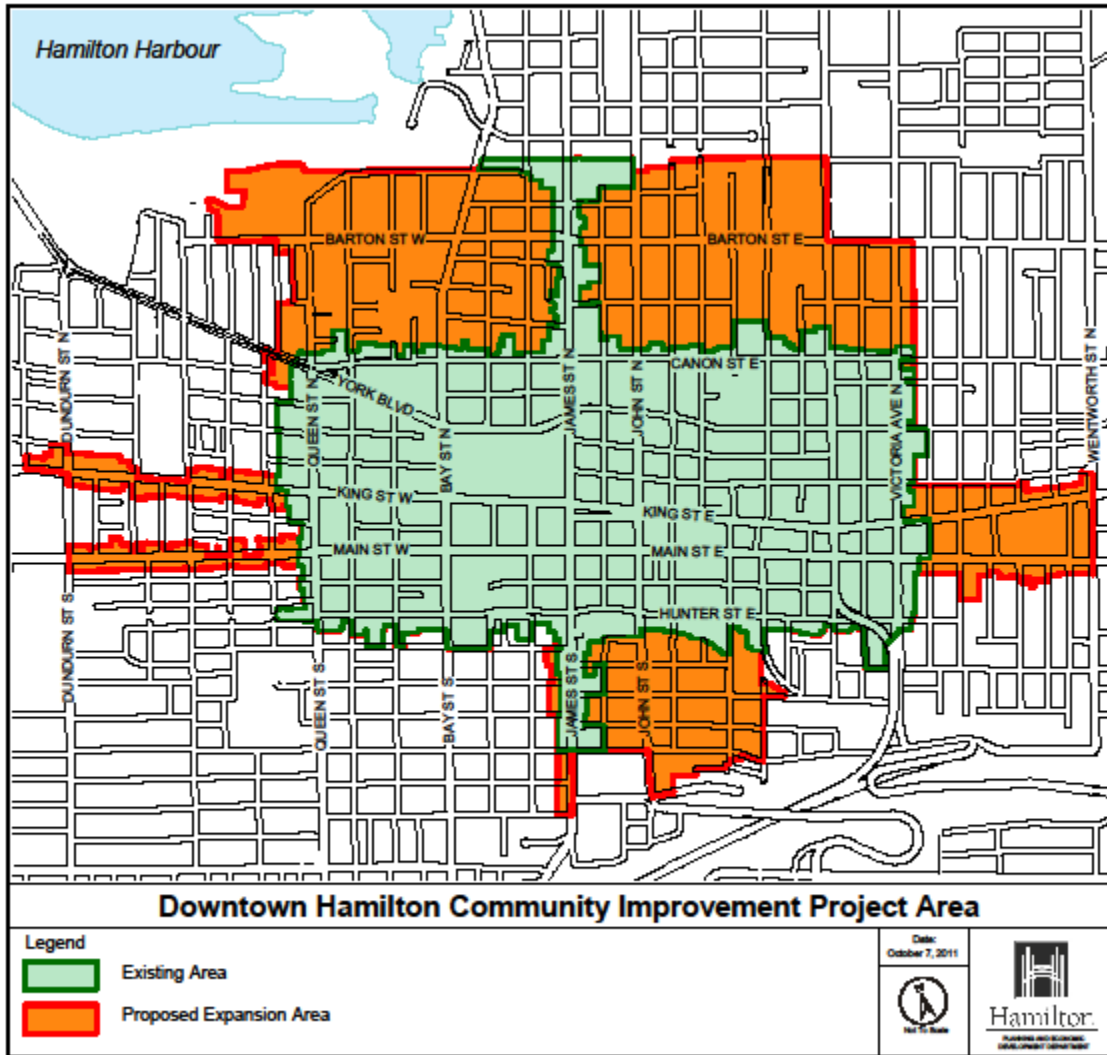
APPENDICES / SCHEDULES

Appendix 'A' – Map of Proposed Expansion to the Downtown Hamilton Community Improvement Project Area DC Exemption

