SUBJECT: 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) (FCS09060) (City Wide)

Note: Recommendations represent new charges and/or policies from the previous DC Bylaw and related amendments (Refer Appendix C for summary of existing policies which have not changed from the previous DC Bylaw and related amendments).

RECOMMENDATION:

a) That the residential development charge rate for a single detached unit increase to $26,875. All residential classes to increase per Table 1 of this report, taking effect on July 6, 2009.

b) That the industrial development charge rate be set at $6.75 per sq ft (the wastewater service component) effective July 6, 2009.

c) That the non-residential development charge rate for new commercial, institutional and office developments be set as per the following, effective July 6, 2009:

1. For developments up to 5,000 sq. ft. at 50% of the rate in effect ($9.74 sq.ft.).
2. For developments, 5,001 to 10,000 sq. ft. at 75% of the rate in effect ($14.60 sq.ft.).
3. For developments 10,001 sq. ft. and greater at 100% of the rate in effect ($19.47 sq.ft.).

d) That the City continue its practise to index its Development Charges (per the DC Act prescribed Statistics Canada Construction Cost Index) and that the next anniversary date for this adjustment would be July 6, 2010.
e) That the City (per the resolution adopted for the 2004 DC report FCS03051A) continue to endorse the principle of limiting the use of special area charges in the future and that the current area specific charges in Dundas/Waterdown and Binbrook be merged in the City-wide Development charge (refer Table 6).

f) That the City establish a development charge reserve specifically for the wastewater plant expansion project from which the growth-related debt charges for the plant expansion would be funded.

g) That for all classes of development activity, the development charge revenue collected go first towards payment of 100% of the wastewater DC service and that any foregone development charge revenue due to exemptions be applied to the balance of the DC services.

h) That hotels, for development charge purposes, be classed as industrial, per Council motion dated October 14, 2008.

i) That the initial 5,000 sq ft of non-industrial (includes commercial/institutional) expansions of developments existing at the commencement of this by-law be exempt from DCS. Expansion square footage greater than 5,000 sq.ft. to be assessed 100% of the "non-industrial" rate in effect. Also, that these expansions be considered expansions only if a minimum period of 1 year has passed from the time that the last occupancy permit was issued for the subject property.

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 will be applied for unidentified stormwater management facilities that are deemed to be an appropriate and permanent enhancement/improvement to the approved downstream solution(s).

m) That hospitals governed by the Public Hospitals Act be 50% exempt from the development charges payable. (Policy previously approved by Council through
report FCS02100c). That the hospital DC’s payable also have access to a 10-year deferral agreement at 0% interest.

n) That all of the growth capital projects listed in the City of Hamilton Development Charge Background Studies dated May 20, 2009 and related amendments be approved as part of the 2009 - 2018 City of Hamilton Capital Budget Forecast.

o) That a permanent transition policy be implemented 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;

p) That a one-time (for the 2009 July 6th By-laws) transition policy be implemented as follows:

For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2009, and no building permit in relation thereto has been issued prior to July 6, 2009, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2009, provided that the building permit is issued prior to Jan 6, 2010. Where the building permit is revoked by the Chief Building Official on or after July 6, 2009, 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;

q) That the assumptions with respect to anticipated development, levels of service, capital grants, subsidies, and other contributions and other deductions required under the Development Charges Act contained within the background studies and related amendments identified in recommendation (n) be adopted;

r) 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);

s) That the Development Charges By-laws, attached hereto as Appendix “A” and “B”, be passed and enacted.

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

Roberto Rossini
General Manager
EXECUTIVE SUMMARY:

A new development charge (DC) bylaw is required to be in place by July 6, 2009 to replace the by-laws that are currently active. Staff recommend that DC By-law 04-145 and related amendments be replaced by 2 new DC Bylaws. The first Bylaw would deal with the water and wastewater growth capital and staff are recommending a maximum bylaw term of 2 years. The 2nd Bylaw would deal with the balance of the growth-related services and would have the maximum regulatory term of 5 years. They are shown as Appendix A and B to this report.

This report also outlines the staff recommendations regarding new development charge policy issues. The Executive Summary contains 3 Tables that outline the charges as they exist today along with the new proposed rates.

