Note: The following report contains the recommendations presented in report FCS11053 at the June 9, 2011, General Issues Committee, Special Development Charges Meeting. The recommendations regarding the DC Rates have been adjusted for the Development Charge Background Study Addendum dated June 21, 2011, and staff’s revised proposed Industrial DC Rate Phase-in Policy.

RECOMMENDATION

(a) That the City-wide residential development charge rate for a single detached unit increase to $27,148 (excludes Board of Education DC). All residential classes to increase per Appendices “B”, “C” and “D” of report FCS11053(a), effective July 6, 2011;

(b) That, should the City receive Federal Infrastructure Funding for the Woodward Wastewater Treatment Plant (WWTP) for the requested amount of $100 million, the City would then amend the new Wastewater, Water, Stormwater Development Charges (DC) By-law, subject to the conditions of an agreement;

(c) That the industrial development charge rate be set at $8.85 per sq. ft. (per Option 2 of Table 3 of report FCS11053(a)), effective July 6, 2011, subject to the mitigating options in recommendation (d);
That the following mitigating options for the proposed increase in Industrial Development Charges to $8.85 per sq. ft. be approved:

1. Phase-in of the proposed rate increase as follows:
   - January 6, 2013, Industrial DC = $8.85 square foot.
   - Base rate and subsequent increases subject to City’s policies regarding annual DC construction cost inflation.

2. Stepped Rate for New Industrial Developments less than 10,000 square feet. The rate would equal 75% of the Council approved Industrial DC rate or $6.65 sq. ft., whichever is greater.

That the non-residential development charge rate for new commercial, institutional and office developments be set, as follows, effective July 6, 2011:

1. For developments up to 5,000 sq. ft. at 50% of the rate in effect ($7.62 sq. ft.).
2. For developments, 5,001 to 10,000 sq. ft. at 75% of the rate in effect ($11.43 sq. ft.).
3. For developments 10,001 sq. ft. and greater at 100% of the rate in effect ($15.24 sq. ft.).

That the 2011 City of Hamilton Development Charge Background Study for Water, Wastewater, Stormwater and GO Transit Services prepared by CN Watson & Associates, dated May 20, 2011 and the associated Addendum dated June 21 be adopted;

That the City continue its practice to index its Development Charges (per the Development Charges Act prescribed Statistics Canada Construction Cost Index) and that the next anniversary date for the development charges listed in Appendices “C” and “D” of report FCS11053(a) would be July 6, 2012;

That the non-residential development charge no longer include Centralized stormwater facilities. This will be considered a local servicing component (site-specific). The non-residential development charge will include the site-specific stormwater growth costs associated with non-pond related infrastructure (culverts, sewer over-sizing, etc). The developer’s obligations and responsibilities are outlined in the DC Background Study Addendum dated June 21, 2011,
entitled “City of Hamilton – Local Servicing Policy” and within the City of Hamilton’s Engineering Guidelines;

(i) That, for industrial development activity, the development charge revenue collected go first towards payment of 100% of the wastewater DC service, 100% of the stormwater services and the balance of the revenue collected to the non-residential roads DC services;

(j) That, where public stormwater management facilities have been provided at the cost of a developer, as a condition of development approval, and the said facilities are deemed to be permanent and part of an ultimate solution, “credits for services in-lieu” for the related stormwater component of the DC charge will be applied for any unbuilt units upon the said facilities being included in the DC background study and related amendments. Should external future development lands take benefit of said stormwater management facilities and, where a best efforts provision has been included within the development agreement under which the facility was built, the City will collect the full DC from the external developer and reimburse the original developer (constructor of storm pond) only the original value of the proportionate share of the best effort;

(k) That the maximum dollar value the city will contribute to any stormwater management facility be fixed to the value identified in the DC background study and related amendments for both land and construction costs plus indexing as appropriate;

(l) That “credits for services in lieu” for a portion of the related stormwater component of the DC charge be applied for unidentified centralized stormwater management facilities that are deemed to be an appropriate and permanent enhancement/improvement to the approved downstream solution(s) within the budgeted provision contained in the 2011 DC background study and addendum;

(m) That all of the growth capital projects listed in the City of Hamilton Development Charge Background Studies dated May 20, 2011, and related amendments be approved;

(n) That the transition policy be continued as follows:

That the development charge rates payable are the rates in effect on the date a completed building permit application is received and accepted by the City, provided that the permit is issued within 6 months of the effective date of a rate increase. Where the building permit is revoked by the Chief Building Official on or after the date of the rate increase, any subsequent application for a building permit on the lands or site will be subject to the rates in effect on the date of permit issuance;
(o) That, whenever appropriate, the City request donors to clearly designate grants, subsidies and other contributions as being for the benefit of existing development (or new development as applicable);

(p) That draft By-laws be enacted substantially in the form attached to report FCS11053(a) as Appendices B, C and D;

(q) That Council determine that no further public meeting is required.

EXECUTIVE SUMMARY

At the June 9, 2011, General Issues Committee, Special Development Charges Meeting, the committee referred Report FCS11053 respecting 2011 City of Hamilton Water, Wastewater, Stormwater, Go-Transit Development Charge By-laws and Amendment for Development Charge By-law 09-143, to the June 23, 2011 meeting of the General Issues Committee for consideration.

Staff's and the City's Consultant DC presentation on June 9, 2011, was also received by the Committee. Staff informed the Committee that there were a number of outstanding issues regarding specific growth related projects to be included in the Development Charge calculation. Since then, staff have met with the development industry and resolved most of the outstanding issues. The revised growth infrastructure from the May 20 Development Charges Background Study are contained within the Addendum dated June 21, 2011. For those issues which resolution between the City and the Development industry remain outstanding, the development industry has the option to appeal the final approved Development Charges By-laws. The revised DC projects have the following impact on the recommended charges:

Summary of Changes from the June 9th GIC

<table>
<thead>
<tr>
<th>DC rate for Single Detached Units</th>
<th>Existing By-laws</th>
<th>June 9 GIC</th>
<th>June 23 GIC (includes Addendum)</th>
<th>change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$26,182</td>
<td>$26,342</td>
<td>$26,933</td>
<td>$591</td>
</tr>
<tr>
<td>(all other res categories change proportionately)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. DC rate for Non-residential
   (Does not change City's Industrial DC Rate Options)

|                                   | $15.05 sq. ft.  | $15.24 sq. ft. | $0.19 sq. ft. |
| 3. Phase-in of the Industrial Rate Increase from $6.65 sq. ft. to $8.85 sq. ft. (staff recommend increasing the phase-in period from 12 months to 18 months). |

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Council also asked staff to reassess the impact of proposed 2011 policy and rate changes to the Industrial Development Charge (make storm drainage the responsibility of the developer and an increase in rates from $6.65 per square foot to $8.85 per square foot). Staff have confirmed their original recommendation of Option 2 (refer to Table 3 - $8.85 per square foot). The only revision from staff's original report FCS11053 that staff are recommending relates to the phase-in period. Previously, staff had presented a 12 month phase-in. In an effort to provide some flexibility, staff have revised the mitigation recommendation to an 18 month phase-in:

- 0% increase for 12 months (July 6, 2011 – July 6, 2012, rate = $6.65 sq. ft.)
- 50% increase (July 6, 2012 – January 5, 2013 total rate = $7.75 sq. ft.)
- balance of the increase July 6, 2013, total rate = $8.85 sq. ft.

The reasons for staff's recommendations are as follows:

- The City can no longer afford the cost of subsidizing the storm pond component of the DC. Rather than increasing the DC charge by an additional $4.27 sq. ft. (on top of the proposed $2.20 per sq. ft. increase), staff felt that transferring this responsibility may allow the non-residential development industry to be more cost effective. Smaller developments may mitigate to some degree with on-site containment and large developers may be able to construct the infrastructure at significantly less than $4.27 a sq. ft.
- The City requires the proposed increase of $2.20 per sq. ft. to start funding the non-residential DC Roads Reserve. It currently has a negative balance of approximately $22 million.
- Staff’s recommended mitigation measures for the Industrial DC increase allows for the industrial development community to revise its business and development plans and prepare for this significant rate increase and provides relief for small industrial businesses.

Staff has provided members of the City’s General Issues Committee the following information requested from the June 9th GIC meeting:

- Information Update dated June 9th regarding the 2009 Development Charges By-law Appeals and corresponding witness statements.
- Letters and emails from the HHHBA (Adi Irani) and the Waterdown Development Community (Karl Gonnsen) regarding the outstanding growth infrastructure issues.

For ease of dealing with the new DC report recommendations, all the recommendations (both those that have been revised and not revised) are presented in this report (FCS11053(a)) for Council's consideration. Accordingly the original DC report FCS11053 can now be simply received.
FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Staffing: N/A.

Legal: Staff’s recommendations require that the City’s current DC By-law 09-143 be amended and that the City’s DC By-laws 09-144 and 06-174 be replaced. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period which starts from the date that Council approves the by-laws.