Appendix 'B' – Amending By-law to amend By-law 09-143, as amended, By-law 11-174 and By-law 11-175

Appendix 'C' – Map of Existing Downtown Hamilton Community Improvement Project Area DC Exemption

Map Outlining the Proposed Expansion of the Development Charges Exempt
Downtown Hamilton Community Improvement Project Area (CIPA)



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**THE CITY OF HAMILTON
BYLAW NO. 12-____**

Being a by-law to amend By-laws 09-143, 11-174 and 11-175

Respecting development charges on lands within the City of Hamilton

WHEREAS the Development Charges Act, 1997, S.O. 1997, Chapter 27 (hereinafter referred to as the "Act") authorizes municipalities to pass a by-law for the imposition of development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the said bylaw applies;

AND WHEREAS the City of Hamilton did, in accordance with the said Act, on the 24th day of June 2009, enact Bylaw 09-143 to impose Development Charges;

AND WHEREAS the City Of Hamilton did, in accordance with the said Act, on the 4th day of July 2011, enact Bylaw 11-174 to impose Development Charges;

And WHEREAS the City Of Hamilton did, in accordance with the said Act, on the 4th day of July 2011, enact Bylaw 11-175 to impose Development Charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of February 22nd, 2012, has approved the enactment of a Bylaw to expand the Downtown Hamilton Community Improvement Project Area as set out therein; and approved policies to be included in the said Development Charges By-laws 09-143, 11-174 and 11-175 by way of amendments thereto;

AND WHEREAS, in advance of passing this amending Bylaw, the Council of the City of Hamilton has given notice of and held a public meeting on February 15, 2012 in accordance with Section 12 of the Act regarding its proposals for this Development Charges Bylaw;

AND WHEREAS the Council of the City of Hamilton, through its General Issues Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, this bylaw, and has determined that no further public meetings are required under Section 12 of the Act;

NOW THEREFORE, the Council of the City of Hamilton hereby enacts as follows:

1. (a) Section 1 of Bylaw 09-143 is hereby amended by adding the following thereto as paragraphs (b) and (k), namely:

"(b) "Adaptive Reuse" means the alteration of an existing heritage building for compliance of its continuing or resumed use(s) with current building code requirements; or, for compliance of its proposed new use(s) with current building code requirements; or, for ensuring its structural integrity; or for optimizing its continued, resumed or new use(s); while maintaining the cultural heritage value or interests of the subject building; and in compliance with the conditions of any Heritage Permit required for the subject alterations."

"(k) "Protected Heritage Properties" means properties that are designated under Part IV of the Ontario Heritage Act; or designated under Part V of the Ontario Heritage Act; or subject to a Heritage Easement under Part II of the Ontario Heritage Act; or Subject to a Heritage Easement under Part IV of the Ontario Heritage Act; or subject to a covenant or agreement on title held between the property owner and a conservation authority or level of government in the interest of conserving built heritage."

(b) Existing paragraphs (b) through (ii) shall be renumbered accordingly

2. (a) Section 1 of Bylaw 11-174 is hereby amended by adding the following thereto as paragraphs (b) and (i), namely:

“(b) “Adaptive Reuse” means the alteration of an existing heritage building for compliance of its continuing or resumed use(s) with current building code requirements; or, for compliance of its proposed new use(s) with current building code requirements; or, for ensuring its structural integrity; or for optimizing its continued, resumed or new use(s); while maintaining the cultural heritage value or interests of the subject building; and in compliance with the conditions of any Heritage Permit required for the subject alterations.”

“(i) “Protected Heritage Properties” means properties that are designated under Part IV of the Ontario Heritage Act; or designated under Part V of the Ontario Heritage Act; or subject to a Heritage Easement under Part II of the Ontario Heritage Act; or Subject to a Heritage Easement under Part IV of the Ontario Heritage Act; or subject to a covenant or agreement on title held between the property owner and a conservation authority or level of government in the interest of conserving built heritage.”