Table 1 shows the residential development charge for a single detached unit increasing from $19,573 to $26,875 an increase of $7,302 or 37%.

| TABLE 1 | PROPOSED NEW RESIDENTIAL DEVELOPMENT CHARGES ($/unit)* |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                 | Single Detached & Semi Detached | Townhouses & Other Multiple Unit Dwellings | 2+ Bedroom Apartment | 1 Bedroom & Bachelor Apartments | Residential Facility (per bedroom) |
| City Wide       | 26,875           | 19,264           | 16,490           | 11,019           | 6,365           |
| Education DC    | 307              | 307              | 307              | 307              | 307             |
| GO Transit DC   | 211              | 169              | 138              | 82               | 63              |
| Total           | 27,393           | 19,740           | 16,935           | 11,408           | 6,735           |
| Rural           | 9,294            | 6662             | 5703             | 3811             | 1683            |

EXISTING CHARGES

| City Wide       | 19,573           | 15,530           | 12,761           | 7,621            | 5,776           |
| Education DC    | 307              | 307              | 307              | 307              | 307             |
| GO Transit DC   | 211              | 169              | 138              | 82               | 63              |
| Total           | 20,091           | 16,005           | 13,205           | 8,010            | 6,146           |
| Rural           | 10,210           | 8,100            | 6656             | 3975             | 3014            |

*OPA 28 (Borers Creek Minutes of Settlement) Special Area Charge will still apply to applicable properties

*Hamilton-Wentworth Catholic District School Board is currently reviewing their Development Charge by-law which is set to expire on August 31, 2009. On September 1, 2009 a new yet to be determined Board of Education DC rate will be implemented.
A summary of the $7,302 DC rate increase for a single detached unit is broken down as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Woodward Plant Capacity Increase</td>
<td>$3,218</td>
</tr>
<tr>
<td>Other Wastewater linear</td>
<td>$3,438</td>
</tr>
<tr>
<td>Water</td>
<td>$976</td>
</tr>
<tr>
<td>New Services (Housing, Health, etc.)</td>
<td>$439</td>
</tr>
<tr>
<td>Roads</td>
<td>$(543)</td>
</tr>
<tr>
<td>Other Capital Adjustments</td>
<td>$(226)</td>
</tr>
</tbody>
</table>

The Woodward Avenue wastewater treatment plant represents a significant part of the proposed DC rate increase. In order to address the excess wastewater flow and the forecasted growth potential for the City, a substantial plant expansion is required. The previous DC Bylaw forecast $340 million in plant upgrades planned for 2007 – 2013. This has now been increased to $746 million for the 10-year period 2009 – 2018. During the 2009 Rate Budget deliberations, staff indicated to Council that there is significant risk attached to the current Wastewater plant expansion as it relates to meeting the Provinces “Places to Grow” development forecasts and generating enough growth revenue to pay for the approximately 50% of capital costs attributed to growth. This is especially significant, as it relates to current recessionary economic conditions and the corresponding decrease in residential construction activity. In response, Council directed staff to investigate phasing options for the plant expansion in order to smooth out the cash flow requirements. This work is currently on-going and will form part of the 2010 Rate Budget. This is why the proposed DC Bylaw for the water and wastewater services is only 2-years in duration and will be updated as cost numbers are finalized and a more sustainable financing solution is determined.

Due to the significant residential rate increase of 37% and the depressed residential construction industry, the Development Charges Stakeholder Committee has asked staff to identify freeze/phase-in options which would moderate the impact of this increase. While a DC increase freeze/phase-in would cost the municipality in terms of foregotten DC revenues, this would be somewhat tempered by property tax revenue and economic spin-off benefits of construction of units which otherwise would not have been built due to increased DC rates. Other municipalities have frozen/phased in their DC rate increases. The following DC rate freeze/phase-in options (detailed fiscal implications follow the executive summary) with suggested timeframes are as follows:


2. 50% DC rate increase (of the new July 6, 2009 posted rate) would take effect July 6, 2009 with the balance of the increase taking place on July 6, 2010.

Table 2 illustrates staff’s proposed Industrial DC Rate with a proposed increase of 60%. This new rate represents the wastewater service component of the City’s DC and based upon recommendation (g), the revenues collected by this new rate would flow into the wastewater DC reserves.

