

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> June 20, 2012	
<b>SUBJECT/REPORT NO:</b> Study of a Community Improvement Plan for the Creative Industries and a Review of City Policies and By-laws (City Wide) (PED12114) (Outstanding Business List Item)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Shannon McKie (905) 546-2424 Ext. 7491
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Planning and Economic Development Department staff be directed and authorized to:
  - (i) Move forward, ahead of the Comprehensive Zoning By-law Program, with new Commercial and Mixed-Use Zoning for areas identified by the Urban Official Plan as pedestrian-oriented under the existing Official Plans.
  - (ii) Initiate a review of underutilized industrially zoned properties, outside of the Employment Area Designations, for potential adaptive reuse purposes and future appropriate zoning.
  - (iii) Investigate and report back to Planning Committee on establishing an incentive program for artists through a Community Improvement Plan to facilitate their plans for redevelopment and adaptive reuse of underutilized, non-residential buildings throughout the City.

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- (b) That the temporary suspension of By-law enforcement of Arts and Culture uses be maintained until the recommendations of Report PED12114 have been completed and considered by Planning Committee and Council.
- (c) That the Outstanding Business List (OBL) item respecting the evaluation of a possible Community Improvement Plan (CIP) for the Arts and Culture sector be identified as complete and removed from the General Issues Committee List (OBL).

**EXECUTIVE SUMMARY**

On October 13, 2010, staff was directed to evaluate the possibility of a Community Improvement Plan (CIP) for the Arts and Culture sector. The intent of a CIP would be to remove barriers for artists trying to locate in Hamilton.

The Planning Act (Section 28) allows municipalities that have provisions in their Official Plan relating to community improvement, such as the City of Hamilton, to designate by By-law, a Community Improvement Project Area, and then to prepare a Community Improvement Plan for the project area. A municipality may then make grants or loans, in conformity with the approved Community Improvement Plan, that would otherwise be prohibited under the Municipal Act (Section 106(1)), to the registered/assessed owners or tenants of land and buildings, or their respective assignees, within the designated project area. As it relates to the Arts and Culture sector, a CIP could, therefore, be developed to facilitate the development or redevelopment of properties through grants and/or loans to individuals/businesses to assist with the acquisition of buildings, application fees, or consulting services.

The recommendations of this Report include:

- Moving forward, ahead of the Comprehensive Zoning By-law Program, with new Commercial and Mixed-Use Zoning in key locations;
- Expanding existing incentive programs within established CIP programs, or develop a new CIP specific to the Arts and Culture sector to include grants and/or loans for professional fees associated with the adaptive re-use of industrial buildings; and,
- A review of the merits of pre-zoning underutilized, non-residential properties for redevelopment purposes.

These recommendations allow for Arts and Culture users to concentrate on the operation of their business by off-setting costs associated with the adaptive reuse and conversion of underutilized, non-residential buildings that accommodate Arts and Culture users in buildings suitable for their work.

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*Alternatives for Consideration - See Page 9.*

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

**Financial:** There are no direct financial implications with the recommendations proposed. The financial implications of an Arts and Culture CIP will be assessed as part of the review and analysis of the CIP and will be incorporated into subsequent reports to Committee and Council.

**Staffing:** There are no additional staffing requirements to result from Council's approval of this Report's recommendations. The Zoning By-law Reform work plan anticipated and incorporated the need to review, develop, and recommend new Zoning By-law regulations for all of the existing Business Improvement Areas (BIAs), in addition to properties which were excluded from the City's employment land supply in the Urban Hamilton Official Plan and the implementing industrial zoning that was approved by Council in 2010. Research for both has been started and will form the basis for the analysis.

**Legal:** The Planning Act (Section 28) allows municipalities that have provisions in their Official Plan relating to community improvement, such as the City of Hamilton, to designate, by By-law, a Community Improvement Project Area, and then to prepare a Community Improvement Plan for the project area. A municipality may then make grants or loans, in conformity with the approved Community Improvement Plan, that would otherwise be prohibited under the Municipal Act (Section 106(1)), to the registered/assessed owners or tenants of land and buildings, or their respective assignees, within the designated project area.