(b) Existing paragraphs (b) through (aa) shall be renumbered accordingly

3. (a) Section 1 of Bylaw 11-175 is hereby amended by adding the following thereto as paragraphs (b) and (k), namely:

“(b) “Adaptive Reuse” means the alteration of an existing heritage building for compliance of its continuing or resumed use(s) with current building code requirements; or, for compliance of its proposed new use(s) with current building code requirements; or, for ensuring its structural integrity; or for optimizing its continued, resumed or new use(s); while maintaining the cultural heritage value or interests of the subject building; and in compliance with the conditions of any Heritage Permit required for the subject alterations.”

“(k) “Protected Heritage Properties” means properties that are designated under Part IV of the Ontario Heritage Act; or designated under Part V of the Ontario Heritage Act; or subject to a Heritage Easement under Part II of the Ontario Heritage Act; or Subject to a Heritage Easement under Part IV of the Ontario Heritage Act; or subject to a covenant or agreement on title held between the property owner and a conservation authority or level of government in the interest of conserving built heritage.”

(b) Existing paragraphs (b) through (jj) shall be renumbered accordingly

4. Section 25 of By-Law 09-143 is hereby deleted and the following is substituted therefor, namely:

“Downtown Hamilton Community Improvement Project Area (CIPA) Exemption

25. All development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule “B” attached to this By-law shall:

(a) be exempted from ninety percent (90%) of the Development Charges otherwise payable, after all other credits and exemptions are considered, under this By-law;

(b) receive an additional dollar for dollar exemption on any remaining Development Charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve.”

5. Section 18 of By-Law 11-174 is hereby deleted and the following is substituted therefor, namely:

“Downtown Hamilton Community Improvement Project Area (CIPA) Exemption

18. All development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule “B” attached to this By-law shall:

(a) be exempted from ninety percent (90%) of the Development Charges otherwise payable, after all other credits and exemptions are considered, under this By-law;

(b) receive an additional dollar for dollar exemption on any remaining Development Charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve.”

6. Section 22 of By-Law 11-175 is hereby deleted and the following is substituted therefor, namely:

“Downtown Hamilton Community Improvement Project Area (CIPA) Exemption

22. All development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule “B” attached to this By-law shall:

(a) be exempted from ninety percent (90%) of the Development Charges otherwise payable, after all other credits and exemptions are considered, under this By-law;

(b) receive an additional dollar for dollar exemption on any remaining Development Charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve.”

7. Section 26 of Bylaw 09-143 is hereby amended by adding the following thereto as paragraph (j), namely:

“(j) the Adaptive Reuse of Protected Heritage Properties is exempted from Development Charges within the existing building envelope.”

8. Section 19 of Bylaw 11-174 is hereby amended by adding the following thereto as paragraph (e), namely:

“(e) the Adaptive Reuse of Protected Heritage Properties is exempted from Development Charges within the existing building envelope.”

9. Section 23 of Bylaw 11-175 is hereby amended by adding the following thereto as paragraph (j), namely:

“(j) the Adaptive Reuse of Protected Heritage Properties is exempted from Development Charges within the existing building envelope.”

10. Schedule “A” to By-law 09-143 is hereby deleted and the Schedule attached to this Amending By-law as Schedule “A” is hereby substituted therefor.

11. Schedule "B" to Bylaw 11-174 is hereby deleted and the Schedule attached to this Amending Bylaw as Schedule "A" is hereby substituted therefor.

12. Schedule "B" to Bylaw 11-175 is hereby deleted and the Schedule attached to this Amending Bylaw as Schedule "A" is hereby substituted therefor.

13. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 09-143 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.

14. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 11-174 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.