HISTORICAL BACKGROUND (Chronology of events)

Table 1 illustrates all the different service components of the residential development charge. Those components which have changed from the 2009 Development Charges By-laws are shaded. At the June 9th GIC, staff’s recommended increase to the Single Detached Unit (SDU) Category was $160 per unit. Staff also informed committee that an additional increase would be forthcoming due to increased costs and changes to specific growth projects as identified by the Development Industry (details contained in the Addendum dated June 21, 2011). The total increase to the SDU category now totals $751 or 2.9%.

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### Table 1

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>$3,723</td>
<td>$3,294</td>
<td>$2.89</td>
<td>$1.94</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$4,735</td>
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<tr>
<td>Wastewater - WWTP</td>
<td>$4,271</td>
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<td>Storm water</td>
<td>$3,630</td>
<td>$5,123</td>
<td>$2.30</td>
<td>$0.69</td>
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<tr>
<td>Roads</td>
<td>$5,950</td>
<td>$5,950</td>
<td>$6.36</td>
<td>$6.36</td>
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<td>Homes for the Aged</td>
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<td>$0.00</td>
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<tr>
<td>Transit</td>
<td>$218</td>
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<td>$0.24</td>
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<td>Fire</td>
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<tr>
<td>Outdoor Recreation</td>
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<tr>
<td>Health</td>
<td>$38</td>
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<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>Social &amp; Child Services</td>
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<td>$0.00</td>
</tr>
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<td>Social Housing</td>
<td>$1,030</td>
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<td>$0.05</td>
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<td>Library</td>
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<td>$0.06</td>
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<tr>
<td>Administration</td>
<td>$278</td>
<td>$278</td>
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</tr>
<tr>
<td>Airport</td>
<td>$80</td>
<td>$80</td>
<td>$0.09</td>
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<tr>
<td>Ambulance</td>
<td>$16</td>
<td>$16</td>
<td>$0.01</td>
<td>$0.01</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,182</strong></td>
<td><strong>$26,933</strong></td>
<td><strong>$19.00</strong></td>
<td><strong>$15.24</strong></td>
</tr>
</tbody>
</table>

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Table 2 illustrates the new recommended Development Charges for all the residential categories.

### Table 2

<table>
<thead>
<tr>
<th>PROPOSED NEW RESIDENTIAL DEVELOPMENT CHARGES ($/unit)*</th>
<th>Single Detached &amp; Other Multiple Unit Dwellings</th>
<th>2+ Bedroom Apartment</th>
<th>1 Bedroom &amp; Bachelor Apartments</th>
<th>Residential Facility (per bedroom)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Wide</td>
<td>26,933</td>
<td>19,306</td>
<td>16,684</td>
<td>11,123</td>
</tr>
<tr>
<td>Education DC</td>
<td>610</td>
<td>610</td>
<td>610</td>
<td>610</td>
</tr>
<tr>
<td>GO Transit DC</td>
<td>215</td>
<td>140</td>
<td>85</td>
<td>172</td>
</tr>
<tr>
<td>Total</td>
<td>27,758</td>
<td>20,056</td>
<td>17,379</td>
<td>11,905</td>
</tr>
<tr>
<td>Rural</td>
<td>11,229</td>
<td>8208</td>
<td>7140</td>
<td>5079</td>
</tr>
</tbody>
</table>

**EXISTING CHARGES**

| City Wide                                             | 26,182                                       | 18,766                         | 16,064                           | 10,735                           |
| Education DC                                          | 610                                           | 610                             | 610                              | 610                              |
| GO Transit DC                                         | 225                                           | 147                             | 89                               | 180                              |
| Total                                                 | 27,017                                       | 19,523                         | 16,763                           | 11,525                           |
| Rural                                                 | 10,488                                       | 7,797                           | 679                             | 4820                             |

*Binbrook SAC = $3,571 per SDU
*Waterdown SAC = $1,563 per SDU

Table 3 shows the 4 Industrial DC rate options which staff considered when determining a recommended rate (refer to recommendations (c) and (d) of report FCS11053(a)). Below each option are the recommended DC reserves regarding distribution of Industrial DC revenues.

### Table 3

<table>
<thead>
<tr>
<th>4 Options - Industrial DC Rate ($'s per square foot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
</tr>
<tr>
<td>Current Rate $6.65 (wastewater/storm/5% roads)</td>
</tr>
<tr>
<td>Option 2</td>
</tr>
<tr>
<td>Wastewater services/storm/50% roads</td>
</tr>
<tr>
<td>Option 3</td>
</tr>
<tr>
<td>Wastewater services/storm/100% roads</td>
</tr>
<tr>
<td>Option 4</td>
</tr>
<tr>
<td>Full non-res rate</td>
</tr>
</tbody>
</table>
Table 4 summarizes the commercial/institutional/office DC rates as per staff’s recommendation (e).

Table 4

<table>
<thead>
<tr>
<th>PROPOSED COMMERCIAL / INSTITUTIONAL DC’s ($/sq ft)</th>
<th>0-5000 Square Feet</th>
<th>5001-10000 Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Wide*</td>
<td>15.24</td>
<td>7.62</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.18</td>
<td>0.18</td>
</tr>
<tr>
<td>Total</td>
<td>15.42</td>
<td>7.80</td>
</tr>
</tbody>
</table>

EXISTING CHARGES

| City Wide*                                        | 19.00               | 9.51                   |
| Education DC                                      | 0.18                | 0.18                   |
| Total                                             | 19.18               | 9.69                   |

POLICY IMPLICATIONS

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

- A Public Meeting is held concerning any new or amending DC By-laws. This meeting could be held prior to the regular scheduled General Issues Committee (GIC) meeting.
- 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.
- Any new or amending DC By-laws are 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/replaced:
  1. 09-144 Development Charge By-law effective July 6, 2009, expires July 6, 2011.
  2. 09-143 Development Charge By-law approved on July 6, 2009, expires July 6, 2014.
3. 06-174 GO Transit Development Charge By-law approved on June 28th, 2006, expires July 6, 2011.

RELEVANT CONSULTATION

Planning and Economic Development Department
Legal Services Division, City Manager’s Office
Environment and Sustainable Infrastructure Division, Public Works Department
City of Hamilton Development Charges Stakeholder Committee (members include Hamilton Halton Home Builders Association, Hamilton-Burlington & District Real Estate Board, Chamber of Commerce, Citizens-at-large (2), City Council (4)).

ALTERNATIVES FOR CONSIDERATION

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

Staffing Implications: N/A

Legal Implications: N/A

Policy Implications: Any changes to current DC policies will require amendments and/or new DC By-laws to be enacted. The process is outlined above.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


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

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Social Development
- Everyone has a home they can afford that is well maintained and safe

Healthy Community
- Plan and manage the built environment
- Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

APPENDICES / SCHEDULES

Appendix “A” – Local Service Policy for Water, Wastewater and Stormwater Services
Appendix “B” – Amendments to By-law 09-143
Appendix “C” – Development Charge By-law respecting Stormwater, Water and Wastewater Services
Appendix “D” – Development Charge By-law respecting GO Transit Services
APPENDIX A - LOCAL SERVICE POLICY FOR WATER, WASTEWATER AND STORMWATER SERVICES

Storm Sewer Oversizing (Residential and Non-Residential)

• Oversizing will be applied only to a storm sewer system that provides for the drainage and conveyance of runoff resulting from a design storm event having a 5 year return period (minor system).
• Development Charge contribution for storm sewer oversizing is applicable for sewers in excess of 1200mm diameter.
• Storm sewers conveying a 1 in 100 year design (major system) will not be eligible for "oversizing".
• DC contribution for "oversizing" is on a flat rate basis as outlined in the City’s Financial Policies, per Council-approved Reports PED03060 and FCS03073 and related appendices/amendments.
• "Oversizing" will not be applied to temporary works.

Stormwater Management Facilities

Residential:

• Centralized stormwater management facilities identified in the City’s Stormwater Master Plan, Master Drainage Plan or Watershed/Subwatershed Study will be considered for inclusion as development charges projects.
• Development charge contributions for facilities will be limited based on the total cost (land and capital costs) as outlined in the DC Background Study. Included in the capital cost is engineering design and soft costs for each facility.
• Storm sewer conveyance system to the SWM facility is considered local service and not eligible for DC contribution. Piping and headwall for the conveyance system into the SWM facility is developer responsibility.
• Residential land cost for SWM facilities have been set at $360,000/Ac, except for Ancaster and Waterdown which has been set at $450,000/Ac. Facilities located in open space lands, the value of the land will be based on open space value, not developable land, and will be established by an independent appraisal, provided by the developer. The value of compensation for land will be based on the appraisal up to the maximum
value of land in the DC background study. Storm-ponds located in open space or outside the urban boundary will be considered non-developable for purposes of the appraisal.