The Report's recommendation to maintain the temporary suspension of By-law enforcement for Arts and Culture uses will enable the City to develop a comprehensive strategy for increasing the potential of viable Cultural Industries in Hamilton before any enforcement action is 're-activated'.

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**HISTORICAL BACKGROUND** (Chronology of events)

At the October 13, 2010 Council Meeting, the following Motion was approved:

“Whereas the City has identified “healthy neighbourhoods” as a strategic priority and the City Manager has initiated a strategy to create healthy neighbourhoods;

Whereas the City fully supports the Arts and Culture through the Economic Development Strategy and new City of Hamilton Urban Official Plan;

Whereas the new Urban Official Plan provides policy direction for the encouragement and growth in the Arts and Culture sector by calling for the preparation of Community Improvement Project or community strategy to enhance and support the arts and culture sector;

Whereas the new Urban Official Plan provides policy direction for creative thought to be used in developing adaptive re-use of existing buildings;

And whereas, the Ministry’s delay in approving the new Urban Official Plan, timing of the resolution of appeals provides uncertainty as to the timing of the implementation of the new Zoning By-law;

Therefore be it resolved that the Planning and Economic Development Department be directed to initiate a study of a Community Improvement Plan for the creative industries cluster (Arts and Culture), together with a review of City policies and By-laws, including, but not limited to the Official Plan, Zoning By-law, and incentive programs to grow the City’s Art and Culture industry;

Further, that enforcement of the Zoning and Sign By-laws for Arts and Culture uses, at properties within the study area, where the use was in existence on October 13, 2010, be suspended until the results of the study are presented to Council and any recommendations implemented. Such suspension of enforcement shall not include any action that is presently before the courts or any violations/actions covered under the Ontario Building Code or Fire/Health related regulations.”

Council’s direction originated from former industrial properties being illegally converted for the accommodation of Arts and Culture users. While from the landowner’s perspective the properties were desirable for artist incubators, the applicable Zoning By-law regulations would not allow for either the proposed use or the required development standards could not be met (e.g. parking). In these situations, and to legalize the conversion, the property owners were responsible for the submission of a re-zoning application, a change-of-use and/or building permit to ensure the property was in conformity with the Ontario Building Code. Various representatives of the Arts

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and Culture sector have advised that these actions were cost prohibitive for the property owners, leading to the abandonment of two projects and legal action against a third.

In addition, as per the October 13, 2010, Council direction, the temporary suspension of enforcement for Arts and Culture uses should be continued. This moratorium on By-law enforcement would remain until such time as the proposed recommendations contained in this Report are in place, and there is a clear strategy for creating more potential for the development of Cultural Resources in Hamilton.

## **POLICY IMPLICATIONS**

### **Economic Development Strategy**

The revised Economic Development Strategy was adopted by Council in June 2010, and incorporated the Hamilton Creative Industries Cluster Profile into the strategy, as follows:

“Few sectors of the economy have the potential to transform communities like creative industries. They have the ability to reshape a City’s image, become a magnet for outside talent, and boost vibrancy and quality of life to provide an economic advantage over competing communities without rich creative sectors. Hamilton offers all the key ingredients to become a creative industrial hotbed in Canada: excellent quality of life, affordable living options, easy access to major markets within a 100km radius including Toronto and the northern U.S.A., and, most importantly, a well-developed and growing local scene.

For over 100 years, Hamilton has had a vibrant and dynamic creative industries cluster that is in the midst of yet another boom period. From our foundations as Canada’s industrial heartland, Hamilton, as a “City of Artists” in many fields, has driven local prosperity. Artists and creative businesses in most every discipline have thrived in our community as there is growing internal and external markets for local creativity, strong opportunities for presentation (festivals, galleries, music venues), excellent networks that are easy to access, and a growing population who engage in their local cultural community.”

