SUBJECT: 2009 City of Hamilton Development Charge By-laws 09-143 and 09-144 Amendment – Correct Omission of Affordable Housing Exemption (FCS09099) (City Wide)

RECOMMENDATION:

1. That Development Charge By-law 09-143 be amended to include, under exemptions in Section 24 (f) “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.”;

2. That Development Charge By-law 09-144 be amended to include, under exemptions in Section 21 (f) “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.”;

3. That the amendment to Development Charges By-law 09-143, attached hereto as Appendix B to report FCS09099, be passed and enacted; and

4. That the amendment to Development Charges By-law 09-144, attached hereto as Appendix C to report FCS09099, be passed and enacted

Roberto Rossini
General Manager
Finance and Corporate Services
EXECUTIVE SUMMARY:

On June 24, 2009, staff brought forward to Council, report FCS09060 “2009 City of Hamilton Water and Wastewater Development Charge Bylaw (2-year Term) and Development Charge By-law for all other growth services (5-year Term)” which contained two new proposed Development Charge By-laws for their consideration (one for water and wastewater growth infrastructure (2-year term) and another for all other growth services (5-year term). These were subsequently voted on and passed creating By-law 09-144 Hamilton Water and Wastewater Development Charge Bylaw (2-year Term) and By-law 09-143 Development Charge By-law for all other growth services (5-year Term). Under Appendix C, Section P, of report FCS09060 (refer to Appendix A of report FCS09099) outlining all policies unchanged from the previous DC By-law 04-145 it states “That 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” will remain unchanged. The above section was identified previously as section 26(e) in By-law 04-145. It was to remain on the two new by-laws but was omitted in error.

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

- Public Meeting would need to be held concerning the amendment;
- Newspaper advertisement of the public meeting at least twenty (20) days prior to the public meeting;
- Ensure that the proposed by-law amendment is made available to the public two (2) weeks prior to the public meeting;
- At the public meeting, citizens may make representations concerning the amendment;
- The City Clerk shall give written notice of the passing of the by-law no later than twenty (20) days after the passing and of the last day for appealing the by-law, which shall be the day that is forty (40) days after the day the By-law is passed;
- The amendment would be subject to a forty (40) day appeal period whereby appeals can be made to the Ontario Municipal Board (OMB);
- Appendix B to report FCS09099 will replace section 24 in the City of Hamilton Bylaw No. 09-143; and
- Appendix C to report FCS09099 will replace section 21 in the City of Hamilton Bylaw No. 09-144.

In order to meet the timelines, staff have posted an advertisement in the Hamilton Spectator on October 9, 2009, to provide citizens with 20 days notice of the public meeting scheduled for the Audit & Admin meeting dated November 4, 2009.
Staff will make available to the public, the By-law amendment no later than October 21, 2009.

BACKGROUND:

City Council, at its’ meeting held on June 24, 2009, approved 2009 City of Hamilton Water and Wastewater Development Charge By-law 09-144 (2-year Term) and the Development Charge By-law for all other growth services 09-143 (5-year Term) outlined in report FCS09060.

ALTERNATIVES FOR CONSIDERATION:

Leave the omission as is and not exempt affordable housing projects contrary to the intention of Council approved Report FCS09060 which established the City’s new DC By-laws.

POLICIES AFFECTING PROPOSALS:

The following DC Bylaws would be amended:

City of Hamilton - 09-143 approved June 24, 2009.

City of Hamilton - 09-144 approved June 24, 2009.

RELEVANT CONSULTATION:

Legal Services Division
City Clerks Division

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Intensification

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Intensification

Economic Well-Being is enhanced. ☑ Yes ☐ No
Increases assessment
Does the option you are recommending create value across all three bottom lines?
☑ Yes  □ No

Yes (intensification)

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
☑ Yes  □ No
(Proposed DC policies unchanged from previous DC Bylaws and related amendments)

k) That development undertaken for the purposes of aeronautical uses at the Airport be exempt from development charges. Aeronautical use refers to uses required for the function of an airport (ie. control tower, etc.).

l) That parking garages, above, below, and at grade, be exempt from development charges.

m) That garden suites be charged the residential facility rate.

n) That mobile homes be charged the residential apartment rate.

o) That, for covered sports fields, only those buildings/areas ancillary to the actual playing surface be subject to development charges. These buildings/areas include change-rooms, restaurants, lobby areas, offices, etc.

p) That 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.

q) That DC deferral agreements (excluding hospitals) be limited to the following:

Non-residential development and apartment developments (minimum of 10 apartment units): Charges can be deferred for up to 5 years, with interest. (This also applies to “residential facilities”) That the interest rate charged on development charge deferral agreements conform with the general City policy for external loans and therefore be set at the five-year debenture rate plus one-quarter percent (for administration).
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 did, in accordance with the said Act, on the 24th day of June 2009, 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 October 28th, 2009, has approved the enactment of a Bylaw to include the exemption of affordable housing projects from development charges and approved 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 By-law the Council of the City of Hamilton has given notice of and held a public meeting on October 21st 2009 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 Audit and Administration 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;

NOW THEREFORE, the Council of the City of Hamilton hereby enacts as follows:
1. (a) Section 1 of By-law 09-143 is hereby amended by adding the following thereto as paragraph “(b)”, namely:

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

(b) Existing paragraphs “(b)” through “(hh)” inclusive are hereby re-lettered accordingly.

2. Section 24 of By-law 09-143 is hereby amended by adding the following thereto as paragraph “(f)”, namely:

“(f) any affordable housing project that is approved to receive funding from a senior level of government affordable housing program 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.”

PASSED and ENACTED this 28th day of October, 2009.

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Fred Eisenberger                   Kevin C. Christenson
Mayor                     City Clerk
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 did, in accordance with the said Act, on the 24th day of June 2009, enact By-law 09-144 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 October 28th, 2009, has approved the enactment of a Bylaw to include the exemption of affordable housing projects from development charges and approved policies to be included in the said Development Charges By-law 09-143 by way of an amendment thereto;

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(b) Existing paragraphs “(b)” through “(hh)” inclusive are hereby re-lettered accordingly.

2. Section 21 of By-law 09-144 is hereby amended by adding the following thereto as paragraph “(f)", namely:

“(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.”

PASSED and ENACTED this 28th day of October, 2009.

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Fred Eisenberger                     Kevin C. Christenson
Mayor                                City Clerk