- Developer will be responsible to acquire lands for facilities located outside a plan of subdivision. The City will not act as a third party agent in the negotiation and acquisition of lands for stormwater management facilities on behalf of private interest, unless otherwise directed by Council. The value of compensation for land will be determined by an independent appraisal, provided by the developer up to the maximum value of land in the DC background study.

- Where a developer has constructed a facility as a condition of development, at his own cost and the facility is considered to be permanent and part of an ultimate solution, credit for the related stormwater component will be applied for the un-built units within the subdivision if captured in the 2011 DC Background Study.

- Capital cost may include items as follows:
  - Siltation control
  - Excavation (excludes costs to haul surplus material off site and/or placement and compaction of surplus material within subdivision)
  - Fine grading
  - Decanting area
  - Forebay structures, pond liner, cooling trenches, etc.
  - SWMP outlet structures (ditch inlet, manhole, pipe, etc.) within pond block and including outlet headwall if located outside of the pond block.
  - Emergency overland flow route
  - Maintenance access road
  - Landscaping/Shading
  - Pond signage
  - Temporary outlet works including the acquisition of easements are developer responsibility
  - Studies required to facilitate orderly development are developer responsibility
  - Costs associated with construction monitoring during and post construction, including siltation/erosion remedial works is developer responsibility
  - On-site open watercourse improvements are to be the responsibility of the individual developments.
Non-Residential

- Non-residential developers provide their stormwater management facilities directly.
- On-site open watercourse improvements are to be the responsibility of the individual developments.

Low Impact Residential Development

- City is supportive of the implementation of LID however; these measures are only effective through regular maintenance. Developments under Site Plan Control that incorporate LID measures, and only in the absence of an identified existing centralized stormwater management facility to contribute to, may be eligible for a cost recovery of an amount equal to up to 75% of the stormwater Development Charge component Payable. The details of this policy will be provided within a staff report which will accompany the DC Background study and draft DC by-law in June, 2011. The intent is to reduce the centralized pond footprint but provide for residual treatment capacity.

Sanitary and Watermain Oversizing (Residential and Non-Residential)

- Development Charge contribution for sanitary sewer oversizing is applicable for sewers in excess of 450mm diameter in residential and non-residential developments.
- Development Charge contribution for watermain oversizing is applicable for watermains in excess of 300mm diameter in residential and non-residential developments.
- DC contribution for “oversizing” is on a flat rate basis as outlined in the City’s Financial Policies, per Council-approved Reports PED03060 and FCS03073 and related appendices/amendments.
- “Oversizing” will not be applied to temporary works.
- At intersections, the number of valves required is one less than the number of intersecting watermains (i.e. minimum 2 valves on a 3 way tee). Where a valve is required on an existing main that is greater than 300mm as a result of a connection of a main to service a development, “oversizing” for the valve will be limited to the oversizing value established for the 400mm size.
THE CITY OF HAMILTON
BY-LAW NO. 11 -

Being a by-law to amend By-law 09-143, as amended,
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 by-law applies;

AND WHEREAS the City of Hamilton did, in accordance with the said Act, on
June 15, 2011, enact By-law 09-143 to impose Development Charges;
(hereinafter such By-law may be referred to as the “By-law”);

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 15,
2011, has approved certain policies to be included in the said Development
Charges By-law 09-143 by way of an amendment thereto;

AND WHEREAS, in advance of passing this amending By-law, the Council of the
City of Hamilton has given notice of and held a public meeting on June 9, 2011 in
accordance with Section 12 of the Act regarding the proposed amendments to
the said development charges by-law;

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 amending by-
law, 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. Clause 1(n) of By-law 09 – 143 is hereby amended by deleting the reference
to “July 06, 2009” in the fourth line thereof and substituting “July 06, 2011”
therefore.

2. Clause 1(gg) of By-law 09-143 is hereby deleted and the following substituted
therefore, namely:
“(gg) “services” means services designated in Schedule “C” to this By-law, or designated in an agreement under Section 44 of the Act.”

3. Section 2 of By-law 09-143 is hereby amended by deleting the reference to “Schedule “D” Urban Area Charges” therefrom.

4. Section 5 of By-law 09-143 is hereby deleted and the following substituted therefore, namely;

“5. Where there is development of any land within the geographical area of the City of Hamilton, the minimum development charges payable pursuant to this By-law shall be those set out in Schedule “C” to this By-law.”

5. Section 6 of By-law 09-143 is hereby amended by deleting the words “Subject to Section 7, where” and replacing them with the word “Where”. Section 6 is hereby further amended by deleting the words “...together with the development charges set out in Schedule “D” to this By-law.” and replacing the comma after the word “By-law” at the end of the fifth line thereof with a period.

6. Clause 7(b) of By-law 09-143 is hereby repealed.

7. Section 18 of By-law 09-143 is hereby deleted and the following substituted therefore, namely:

“18.(1) No development charge shall be imposed where the only effect of an action referred to in Section 10 of this By-law is to:

(a) permit an enlargement to an existing dwelling unit;
(b) permit one or two additional dwelling units in an existing single detached building; or
(c) permit one additional dwelling unit in any other existing residential building.

(2) Notwithstanding sub-section (1), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.

(3) Notwithstanding sub-section (1), development charges shall be imposed if the additional unit has a gross floor area greater than:

(a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
8. Section 22 of by-law 09-143 is hereby deleted and the following substituted therefore, namely:

"22. The cumulative total of the gross floor area previously exempted hereunder shall be deducted from the initial amount of gross floor area eligible for an exemption under Section 20 for the purpose of determining the amount of the exemption applicable to any subsequent expansion."

9. The last sentence of clause 26(b) of By-law 09-143 is hereby amended by deleting the word "sub-section" in the first line thereof and replacing it with the words "clause (b)."

10. Clause (f) of Section 26 is hereby deleted and the following substituted therefore, namely:

"(f) development of student residences by a university, college of applied arts and technology or other accredited post-secondary institution is exempt from 50% of the development charge otherwise payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except clause 20(d) and Section 24, the credit applicable to any redevelopment involving an increase in the number of student residences contained within an existing building envelope shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 40 of this By-law."

11. Section 26 of by-law 09-143 is hereby amended by adding a new clause (g) thereto, namely:

"(g) redevelopment of an existing residential development for the purpose of creating residential facilities within the existing building envelope is exempt from 50% of the development charge otherwise payable pursuant to this By-law."

12. Section 26 of By-law 09-143 is hereby amended by adding a new clause (h) thereto, namely:

"(h) redevelopment of an existing residential facility for the purpose of creating more residential facility units within the existing building envelope shall be exempt from 50% of the development charge otherwise payable
pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except clause 20(d) and Section 24, the credit applicable to any such redevelopment shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 40 of this By-law."

13. Section 39 of By-law 09-143 is hereby amended by deleting the references to “May 01” in the first and second lines thereof and substituting “June 30” therefore.

14. Section 41 of By-law 09-143 is hereby repealed.

15. Schedule “D” to By-law 09-143 is hereby repealed.

16. Section 7 of By-law 09-143 is hereby amended to have the following applicable charge to be collected:

**Table 1**

**Municipal Wide Charges**

<table>
<thead>
<tr>
<th>PERCENTAGE OF CHARGE TO BE IMPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 6, 2012 to January 5, 2013</td>
</tr>
<tr>
<td>Industrial</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

**Table 2**

**Urban Area Charges**

<table>
<thead>
<tr>
<th>PERCENTAGE OF CHARGE TO BE IMPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 6, 2012 to January 5, 2013</td>
</tr>
<tr>
<td>Industrial</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

17. 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.
PASSED and ENACTED this 15th day of June, 2011.

______________________________  ________________________________
Mayor                                City Clerk
THE CITY OF HAMILTON
BY-LAW NO. 11-

Being a By-law respecting development charges for Storm Water, Water and Wastewater Services on lands within The City of Hamilton

WHEREAS the Development Charges Act, 1997, S.0.1997, c.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 By-law applies.

AND WHEREAS the City of Hamilton, as required by Section 10 of the Act, has undertaken and completed a development charge background study regarding the anticipated amount, type and location of development; the increase in needs for services; estimated capital costs to provide for such increased needs, including the long term capital and operating costs for capital infrastructure required for the services.

AND WHEREAS, as required by Section 11 of the Act, this By-law is being enacted within one year of the completion of the said development charge background study, titled "City of Hamilton 2011 Development Charge Background Study for Water, Wastewater, Storm Water and GO Transit Services" prepared by Watson & Associates, dated May 20, 2011;

AND WHEREAS in advance of passing this By-law the Council of the City of Hamilton has given notice of and held a public meeting on June 9, 2011 in accordance with Section 12 of the Act regarding its proposals for this development charges By-law;

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, the said By-law;

AND WHEREAS, Council intends that development-related 2009 - 2031 capacity will be paid for by development charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 15, 2011, has adopted and approved the said background study and the development charges and policies recommended by the General Manager of the Finance and Corporate Services Department to be included in this By-law and determined that no further public meetings are required under Section 12 of the Act;

AND WHEREAS, Council approved report FCS11 respecting "2011 City of Hamilton Water, Wastewater and Stormwater Development Charge By-law, Amendment for Development charge By-law 09-143, and Development charge By-law for Go Transit Services", thereby updating its capital budget and forecast where appropriate and indicating that it intends that the increase in the need for services to service anticipated development will be met;
NOW THEREFORE, the Council of the City of Hamilton hereby enacts as follows:

Definitions

1. In this By-law,

   (a) "Act" means the Development Charges Act, 1997, S.O. 1997, c.27, as amended.