The City of Hamilton has proven successful in the attraction of a cluster of creative industries in the James Street North area. This success has revitalized the area and increased tourism. Building on that success by developing an Arts and Culture strategy will help the continued support and development of Cultural Resources in Hamilton.

## **Urban Official Plan**

The Urban Official Plan was adopted by Council on June 9, 2009, and approved by the Ministry of Municipal Affairs and Housing on March 16, 2011. The Urban Official Plan is currently under appeal at the Ontario Municipal Board. The Arts and Culture policies in the Urban Official Plan are as follows:

### **Volume 1, Section B.3.0 Quality of Life and Complete Communities**

#### **Arts and Culture**

- “B.3.1.11 The City recognizes that arts and culture bring many benefits to the City of Hamilton. Arts and culture contribute to the City’s economy, cultural landscape, quality of life, vibrancy, liveability, complete communities, and sense of place, and can play a significant role in the adaptive re-use of older buildings and the transformation of deteriorated neighbourhoods and commercial areas.
- B.3.1.12 Arts and culture are supported by many policy directions of this Plan: compact urban development; mixed-uses; appropriate flexibility in land use, while ensuring compatibility with existing neighbourhoods; focus on urban design to create vibrant, attractive, and interesting places; emphasis on pedestrian predominant streets; conservation of cultural heritage resources; protection and enhancement of natural heritage resources; broad mix and range of housing forms and densities; and, creation of vibrant and well designed public spaces that include public art. Arts and culture can also be supported by program initiatives and the ongoing development of a culture plan for the City.
- B.3.1.13 The City shall consider the preparation of a Community Improvement Project Area or community strategy to enhance and support the arts and culture sector.”

### **Volume 1, Section E.3.0 Neighbourhood Designation**

- “B.3.2.15 The City shall encourage the adaptive reuse of the existing building stock for appropriate land uses. Rezoning applications for new uses shall be evaluated to ensure compatibility with surrounding land uses.”

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Arts and Culture uses are recognized for enhancing pedestrian areas, increasing vibrancy, and contributing to the economic development of the City of Hamilton. The Neighbourhoods, Commercial and Mixed-Use, and Downtown Mixed-Use Designations in the Urban Official Plan permit cultural uses in one form or another, specifically including: craftsperson shop, art gallery, studio, tradesperson shop, arts, cultural and entertainment uses.

### **RELEVANT CONSULTATION**

- Tourism and Culture Division, Planning and Economic Development Department.

Reducing barriers to developing cultural assets is an example of a strategy supporting the goals of the future Cultural Plan. The Cultural Plan Project embodies a leading practice known as Municipal Cultural Planning. Municipal Cultural Planning is an important tool for municipalities; it takes a holistic approach to planning for a vibrant City by building on cultural assets and, in turn, supports economic and community development. The Cultural Plan will pull together cross-corporate City initiatives to support, enhance, and build arts and culture in Hamilton.

### **ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The Arts and Culture sector has been identified as a key aspect of the City as it relates to both quality of life and economic development. The recognition of the significant impact that the arts and culture sector has not only in the revitalization of an area, but also the economic impact of attracting creative, educated workers, creating jobs and increasing tourism for the City.

To support the Arts and Culture sector, three initiatives can be undertaken in order to remove unnecessary barriers for development and accommodation of creative industries through the review and updating of Zoning By-law regulations and providing grants/loans to facilitate economic investment through the adaptive reuse of existing buildings and structures:

1. **Implementation of the Commercial and Mixed-Use Zoning for Business Improvement Areas:**

“Our Community Culture Phase 1 - Culture Mapping”, which was approved by Council on June 18, 2010, identified Hamilton’s baseline cultural resource mapping. The mapping identified clusters of cultural resources distributed throughout the City and showed two significant clusters in the James Street North area and Downtown Dundas.