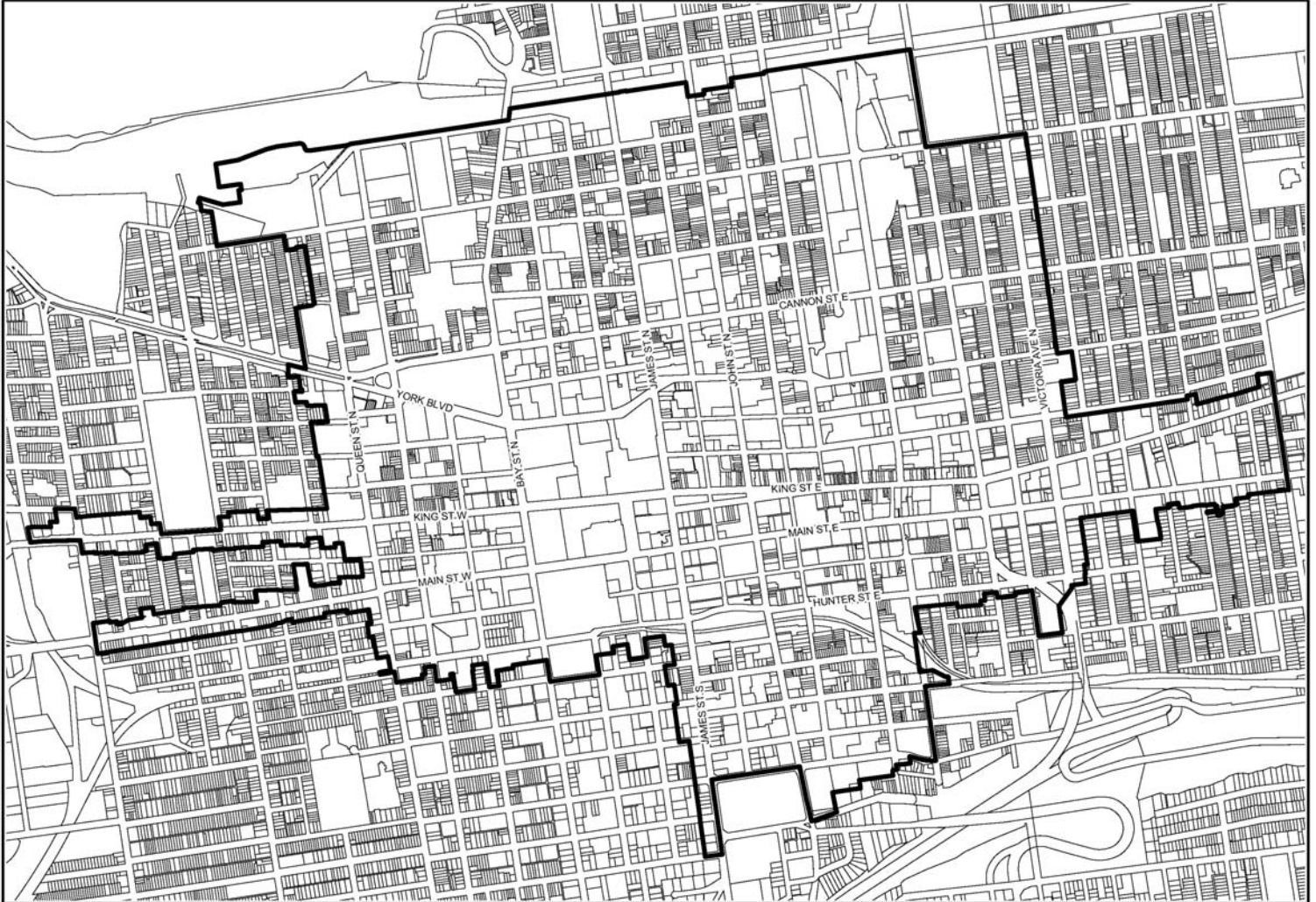
15. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 11-175 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.

PASSED AND ENACTED THIS XXTH DAY OF (MONTH) 2012.

MAYOR

CLERK

SCHEDULE A TO BYLAW 12-_____



Schedule "A"
Map Forming Part of By-Law No. 12-_____

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|---|---|---|
| <p>Date: January 23, 2012</p>  <p>Not To Scale</p> | <p>Map of Downtown Hamilton Community Improvement Project Area</p> <p>Legend</p> <p> Downtown Hamilton Community Improvement Project Area</p> |  <p>Hamilton PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> |
|---|---|---|

Existing Development Charges Exempt
Downtown Hamilton Community Improvement Project Area (CIPA)