   (b) "affordable housing project" means a development or redevelopment that provides housing and incidental facilities primarily for persons of low and moderate income.

   (c) "agricultural land" means land which is zoned for an agricultural use in the zoning By-law of the predecessor municipality in which the land is located, and any subsequent amendment or replacement thereof, and used for a bona fide agricultural use.

   (d) "agricultural use" means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants and includes the operation of a farming business and the erection of a farm help house on agricultural land but excludes a commercial greenhouse. Agricultural use does not include the development of a single detached dwelling on agricultural land.

   (e) "apartment" means a building consisting of more than one dwelling unit with a private bathroom and kitchen facilities in each dwelling unit and which is not a single detached dwelling, a semi-detached dwelling, a farm help house or a multiple unit dwelling. For the purposes of this By-law, apartment includes a mobile home.

   (f) "bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen.

   (g) "Board of Education" means a board as defined in sub-section 1(1) of the Education Act 1997, S.O. 1997, c.E.2, as amended.

   (h) "commercial development" means a building or structure used, designed or intended for use for, or in connection with the purchase and/or sale and/or rental of commodities; the provision of services for a fee; or the operation of a business office. Commercial development includes a "retail development" as defined herein but does not include an "industrial development" as defined herein.

   (i) "Council" means the Council of the City of Hamilton.

   (j) "covered sports field" means a completely enclosed sports field, court, track or surface. A covered sports field may be either free-standing or part of a larger building. A covered sports field may include an area for spectator seating or an audience but does not include ancillary lobby areas, change-rooms, restroom facilities, restaurants or food or beverage concessions, licensed drinking establishments, storage areas, or areas devoted to office or administrative use.
(k) "development" has the meaning set out in sub-section 41(1) of the Planning Act; R.S.O. 1990, c.P. 13, as amended, and includes redevelopment.

(l) "development charge or development charges" means the charges imposed by this By-law against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which this By-law applies.

(m) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one or more persons living together as a single housekeeping unit in which culinary and sanitary facilities are provide for the exclusive use of such person or persons. (06-173, s. 1(a))

(n) "existing industrial building" shall have the same meaning as that term is defined under Ontario Regulation 82/98 under the Act. For greater clarity, existing industrial building shall mean a building or buildings situated on a site in the City of Hamilton on July 06 2011, or the first building or buildings constructed on a site thereafter pursuant to site plan approval under Section 41 of the Planning Act for which full development charges were paid, which building or buildings are used for industrial purposes as defined herein.

(o) "farming business" means a business operating on agricultural land with a current Farm Business Registration Number issued pursuant to the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21, as amended, and assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation.

(p) "farm help house", means a dwelling unit constructed on agricultural land used for agricultural uses and not attached to any other building or structure, with sleeping, cooking, living and sanitary facilities, and used for seasonal, interim or occasional residential uses by farm labourers.

(q) "grade" means the average level of proposed or finished ground adjoining a building at all exterior walls.

(r) "gross floor area" means the total area of all floors above grade of a building containing one or more dwelling units, or of a non-residential building or structure, or of a building or structure with both residential and non-residential uses, measured between the outside surfaces of exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit or non-residential building or structure from another dwelling unit or non-residential building or structure or other portion of a building.

(s) "industrial development" means a building or structure used, designed or intended for use for, or in connection with,

(i) manufacturing, producing, processing, storing or distributing something;

(ii) research or development in connection with manufacturing, producing or processing, something;

(iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production or processing takes place; and
office or administrative purposes, if they are, carried out with respect to manufacturing, producing, processing, storage or distributing of something, and, in or attached to the building or structure used for that manufacturing, producing or processing, storage or distribution.

Without limiting the generality of the foregoing, industrial development also includes a building used as a commercial greenhouse which is not an agricultural use as defined herein, a warehouse, and a mini-storage facility.

For the purposes of this by-law, Industrial development also includes hotels.

(t) "local board" means any a municipal service board, municipal business corporation, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg 168/03 under the Municipal Act, 2001, S.O. 2001, c.25, as amended, or successor legislation.

(u) "lot" means a lot, block or parcel of land which can be legally and separately conveyed pursuant to Section 50 of the Planning Act, as amended, and includes a development having two (2) or more lots consolidated under a single ownership.

(v) "mixed use development" means a building or structure used, designed or intended for use for both residential and non-residential uses.

(w) "mobile home", means a building recognized in the Building Code as a "Mobile Home" in accordance with the standard for mobile homes in CANICSA-Z240.2.1 “Structural requirements for Mobile Homes”.

(x) "multiple unit dwelling" means a residential building consisting of two or more dwelling units attached by a vertical or horizontal wall or walls. Multiple unit dwelling refers to all dwelling units other than single detached, semi-detached, apartment unit dwellings, and residential facility dwellings. Multiple unit dwelling includes, but is not limited to, townhouses, street townhouses, row dwellings, stacked townhouses and duplexes.

(y) "non-industrial development" means any non-residential building or structure which is not an industrial development. Without limiting the generality of the foregoing, non-industrial development includes commercial and retail buildings, a public hospital within the meaning of the Public Hospitals Act, R.S.O. 1990, c. P. 40, as amended, and R.R.O. 1990, Regulation 964, as amended, and motels and other forms of tourist accommodation.

(z) "non-residential development" is any development other than a residential development.

(aa) "place of worship", means a building, or any part thereof, owned or occupied by a church or religious organization which is or would be classified as exempt from taxation in accordance with paragraph 3 of sub-section 3(1) of the Assessment Act, R.S.O. 1990, Chapter A.31.

(bb) "Planning Act" means the Planning Act, R.S.O. 1990, c. P. 13, as amended, or any successor legislation.
Appendix "C" of Report FCS11053(a)  
Page 5 of 19

(cc) "Regulation" means Ontario Regulation 82/98 under the Act.

(dd) "residential development" means:

(i) a single detached dwelling;

(ii) a semi-detached dwelling;

(iii) a residential facility;

(iv) a mobile home;

(vi) a multiple unit dwelling;

(vi) an apartment; or

(vi) a semi-detached dwelling, multiple unit dwelling and/or apartment in a mixed use development.

(ee) "residential facility" means a building containing two or more bedrooms which bedrooms do not have self-contained kitchens. Residential facility includes a garden suite within the meaning of Section 39.1 of the Planning Act. Residential facility does not include a single detached dwelling, a semi-detached dwelling, a farm help house, a multiple unit dwelling or an apartment as defined herein. (06-173, s.1(b))

(ff) "retail development" means land, buildings or portions thereof used, designed or intended for use for the purpose of offering foods, wares, merchandise, substances, articles or things for sale directly or providing entertainment to the public and includes the rental of wares, merchandise, substances, articles or things and includes offices and storage in connection with, related or ancillary to such retail uses. Retail development includes, but is not limited to: conventional restaurants; fast food restaurants; concert halls/ theatres/ cinemas/ movie houses/ drive-in theatres; automotive fuel stations with or without service facilities; specialty automotive shops/ auto repairs/ collision services/ car or truck washes; auto dealerships; regional shopping centres; community shopping centres; neighbourhood shopping centres, including more than two stores attached and under one ownership; department/ discount stores; banks and similar financial institutions, including credit unions (excluding freestanding bank kiosks); warehouse clubs and retail warehouses.

(gg) "semi-detached dwelling" means a residential building consisting of two dwelling units attached by a vertical wall or walls, each of which has a separate entrance or access to grade.

(hh) "services" means services designated in Schedule "C" of this By-law or designated in an agreement under Section 44 of the Act.

(ii) "single detached dwelling" means a residential building containing one dwelling unit and not attached to another building or structure, whether or not the single detached dwelling is situated on a single lot.

(jj) "temporary building or structure" means a non-residential building without a foundation which is constructed, erected or placed on land for a continuous period of time not
exceeding one (1) year, or a like addition or alteration to an existing building or an existing structure that has the effect of increasing the usability thereof for a continuous period not exceeding one (1) year.