**TABLE 2**

<table>
<thead>
<tr>
<th>PROPOSED INDUSTRIAL DC’s ($/per sq ft)</th>
<th>Discounted Industrial Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Full Charge</strong></td>
<td><strong>City Wide</strong></td>
</tr>
<tr>
<td>19.47</td>
<td>6.75</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.11</td>
</tr>
<tr>
<td>Total</td>
<td>19.58</td>
</tr>
<tr>
<td><strong>Existing Charges</strong></td>
<td><strong>City Wide</strong></td>
</tr>
<tr>
<td>17.62</td>
<td>4.22</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.11</td>
</tr>
<tr>
<td>Total</td>
<td>17.73</td>
</tr>
</tbody>
</table>

*OPA 28 (Borers Creek Minutes of Settlement) Special Area Charge will still apply.

*Hamilton-Wentworth Catholic District School Board is currently reviewing their Development Charge by-law which is set to expire on August 31, 2009.

Table 3 illustrates staff’s proposed commercial/institutional DC rate. Staff are also proposing to continue the previous DC Bylaw’s policy of phasing in of this rate so as to not adversely affect smaller retail developments which do not generate the cash flow of larger establishments. The proposed full rate (over 10,000 sq.ft.) represents an increase of 11% over the previous full rate.

Note:

The 2 proposed Development Charge Bylaws and accompanying schedules released to the public on May 20, 2009 did not include final adjustments to the wastewater and water linear infrastructure as well as increased costs for the North Waterdown Tower. The total adjustment to the Development Charge was to reduce it by $316 for a single-detached unit (to $26,875) and a reduction of 23 cents for the non-residential rate (to $19.47). An amendment to the May 20 DC Background Study will be available at the June 4th public meeting. Appendices A and B to this report which contain the 2 proposed new DC Bylaws include the adjusted numbers.
TABLE 3

<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>19.47</td>
<td>9.74</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.11</td>
<td>0.11</td>
</tr>
<tr>
<td>Total</td>
<td>19.58</td>
<td>9.85</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXISTING CHARGES</th>
<th>0-5000 Square Feet</th>
<th>5001-10000 Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Wide*</td>
<td>17.62</td>
<td>9.13</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.11</td>
<td>0.11</td>
</tr>
<tr>
<td>Total</td>
<td>17.73</td>
<td>9.24</td>
</tr>
</tbody>
</table>

*OPA 28 (Borers Creek Minutes of Settlement) Special Area Charge will still apply.

*Hamilton-Wentworth Catholic District School Board is currently reviewing their Development Charge by-law which is set to expire on August 31, 2009.

FINANCIAL IMPACT OF A SIGNIFICANT DEVELOPMENT CHARGE RATE INCREASE:

The following tables illustrate the financial impact of a significant DC increase on a municipality. There are several assumptions regarding the scope of costs to be included (i.e., societal costs of growth were not included for this analysis). **However, the most important assumption which determines the impact to the municipality is whether a significant increase in DC's negatively impact development activity.**

Assumptions used:

1. Budgeted development activity uniform throughout the year. 2009 = 1,000 units, 2010 = 1,500 units, 2011 = 1,750 units.
2. Units not built in Hamilton will get built in another municipality.
3. 50% of construction workers from Hamilton who will bring back their wages back into Hamilton.
4. Property taxes = $4,000 per unit. Increased City operating cost due to the new units = 85%.
5. Employment Multiplier Factor is 1.93 years per house constructed at $71,500/yr. (Refer “Economic Impacts of Residential Construction” study prepared by Altus Group Economic Consulting for Canada Mortgage and Housing Corp.).

In this analysis, staff assume 3 different scenarios regarding DC impacts on development. They are:

1. Significant Impact. A 100% DC increase ($7,000k) = 200 less units built annually. 50% (of $7,000 DC increase = 100 less units built annually).
2. Moderate Impact. A 100% DC increase ($7,000k) = 100 less units built annually.  
50% (of $7,000 DC increase = 50 less units built annually).
3. No Impact. A 100% DC increase ($7,000k) = 0 less units built annually. 50% = 0.

**SCENARIO A - Significant DC Impact**

100% DC (7,000k) Increase = 200 less units built annually. 50% Increase = 100 less annually.