Typically, creative industries are most successful in pedestrian focused areas which have a mixture of uses including retail, restaurants, and residential. These areas are vibrant and attractive for artists. While the clusters currently only appear in the James Street North area and Downtown Dundas, the built form and character of these two areas are similar to all of the Business Improvement Areas (BIAs) in the City.

However, land uses within the existing BIAs are currently regulated under the Former Municipal Zoning By-laws. Relative to the zoning regulations for the downtown area developed for By-law 05-200, the uses and regulations of the former By-laws are restrictive and prohibit diversity and positive change. In addition, the "Open for Business" Sub-committee has also expressed the need for zoning changes in the BIAs to remove barriers for redevelopment and reinvestment in existing buildings. The BIAs would benefit from the flexibility of the permitted uses and the relaxed parking requirements of the proposed Commercial and Mixed-Use Zones.

Under the Zoning By-law Reform work plan, a draft of the Commercial and Mixed-Use Zones has been completed, including zoning specific to the BIAs. During the development of this draft, HABIA and each of the BIAs were consulted with the proposal, and were in support of the changes proposed.

2. **Adaptive Re-Use:**

There are approximately 180 remnant industrial properties, located outside designated Employment Areas, with the highest proportion being in lower Hamilton. The properties have maintained an industrial zone, which is out-of-date and incompatible with the surrounding land uses. The adaptive re-use of these properties comes at great costs to the land owners, as the property must be re-zoned, remediated, and brought up to today's standard, in accordance with the Ontario Building Code. The cost of these processes can be prohibitive and can lead to the remnant parcel being left vacant or underutilized.

The intent is for these properties to develop compatibly with the surrounding neighbourhood. As a part of the completion of the Comprehensive Zoning By-law, an evaluation of underutilized industrial properties would be required in order to assess the appropriate zoning to accommodate redevelopment. A City initiated study of these parcels would determine the appropriate zoning and the highest and best use for the property, which would lead to the redevelopment of an otherwise underutilized property.



**3. Incentives for Arts and Culture Users for Adaptive Re-Use of Buildings:**

The Urban Renewal Section currently offers a number of different incentive programs to assist with costs related to the enhancement of properties within the City's Downtowns, BIAs, commercial corridors, and Brownfield properties. However, there are no incentives for arts and culture users for the re-use of underutilized, non-residential buildings outside of these geographic areas.

There are additional costs that are attributed to façade improvements and professional fees required for professional drawings and application processes that are cost prohibitive for creative industries. Many creative industries receive funding through Provincial and Federal grants and loans. These grants and loans are meant to aid in the operation costs for artists and cultural resources, and are not intended to be applied toward development costs. An incentive program that would contribute toward capital costs would allow arts and culture users to focus their funding on developing and growing their business.

In order to implement an incentive program specific to arts and culture users, criteria must be established to determine which uses will be recognized, the condition of the building, and the duration of the use. An application process would be required, as well as a review panel.

**ALTERNATIVES FOR CONSIDERATION**

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

An alternative to moving forward with Commercial and Mixed-Use Zoning for pedestrian-oriented areas and a review for the potential adaptive reuse of underutilized industrially zoned properties would be to wait for the implementation of the remaining sections of the Comprehensive Zoning By-law. These recommendations are a part of the overall work plan for the Comprehensive Zoning By-law, and would be completed once the appeals to the Urban Official Plan have been dealt with by the Ontario Municipal Board, likely two years away.

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**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, and Respectful Organization**

- ◆ A culture of excellence.
- ◆ More innovation, greater teamwork, better client focus.

**Financial Sustainability**

- ◆ Effective and sustainable Growth Management.
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative, and cost-effective manner.

**Growing Our Economy**

- ◆ A skilled and creative labour pool that supports new employers.
- ◆ An improved customer service.

**Social Development**

- ◆ Hamilton residents are optimally employed earning a living wage.

**Healthy Community**

- ◆ Plan and manage the built environment.

**APPENDICES / SCHEDULES**

None.

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