Schedules

2. The following schedules to this By-law form an integral part of this By-law:

   Schedule “A”: Map of the Urban Area Boundary of the City of Hamilton
   Schedule “B”: Downtown Community Improvement Plan (CIP) Area
   Schedule “C”: Stormwater, Water and Wastewater Development Charges

Lands Affected

3. This By-law applies to all lands within the Urban Area Boundary of the City of Hamilton, as shown on Schedule “A”.

Amount of Charge

4. The development of land in the City of Hamilton is also subject to By-law 09 -143, as amended, and By-law 11 – , as amended, and any additional development charges by laws that may be enacted by the Council of the City of Hamilton during the life of this By-law.

5. (a) Where there is development of land within that part of the City depicted for the purposes of this By-law as Urban Area Boundary on Schedule “A” to this By-law, the development charges payable pursuant to this By-law shall be the development charges set out in Schedule “C” to this By-law.

   (b) Where a building permit is issued for a building or structure located on land outside of the Urban Area Boundary depicted on Schedule “A” to this By-law and a connection of that building or structure to any or all of the water and wastewater services in Schedule “C” is proposed, the applicable charge set out in Schedule “C” shall be applied to the said development.

   (c) The amount of the applicable charge to be collected for each use for each year of the term of this By-law shall be calculated as a percentage of the full charge set out therefore in Schedules “C” to this By-law, which percentage is shown on Table 1 below, namely:
Table 1

PERCENTAGE OF CHARGE TO BE IMPOSED
Non-Residential Industrial

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastewater Services</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Water Services</td>
<td>82%</td>
<td>100%</td>
</tr>
<tr>
<td>Stormwater Services</td>
<td>0.00%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Designation of Services

6. All development of land within the area to which this By-law applies will increase the need for storm water, water and wastewater services.

7. The development charges applicable to a development as determined pursuant to this By-law shall apply without regard to the services required or used by an individual development.

Approvals for Development

8. The development of land is subject to a development charge where the development requires the following:

   (a) the passing of a zoning By-law or an amendment thereto under Section 34 of the Planning Act;

   (b) the approval of a minor variance under Section 45 of the Planning Act;

   (c) a conveyance of land to which a By-law under subsection 50(7) of the Planning Act;

   (d) the approval of a plan of subdivision under Section 51 of the Planning Act;

   (e) a consent under Section 53 of the Planning Act;

   (f) the approval of a description in accordance with Section 50 of the Condominium Act, R.S.O. 1990, c.C. 26 or Section 9 of the Condominium Act 1998, S.O. 1998, c.19; or

   (g) the issuance of a permit under the Building Code Act, 1992, S.O. 1992, c.23, as amended, or successor legislation, in relation to a building or structure.
9. Where two or more of the actions described in Section 8 of this By-law occur at different times, or a second or subsequent building permit is issued resulting in increased, additional or different development, then additional development charges shall be imposed in respect of such increased, additional, or different development permitted by that action.

10. Where a development requires an approval described in section 8 of this By-law after the issuance of a building permit and no development charges have been paid, then the development charges shall be paid prior to the granting of the approval required under section 8 of this By-law.

11. Where a development does not require a building permit but does require one or more of the approvals described in Section 8 of this By-law, then, notwithstanding Section 30 of this By-law, development charges shall be payable.

12. Nothing in this by-law prevents Council from requiring, in an agreement under Section 51 or as a condition of consent or an agreement respecting same under Section 51 or as a condition or an agreement respecting same under Section 53 of the Planning Act, as amended, or successor legislation, that the owner, at his or her own expense, shall install such local services related to or within a plan of subdivision, as Council may require, in accordance with the City's applicable local services policies in effect at this time.

Calculation of Development Charges

13. A development charge imposed pursuant to this By-law shall, subject to any other applicable provision hereof, be calculated as follows:

   (a) Subject to (i), (ii) and (iii) below, in the case of residential development or the residential portion of mixed use development, based on the number and type of dwelling units;

   (i) in the case of a residential facility, based upon the number of bedrooms;

   (ii) in the case of a dwelling unit containing six (6) or more bedrooms, the sixth and any additional bedroom shall be charged at the applicable residential facility rate; or

   (iii) in the case of an apartment with dwelling units containing six (6) or more bedrooms, the applicable "apartment 2 bedroom +" rate shall apply to the dwelling unit and five (5) bedrooms and the applicable residential facility rate to the sixth and each additional bedroom.

   (b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the gross floor area of such development measured in square feet. (06-173, s. (2))

14. Subject to the provisions of this By-law, development charges against land are to be calculated and collected in accordance with the services and rates set out in Schedule "C" to this By-law.
**Exemptions for Intensification of Existing Housing**

15. (a) No development charge shall be imposed where the only effect of an action referred to in Section 8 of this By-law is to:

(i) permit an enlargement to an existing dwelling unit;

(ii) permit the creation of one or two additional dwelling units within an existing single detached dwelling; or

(iii) permit one additional dwelling unit in any other existing residential building.

(b) Notwithstanding (a) above, development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.

(c) Notwithstanding (a) above, development charges shall be imposed if the additional unit has a gross floor area greater than:

(i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and

(ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the said residential building.

**Exemptions for Certain Buildings**

16. No development charge shall be imposed on any building owned by and used for the purposes of:

(a) the City of Hamilton;

(b) a Board of Education; or,

(c) a local board.

**Exemption for the Enlargement of Existing Industrial Buildings**

17. No development charge shall be imposed on development constituting one or more enlargements of an existing industrial building as defined herein, whether attached or separate therefrom, up to a maximum of fifty percent (50%) of its gross floor area before the enlargement.

18. Where a proposed enlargement exceeds fifty (50%) per cent of the gross floor area of an existing industrial building, development charges are payable on the amount by which the proposed enlargement exceeds fifty percent (50%) of the gross floor area before the enlargement.
19. The cumulative total of the gross floor area previously exempted hereunder shall be included in the determination of the amount of the exemption applicable to any subsequent enlargement.

20. Where a subdivision of the site subsequent to any enlargement previously exempted hereunder results in the existing industrial building being on a lot separate from the development previously, further exemptions, if any, pertaining to the existing industrial building shall be calculated on the basis of the site as it existed on the date of the first exemption hereunder.

Other Exemptions from Development Charges

21. Notwithstanding any other provision of this By-law, the following types of development are exempted from development charges under this By-law, in the manner and to the extent set out below. Unless otherwise specified herein, the said exemption is equivalent to one hundred percent (100%) of the development charges otherwise payable under this By-law;

(a) a parking garage or structure exclusively devoted to parking, including an outdoor parking lot located at grade;

(b) an agricultural use;

(c) a place of worship;

(d) a covered sports field;

(e) a temporary building or structure, subject to section 32; and

(f) any affordable housing project that is approved to receive funding from a senior level of government affordable housing programme or an approved City of Hamilton or CityHousingHamilton Corporation affordable housing programme, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of government.

Downtown Community Improvement Plan (CIP) Exemption

22. All development within the boundaries of the Downtown Community Improvement Plan (CIP) as shown on Schedule “B” to this By-law is exempt from the provisions of this By-law.

Partial Exemptions

23. The following types of development will be partially exempt from development charges under this By-law in the manner and to the extent set out below:
(a) the initial five thousand (5,000) square feet of gross floor area of an expansion of a non-industrial development provided that:

(i) the development which is subject to such expansion is existing as of the effective date of this By-law;

(ii) an expansion may be attached or unattached to the existing development provided that, where unattached, it must be situated on the same site as the existing development; and,

(iii) where, subsequent to an unattached expansion exempted hereunder, the lot is further subdivided such that the original existing development and the unattached expansion thereof are no longer situated on the same lot, further exemptions pursuant to this section, if any, shall only be calculated on the basis of the building and the lot as they existed on the date of the first exemption recognized hereunder.

(b) for any non-industrial development other than an expansion, development charges shall be imposed as follows:

(i) fifty percent (50%) of the applicable development charge on the first five thousand (5000) square feet;

(ii) seventy five percent (75%) of the applicable development charge on the next five to ten thousand (5000 – 10,000) square feet;

(iii) one hundred percent (100%) of the applicable development charge on the amount of development exceeding ten thousand (10,000) square feet.

Where development has been exempted pursuant to this sub-section, the exemption set out in sub-section (a) above does not apply to any subsequent expansion on such development.

(c) development of a Brownfield property that has been approved by the City for an ERASE Redevelopment Grant, or any successor thereof. The amount of the exemption hereunder is equivalent to the cost of environmental remediation on, in or under the property as approved by the City under the ERASE Redevelopment Grant program and required to be paid by the owner, up to but not exceeding the amount of the development charges otherwise payable under this By-law;

(d) a development by a university, other post-secondary school offering a degree or diploma recognized by the Province of Ontario or a not-for-profit private elementary or secondary school operated in compliance with Section 16 of the Education Act, as amended, where such development is used for the academic or teaching purposes of the university or school, is exempt from development charges under this By-law.

(e) development of a public hospital as defined in paragraph 1(x), is exempt from fifty percent (50%) of the development charges otherwise payable under this By-law.