<table>
<thead>
<tr>
<th>Summary A - Fiscal Impact of DC Rate Increase/Freeze Options</th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Full Increase (7k)</td>
<td>50% - Jan.01/10</td>
<td>50% - July 6/09</td>
<td>50% - Jan.1/11</td>
</tr>
<tr>
<td></td>
<td>July 6/09</td>
<td>50% - Jan.01/11</td>
<td>50% - July 6/10</td>
<td>50% - July 6/11</td>
</tr>
<tr>
<td>DC Revenue Shortfall</td>
<td>-</td>
<td>(8,400,000)</td>
<td>(4,112,500)</td>
<td>(15,137,500)</td>
</tr>
<tr>
<td>Net Property Tax Revenue Loss (Tax Revenues less Operating Costs)</td>
<td>(180,000)</td>
<td>(90,000)</td>
<td>(135,000)</td>
<td>(15,000)</td>
</tr>
<tr>
<td>Direct Cost Impact to City</td>
<td>(180,000)</td>
<td>(8,490,000)</td>
<td>(4,247,500)</td>
<td>(15,152,500)</td>
</tr>
<tr>
<td>Employment Multiplier Loss</td>
<td>(24,149,125)</td>
<td>(10,349,625)</td>
<td>(15,524,438)</td>
<td>(1,724,938)</td>
</tr>
</tbody>
</table>

**SCENARIO B - Moderate DC Impact**

100% DC (7,000k) Increase = 100 less units built annually. 50% Increase = 50 less annually.

<table>
<thead>
<tr>
<th>Summary B - Fiscal Impact of DC Rate Increase/Freeze Options</th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Full Increase (7k)</td>
<td>50% - Jan.01/10</td>
<td>50% - July 6/09</td>
<td>50% - Jan.1/11</td>
</tr>
<tr>
<td></td>
<td>July 6/09</td>
<td>50% - Jan.01/11</td>
<td>50% - July 6/10</td>
<td>50% - July 6/11</td>
</tr>
<tr>
<td>DC Revenue Shortfall</td>
<td>-</td>
<td>(8,575,000)</td>
<td>(4,287,500)</td>
<td>(15,137,500)</td>
</tr>
<tr>
<td>Net Property Tax Revenue Loss (Tax Revenues less Operating Costs)</td>
<td>(90,000)</td>
<td>(45,000)</td>
<td>(67,500)</td>
<td>(15,000)</td>
</tr>
<tr>
<td>Direct Cost Impact to City</td>
<td>(90,000)</td>
<td>(8,620,000)</td>
<td>(4,355,000)</td>
<td>(15,152,500)</td>
</tr>
<tr>
<td>Employment Multiplier Loss</td>
<td>(12,074,563)</td>
<td>(5,174,813)</td>
<td>(7,762,219)</td>
<td>(862,469)</td>
</tr>
</tbody>
</table>

**SCENARIO C - No DC Impact**

100% DC (7,000k) Increase = 0 less units built annually. 50% Increase = 0 less annually.

<table>
<thead>
<tr>
<th>Summary C - Fiscal Impact of DC Rate Increase/Freeze Options</th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Full Increase (7k)</td>
<td>50% - Jan.01/10</td>
<td>50% - July 6/09</td>
<td>50% - Jan.1/11</td>
</tr>
<tr>
<td></td>
<td>July 6/09</td>
<td>50% - Jan.01/11</td>
<td>50% - July 6/10</td>
<td>50% - July 6/11</td>
</tr>
<tr>
<td>DC Revenue Shortfall</td>
<td>-</td>
<td>(8,750,000)</td>
<td>(4,375,000)</td>
<td>(17,062,500)</td>
</tr>
<tr>
<td>Net Property Tax Revenue Loss (Tax Revenues less Operating Costs)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Direct Cost Impact to City</td>
<td>-</td>
<td>(8,750,000)</td>
<td>(4,375,000)</td>
<td>(17,062,500)</td>
</tr>
<tr>
<td>Employment Multiplier Loss</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
The Tables show that if you assume that the impact of DC’s are price inelastic against the demand of new homes (i.e., the developers can accommodate the amount of the DC increase in the current demand price of a new home – Scenario C), then Option 1 (i.e., no phase-in) is the preferred option. There is no revenue shortfall for the City.