(f) development of student residences by a university, college of applied arts and technology or other accredited post secondary institution is exempt from 50% of the
development charge otherwise payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except paragraph 24(d) and Section 28, the credit applicable to any redevelopment involving an increase in the number of student residences contained within an existing building envelope shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 37 of this By-law.

(g) redevelopment of an existing residential development for the purpose of creating residential facilities within the existing building envelope is exempt from 50% of the development charge otherwise payable pursuant to this By-law.

(h) redevelopment of an existing residential facility for the purpose of creating more residential facility units within the existing building envelope shall be exempt from 50% of the development charge payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except paragraph 24(d) and Section 28, the credit applicable to any such redevelopment shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 37 of this By-law.

Rules with Respect to Redevelopment - Demolitions

24. In the case of the demolition of all or part of a building:

(a) in the case of a demolition permit issued after the effective date of this By-law, a credit shall be allowed against the development charges otherwise payable pursuant to this By-law, provided that a building permit has been issued for the redevelopment within five (5) years from the date the demolition permit has been issued;

(b) the credit shall be calculated based on the portion of a building used for a residential purpose that has been demolished by multiplying the number and type of dwelling units demolished, or in the case of a building used for a non-residential purpose that has been demolished by multiplying the non-residential square feet demolished by the relevant development charges in effect on the date when the development charges are payable pursuant to this By-law;

(c) for greater certainty, and without limiting the generality of the foregoing, no credit shall be allowed where the demolished building or part thereof would have been exempt pursuant to this By-law; and

(d) the amount of any credit pursuant to this section shall not exceed, in total, the amount of the development charges otherwise payable pursuant to this By-law with respect to the redevelopment.

Rules with Respect to Redevelopment - Conversions

25. Where an existing non-residential building or structure is converted in whole or in part to a residential use, the residential development charge payable for the residential units created
shall be reduced by an amount equal to the non-residential rate per square foot established under this By-law and set out in Schedule “C”, applied against the gross floor area so converted to residential use.

26. Where an existing residential building is converted in whole or in part to non-residential uses, the non-residential development charge payable for the gross floor area so converted shall be reduced by an amount equal to the residential development charge established under this By-law and set out in Schedule “C” applied for the type of residential unit(s) so converted. If a unit is only partially converted the reduction shall be in proportion to the extent of the conversion.

27. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with Sections 25 and 26.

28. The amount of any credit shall not exceed in total the amount of the development charges otherwise payable under the By-law.

Temporary Buildings or Structures

29. Where an application is made for the issuance of a permit under the Building Code Act in relation to a temporary building or structure, the Chief Building Official, or his or her delegate, may, as a condition of the issuance of the said permit, require that the owner of the land enter into an agreement with the City pursuant to Section 27 of the Act and Section 31 of this By-law and/or submit security satisfactory to the General Manager of Finance and Corporate Services and the City Solicitor, to be realized upon in the event that the temporary building or structure remains on the land for more than one (1) year, or any other time as may be set out in the said agreement or security, from the date of the construction or erection thereof. A temporary building or structure that has not been removed or demolished by the first anniversary of its construction or erection on the land, or by the date specified in an agreement, shall be deemed not to be, nor ever to have been, a temporary building or structure and development charges under this By-law shall become due and payable forthwith and the City may draw upon any letter of credit and/or transfer any cash security into the appropriate development charge reserve fund.

Collection of Development Charges

30. Subject to the provisions of Section 31, development charges are payable at the time a building permit is issued with respect to a development.

Prepayment or Deferral Agreements

31. (a) Save as otherwise specified in this By-law, and for non-residential development, a residential facility or an apartment development only, Council may authorize, in accordance with Section 27 of the Act, an agreement with a person to permit, on such terms as Council may require, including the payment of interest by such person, and for a term no longer than five (5)
years, the payment of the development charge before or after it is otherwise payable under this By-law.

(b) Notwithstanding (a) above, Council may authorize an agreement with a public hospital as defined in paragraph 1(y) above to permit, on such conditions as Council may require, including the payment of interest, and for a term no longer than ten (10) years, the payment of the development charge after it is otherwise payable under this By-law.

(c) Notwithstanding (a) above, Council may authorize an agreement with an entity described in paragraph 23(d) above to permit, on such conditions as Council may require, including the payment of interest, and for a term no longer than thirty (30) years, the payment of the development charge after it is otherwise payable under this By-law.

Credit for Services-in-lieu Agreement

32. In accordance with Sections 38, 39, 40 and 41 of the Act, a person may perform work that relates to a service to which this By-law applies, in return for a credit towards the development charges payable by the said person, by way of an agreement. No such credit shall exceed the total development charges payable by the person.

Front-Ending Agreements

33. Council may authorize a front-ending agreement in accordance with the provisions of Part III of the Act, upon such terms as Council may require, in respect of the development of land.

Administration of By-law

34. This By-law shall be administered by the Corporate Services Department of the City of Hamilton.

Indexing

35. The development charges set out in Schedule "C" of this By-law shall be adjusted annually without amendment to this By-law by the percentage change during the preceding year, as recorded in the Statistics Canada Construction Cost Index. This adjustment shall take place as follows:

(a) the initial adjustment shall be one year from the effective date of this By-law, and

(b) thereafter, adjustment shall be made each year on the anniversary of the effective date of this By-law.
Reserve Fund Report

36. The General Manager of Finance and Corporate Services shall, in each year prior to June 30 thereof, commencing June 30, 2012 for the 2011 year, furnish to Council a statement in respect of the reserve funds required by the Act for the services to which this By-law relates, for the prior year, containing the information set out in Section 43 of the Act and Section 12 of the Regulation.

Transition

37. The development charge rates payable are the rates in effect on the date a complete building permit application is received and accepted by the City's Chief Building Official, provided that the permit is issued within 6 months of the effective date of a development charge rate increase. Where the said building permit is lawfully revoked by the Chief Building Official on or after the date of the said development charge rate increase, any subsequent application for a building permit on the lands or site will be subject to the development charge rate in effect on the date of building permit issuance. For the purposes of this section, a "complete application" shall mean an application with all required information and plans provided, all application fees paid and all prior charges and taxes relating to the subject land paid and discharged.

38. Where a complete application for site plan approval pursuant to City of Hamilton By-law 03-294, as amended, or any successor thereto, has been received by the City prior to May 01, 2011, and no building permit in relation thereto has been issued prior to July 06, 2011, the development charge payable upon the issuance of the building permit or permits issued in relation to said approved site plan shall be the applicable development charge as of July 05, 2011, provided that:

   (a) any building permit required in relation to the said approval has been issued prior to January 6, 2012; and

   (b) construction has commenced thereafter within six (6) months of the date of issuance of the said building permit or permits, such construction to be deemed to have commenced when all footings and foundations have been completed.

For the purposes of this Section 38, a "complete site plan application" means an application in compliance with the requirements of the City as set out in the document entitled "City of Hamilton Submission Requirements and Application Form for Site Plan Control" dated January 01, 2004, or any successor thereto, as the same may be amended from time to time, together with all applicable fees.

General

39. This By-law may be referred to as the "City of Hamilton Stormwater, Water and Wastewater Development Charges By-law, 2011."
Date By-law Effective

40. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2011.

Date By-law Expires

41. This By-law expires five (5) years after the date on which it comes into force.

By-law Registration

42. A certified copy of this By-law may be registered in the Land Titles Office as against title to any land to which this By-law applies.

Headings for Reference Only

43. The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

Severability

44. If, for any reason, any provision, section, subsection, paragraph or clause of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

PASSED AND ENACTED THIS 15th DAY OF JUNE 2011.

__________________________________________  _______________________________________
MAYOR                                         CLERK
### SCHEDULE OF DEVELOPMENT CHARGES

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>RESIDENTIAL</th>
<th>NON-RESIDENTIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Apartments 2 Bedrooms + (per unit)</td>
<td>Apartments Bachelor &amp; 1 Bedroom (per unit)</td>
</tr>
<tr>
<td>Wastewater Services</td>
<td>8,693</td>
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<td>Water Services</td>
<td>3,294</td>
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<tr>
<td>Stormwater Services</td>
<td>5,123</td>
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<tr>
<td><strong>Total Water and Wastewater Services</strong></td>
<td><strong>17,110</strong></td>
<td><strong>10,599</strong></td>
</tr>
</tbody>
</table>

*Note: there are two categories of non-residential charge, "industrial" and "non-industrial" as defined in this by-law*

New "non-industrial" developments are charged as follows:

- 1-5,000 sq ft: 50% of the Total Water & Wastewater Services charge in effect
- 5001-10,000 sq ft: 75% of Total Water & Wastewater Services charge in effect
- 10,000 sq ft and greater: 100% of the Total Water & Wastewater Services charge in effect

For expansions of "non-industrial" developments already in existence at the commencement of this by-law the following rates apply:

- 1st 5000 sq ft of expansion: exempt
- Sq footage in excess of 5000: 100% of the Total Water, Wastewater & Stormwater Services charge in effect

*Note: where a permanent/centralized stormwater management facility in a particular subdivision has been provided at the cost of the developer as a condition of approval of a plan of subdivision, the facility shall be considered a credit for services-in-lieu and accordingly, DC's on any of the proponents unbuilt lots within the subject subdivision shall be reduced by the extent of the stormwater management facility sub-component which is 65% of the total stormwater drainage and control services.*
Authority:

Bill No.

THE CITY OF HAMILTON
BY-LAW NO.

Being a By-law to impose development charges against lands to pay for increased capital costs required because of increased needs for GO Transit Service arising from development within the City of Hamilton

WHEREAS the Development Charges Act, 1997, S.0.1997, 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 By-law applies.

AND WHEREAS the City of Hamilton, as required by Section 10 of the Act, has undertaken and completed a development charge background study regarding the anticipated amount, type and location of development, the increase in need for service, the deductions required under the Act, estimated capital costs to provide for such increased needs, including the long term capital and operating costs for capital infrastructure required for the service, as well as the attribution related to new residential development.

AND WHEREAS, as required by Section 11 of the Act, this By-law is being enacted within one year of the May 2011 completion of the said development charge background study, titled “City of Hamilton 2011 Development Charge Background Study for Water, Wastewater, Storm Water and GO Transit Services,” prepared by Watson and Associates dated May 20, 2011;

AND WHEREAS in advance of passing this By-law the Council of the City of Hamilton has made the background study available to the public at least two weeks prior to the public meeting and given notice of and held a public meeting on June 9, 2011 in accordance with Section 12 of the Act regarding its proposals for this development charges By-law;

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, the said By-law;

AND WHEREAS, Council intends that development-related post 2031 capacity will be paid for by future development charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 15, 2011, has adopted and approved the said background study and the development charges and policies recommended by the General Manager of the Finance and Corporate
Services Department to be included in this By-law and determined that no further public meetings are required under Section 12 of the Act;

AND WHEREAS, Council approved Report FCS11 respecting "2011 City of Hamilton Water, Wastewater and Stormwater Development Charge By-law; Amendment to Development Charge By-law 09-143, and Development Charge By-law for Go Transit Services", thereby updating its capital budget and forecast where appropriate;

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

Definitions

1. In this By-law,


(b) "affordable housing project" means housing accommodations and incidental facilities primarily for persons of low and moderate income.

(c) "agricultural land" means land which is zoned for an agricultural use in the zoning By-law of the predecessor municipality in which the land is located, and any subsequent amendment or replacement thereof, and used for a bona fide agricultural use.

(d) "agricultural use" means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants and includes the operation of a farming business and the erection of a farm help house on agricultural land but excludes a commercial greenhouse. Agricultural use does not include the development of a single detached dwelling on agricultural land.

(e) "apartment" means a building consisting of more than one dwelling unit with a private bathroom and kitchen facilities in each dwelling unit and which is not a single detached dwelling, a semi-detached dwelling, a farm help house or a multiple unit dwelling. For the purposes of this By-law, apartment includes a mobile home.

(f) "bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen.

(g) "Board of Education" means a board as defined in sub-section 1(1) of the Education Act 1997, S.O. 1997, c. 27, as amended.
(h) “Council” means the Council of the City of Hamilton.

(i) “development” has the meaning set out in sub-section 41(1) of the Planning Act; and includes redevelopment.

(j) “development charge or development charges” means the charges imposed by this By-law against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which this By-law applies.

(k) “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one or more persons living together as a single housekeeping unit in which culinary and sanitary facilities are provided for the exclusive use of such person or persons.

(l) “farm help house”, means a dwelling unit constructed on agricultural land used for agricultural uses and not attached to any other building or structure, with sleeping, cooking, living and sanitary facilities, and used for seasonal, interim or occasional residential uses by farm labourers.

(m) “GO Transit Service” includes stations, sites, parking facilities, rolling stock, storage yards, layover facilities, maintenance facilities, tunnels, grade separations, crossings, track, corridor rail expansions, bus terminals, control centres, capital works studies, background studies, and financing costs.

(n) “grade” means the average level of proposed or finished ground adjoining a building at all exterior walls.

(o) “local board” means any a municipal service board, municipal business corporation, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg 599/06 under the Municipal Act, 2001, S.O. 2001, c.15, or successor legislation.

(p) “lot” means a lot, block or parcel of land which can be legally and separately conveyed pursuant to Section 50 of the Planning Act, and includes a development having two (2) or more lots consolidated under a single ownership.

(q) “mixed use development” means a building or structure used, designed or intended for use for both residential and non-residential uses.
“mobile home”, means a building recognized in the Building Code as a “Mobile Home” in accordance with the standard for mobile homes in CONICS-Z240.2.1 “Structural requirements for Mobile Homes”.

“multiple unit dwelling” means a residential building consisting of two or more dwelling units attached by a vertical or horizontal wall or walls. Multiple unit dwelling refers to all dwelling units other than single detached, semi-detached, apartment unit dwellings, and residential facility dwellings. Multiple unit dwelling includes, but is not limited to, townhouses, street townhouses, row dwellings, stacked townhouses and duplexes.

“non-residential development” is any development other than a residential development.

“Planning Act” means the Planning Act, R.S.O. 1990, c. P. 13, as amended, and any successor legislation.

“Regulation” means Ontario Regulation 82/98 under the Development Charges Act, 1997, as amended.

“residential development” means:

(i)    a single detached dwelling; or

(ii)   a semi-detached dwelling; or

(iii)  a residential facility; or

(iv)   a mobile home; or

(v)    a multiple unit dwelling; or

(vi)   an apartment; or

(vii)  a semi-detached dwelling, multiple unit dwelling and/or apartment in a mixed use development.

“residential facility” means a building containing two or more bedrooms which bedrooms do not have self-contained kitchens. Residential facility includes a garden suite within the meaning of Section 39.1 of the Planning Act. Residential facility does not include a single detached dwelling, a semi-detached dwelling, a farm help house, a multiple unit dwelling or an apartment as defined herein, but shall include such facilities as student dormitories, rooming and boarding houses, lodging houses, long-term care facilities, nursing homes, retirement homes, and group homes.
"semi-detached dwelling" means a residential building consisting of two dwelling units attached by a vertical wall or walls, each of which has a separate entrance or access to grade.

"service" means service defined in the by-law or designated in an agreement under Section 44 of the Act.

"single detached dwelling" means a residential building containing one dwelling unit and not attached to another building or structure, whether or not the single detached dwelling is situated on a single lot.

Schedules

2. The following schedules to this By-law form an integral part of this By-law:

   Schedule “A”: GO Transit Development Charges
   Schedule “B”: Downtown Community Improvement Plan (CIP) Area

Lands Affected

3. This By-law applies to all land within the City of Hamilton, with respect to the GO Transit Service provided within and outside of the City.

4. The development of land in the City is also subject to By-law 09-143, as amended and any successor by-law, and any additional development charge by-laws that may be enacted from time to time by the City.

Designation of Services

5. All residential development of land within the area to which this By-law applies will increase the need for GO Transit service.

6. The development charges applicable to a development as determined pursuant to this By-law shall apply without regard to the service required or used by an individual development.

7. The service for which development charges are imposed under this by-law is the GO Transit service.

Approvals for Development

8. The development of land is subject to a development charge where the development requires the following:

   (a) the passing of a zoning By-law or an amendment thereto under Section 34 of the Planning Act.

   (b) the approval of a minor variance under Section 45 of the Planning Act.
appendix "D" of report FCS11053(a)

page 6 of 14

(c) a conveyance of land to which a By-law passed under subsection 50(7) of the Planning Act applies.

(d) the approval of a plan of subdivision under Section 51 of the Planning Act.

(e) a consent under Section 53 of the Planning Act.

(f) the approval of a description in accordance with Section 50 of the Condominium Act, R.S.O. 1990, c. C.26, or Section 9 of the Condominium Act 1998, S.O. 1998, c.19; or

(g) the issuance of a permit under the Building Code Act, 1992, S.O. 1992, c.23, as amended, or successor legislation, in relation to a building or structure.

9. Where two or more of the actions described in section 8 of this By-law occur at different times, or a second or subsequent building permit is issued resulting in increased, additional or different development, then additional development charges shall be imposed in respect of such increased, additional, or different development permitted by that action.

10. Where a development requires an approval described in section 8 of this By-law after the issuance of a building permit and no development charges have been paid, then the development charges shall be paid prior to the granting of the approval required under section 8 of this By-law.

11. If a development does not require a building permit but does require one or more of the approvals described in section 8 of this By-law, then, notwithstanding section 8 of this By-law, development charges shall nonetheless be payable.

12. Nothing in this By-law prevents Council from requiring, in an agreement under Section 51 or as a condition of consent or an agreement respecting same under section 51 or as a condition or an agreement respecting same under Section 53 of the Planning Act, that the owner, at his or her own expense, shall install such local services related to or within a lot or lots, or a plan of subdivision, as Council may require, in accordance with the City’s applicable local services policies in effect at the time.

Calculation of Development Charges

13. A development charge imposed pursuant to this By-law is applicable only to residential development and shall, subject to any other applicable provision hereof, be calculated as follows:
(a) subject to (b), (c) and (d) below, in the case of residential development or the residential portion of mixed use development, based on the number and type of dwelling units;

(b) in the case of a residential facility, based upon the number of bedrooms;

(c) in the case of a dwelling unit containing six (6) or more bedrooms, the sixth and any additional bedroom shall be charged at the applicable residential facility rate; or

(d) in the case of an apartment with dwelling units containing six (6) or more bedrooms, the applicable “apartment 2 bedroom +” rate shall apply to the dwelling unit and five (5) bedrooms and the applicable residential facility rate to the sixth and each additional bedroom.

14. Subject to the provisions of this By-law, development charges against land are to be calculated and collected in accordance with the rates set out in Schedule “A” of this By-law.

Exemptions for Intensification of Existing Housing

15. (1) No development charge shall be imposed where the only effect of an action referred to in Section 8 of this By-law is to:

(a) permit an enlargement to an existing dwelling unit;

(b) permit one or two additional dwelling units in an existing single detached dwelling; or

(c) permit one additional dwelling unit in any other existing residential building.

(2) Notwithstanding sub-section (1), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.

(3) Notwithstanding sub-section (1), development charges shall be imposed if the additional unit has a gross floor area greater than:

(a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and

(b) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.

Exemptions for Certain Buildings

16. No development charge shall be imposed on any building owned by and used for the purposes of:
(a) the City of Hamilton;
(b) a Board of Education; or,
(c) a local board.

Other Exemptions from Development Charges

17. Notwithstanding any other provision of this By-law, the following types of development are exempted from development charges under this By-law in the manner and to the extent set out below. Unless otherwise specified herein, the said exemption is equivalent to one hundred percent (100%) of the development charges otherwise payable:

(a) an agricultural use; and

(b) an affordable housing project that receives funding from the City's Community Rental Housing program through a municipal housing project facilities agreement and by-law, or any such similar City housing program delivered by the City, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of government.

Downtown Community Improvement Plan (CIP) Exemption

18. All development within the boundaries of the Downtown Community Improvement Plan (CIP) as shown on Schedule "B" attached is exempt from the provisions of this By-law.

Partial Exemptions

19. The following types of residential development will be partially exempt from development charges under this By-law in the manner and to the extent set out below:

(a) development of a Brownfield property that has been approved by the City for an ERASE Redevelopment Grant, or any successor thereof. The amount of the exemption hereunder is equivalent to the cost of environmental remediation on, in or under the property as approved by the City under the ERASE Redevelopment Grant program and required to be paid by the owner, up to but not exceeding the amount of the development charges otherwise payable under this By-law;

(b) development of student residences by a university, college of applied arts and technology or other accredited post-secondary institution is exempt from 50% of the development charge otherwise payable pursuant to this
By-law. Notwithstanding anything else contained in this By-law, save and except paragraph 20(d) and Section 24, the credit applicable to any redevelopment involving an increase in the number of student residences contained within an existing building envelope shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 33 of this By-law.

(c) redevelopment of an existing residential development for the purpose of creating residential facilities within the existing building envelope is exempt from 50% of the development charge otherwise payable pursuant to this By-law;

(d) redevelopment of an existing residential facility for the purpose of creating more residential facility units within the existing building envelope shall be exempt from 50% of the development charge otherwise payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except paragraph 20(d) and Section 24, the credit applicable to any such redevelopment shall be based on 100% of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 33 of this By-law.

Rules with Respect to Redevelopment - Demolitions

20. In the case of the demolition of all or part of a building:

(a) in the case of a demolition permit issued after the effective date of this By-law, a credit shall be allowed against the development charges otherwise payable pursuant to this By-law, provided that a building permit has been issued for the redevelopment within five (5) years from the date the demolition permit has been issued;

(b) the credit shall be calculated based on the portion of a building used for a residential purpose that has been demolished by multiplying the number and type of dwelling units demolished by the relevant development charges in effect on the date when the development charges are payable pursuant to this By-law;

(c) for greater certainty, and without limiting the generality of the foregoing, no credit shall be allowed where the demolished building or part thereof would have been exempt pursuant to this By-law; and

(d) the amount of any credit pursuant to this section shall not exceed, in total, the amount of the development charges otherwise payable pursuant to this By-law with respect to the redevelopment.
Rules with Respect to Redevelopment - Conversions

21. Where an existing non-residential building or structure is converted to a residential use, the residential development charge payable for the residential units created shall not be reduced.

22. Where an existing residential building is converted to non-residential uses, there is no development charge payable under this By-law.

23. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with sections 21 and 22.

24. The amount of any credit shall not exceed in total the amount of the development charges otherwise payable under the By-law.

Temporary Buildings or Structures

25. Where an application is made for the issuance of a permit under the Building Code Act in relation to a temporary building or structure, the Chief Building Official, or his or her delegate, may, as a condition of the issuance of the said permit, require that the owner of the land enter into an agreement with the City pursuant to Section 27 of the Act and Section 27 of this By-law and/or submit security satisfactory to the General Manager of Finance and Corporate Services and the City Solicitor, to be realized upon in the event that the temporary building or structure remains on the land for more than one (1) year, or any other time as may be set out in the said agreement or security, from the date of the construction or erection thereof. A temporary building or structure that has not been removed or demolished by the first anniversary of its construction or erection on the land, or by the date specified in an agreement, shall be deemed not to be, nor ever to have been, a temporary building or structure and development charges under this By-law shall become due and payable forthwith and the City may draw upon any letter of credit and/or transfer any cash security into the appropriate development charge reserve fund.

Collection of Development Charges

26. Subject to the provisions of Sections 25 and 27 of this By-law, development charges are payable at the time a building permit is issued with respect to a development.

Credit for Services-in-lieu Agreement

27. In accordance with Sections 38, 39, 40 and 41 of the Act, a person may perform work that relates to the service to which this By-law applies, in return for a credit towards the development charges payable by the said person, by way of an agreement. No such credit shall exceed the total development charges payable by the person.
Front-Ending Agreements

28. Council may authorize a front-ending agreement in accordance with the provisions of Part III of the Act, upon such terms as Council may require, in respect of the development of land.

Administration of By-law

29. This By-law shall be administered by the Corporate Services Department of the City of Hamilton.

Indexing

30. The development charges set out in Schedule “A” of this By-law shall be adjusted annually without amendment to this By-law by the percentage change during the preceding year, as recorded in the Statistics Canada Quarterly Construction Price Statistics, Catalogue number 62-007. This adjustment shall take place as follows:

(a) the initial adjustment shall be one year from the effective date of this By-law, and

(b) thereafter, adjustment shall be made each year on the anniversary of the effective date of this By-law.

Reserve Fund Report

31. The General Manager of Finance and Corporate Services shall, in each year prior to June 30 thereof, commencing June 30, 2012 for the 2011 year, furnish to Council a statement in respect of the reserve fund required by the Act for the service to which this By-law relates, for the prior year, containing the information set out in Section 43 of the Act and Section 12 of the Regulation.

Transition

32. The development charge rates payable are the rates in effect on the date a completed building permit application is received and accepted by the City, provided that the permit is issued within 6 months of the effective date of a rate increase. Where the said building permit is revoked by the Chief Building Official on or after the date of the rate increase, any subsequent application for a building permit on the lands or site will be subject to the rates in effect on the date of permit issuance. For the purposes of this section, a “complete application” shall mean an application with all required information and plans provided, all application fees paid and all prior charges and taxes relating to the subject land paid and discharged.
General

33. This By-law may be referred to as the “City of Hamilton GO Transit Development Charges By-law, 2011”.

Date By-law Effective

34. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2011.

Date By-law Expires

35. This By-law expires five (5) years after the date on which it comes into force.

By-law Registration

36. A certified copy of this By-law may be registered in the Land Titles Office as against title to any land to which this By-law applies.

Headings for Reference Only

37. The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

Severability

38. If, for any reasons, any provision, section, subsection, paragraph or clause of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

PASSED AND ENACTED THIS 15th DAY OF JUNE 2011.

MAYOR                        CLERK
SCHEDULE "A"
GO TRANSIT DEVELOPMENT CHARGES

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<th>Residential Development Type</th>
<th>Charge</th>
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<tr>
<td>Apartments</td>
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<td>- 2 Bedrooms+</td>
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<td>- Bachelor and 1 Bedroom</td>
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<td>Other Multiples</td>
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SCHEDULE "B"
DOWNTOWN COMMUNITY IMPROVEMENT PLAN
(CIP) AREA