If however, the assumption is that DC’s have reached a threshold amount and developers can no longer pass that cost to the new home buyer which means that higher prices will shut out some buyers, then Scenario A, Option 4 would be the preferred option. In this scenario, even though the City loses maximum DC dollars (which would then have to come from another source), the City loses minimum economic spin-off benefits because the number of homes not being built due to higher costs (DC’s) are at a minimum (Refer to Feb.4, 2009 “Economic Impacts of Residential Construction” study prepared by Altus Group Economic Consulting for Canada Mortgage and Housing Corp.).

In summary, the preferred options change depending on the assumption that one chooses regarding the impact of DC’s on development activity. As a compromise position, if Council wanted to implement a phase-in of the proposed DC increase due to current economic conditions, then staff would recommend Option 2 or 3 because it best balances the City’s need for DC revenues (i.e., keeps DC revenue shortfalls to a minimum) while still providing some economic stimulus.

**BACKGROUND:**

**DEVELOPMENT CHARGE POLICY ISSUES**

a) Residential Development Charges

The DC rate for a single detached unit is increasing by $7,302 or 37% when compared to the previous DC Bylaw for the former City of Hamilton. Approximately 80% of this increase is related to the increased wastewater capacity requirements. As mentioned previously, recessionary economic conditions are prompting governments at all levels to try and provide stimulus in order to create jobs as well as generate new tax revenues. New home construction starts fell 31% in the first quarter this year in the Hamilton Census Metropolitan Area (which includes Burlington and Grimsby), according to CMHC. When one looks at the data more closely, starts in the Hamilton Area proper were even more precipitous. Starts were down 96% in Dundas, 70% in Stoney Creek, 59% in former Hamilton, 58% in Glanbrook and 50% in Flamborough. To this end, the DC Stakeholders Committee has asked staff to identify possible options to moderate the impact of the DC rate increase to the homebuilding industry. As identified previously, the options are as follows:

1. DC rate freeze until December 31, 2009. 50% increase (of the new July 6, 2009 posted rate) on January 1, 2010. Balance of the increase would take effect on

2. 50% DC rate increase (of the new July 6, 2009 posted rate) would take effect July 6, 2009 with the balance of the increase taking place on July 6, 2010.


All of the above options smooth out the impact of a significant increase in residential DC rates.

Table 4 separates all of the various growth service components of the proposed Development Charge and compares it to the DC of the previous By-law.

Table 4

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>$2,824</td>
<td>$3,800</td>
<td>$3.60</td>
<td>$2.75</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$1,004</td>
<td>$4,442</td>
<td>$3.44</td>
<td>$3.12</td>
</tr>
<tr>
<td>Wastewater - WWTP</td>
<td>$1,706</td>
<td>$4,924</td>
<td>$3.63</td>
<td></td>
</tr>
<tr>
<td>Storm water</td>
<td>$3,398</td>
<td>$3,698</td>
<td>$1.83</td>
<td>$2.35</td>
</tr>
<tr>
<td>Roads</td>
<td>$6,423</td>
<td>$5,764</td>
<td>$7.35</td>
<td>$6.09</td>
</tr>
<tr>
<td>Homes for the Aged</td>
<td>$0</td>
<td>$4</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Transit</td>
<td>$431</td>
<td>$717</td>
<td>$0.38</td>
<td>$0.73</td>
</tr>
<tr>
<td>Fire</td>
<td>$247</td>
<td>$295</td>
<td>$0.21</td>
<td>$0.19</td>
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<tr>
<td>Police</td>
<td>$213</td>
<td>$257</td>
<td>$0.21</td>
<td>$0.17</td>
</tr>
<tr>
<td>Outdoor Recreation</td>
<td>$1,222</td>
<td>$816</td>
<td>$0.09</td>
<td>$0.05</td>
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<tr>
<td>Health</td>
<td>$0</td>
<td>$39</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Social &amp; Child Services</td>
<td>$0</td>
<td>$47</td>
<td>$0.00</td>
<td>$0.01</td>
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<td>Social Housing</td>
<td>$0</td>
<td>$349</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Indoor Recreation</td>
<td>$1,138</td>
<td>$1,050</td>
<td>$0.07</td>
<td>$0.06</td>
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<td>Library</td>
<td>$516</td>
<td>$374</td>
<td>$0.04</td>
<td>$0.02</td>
</tr>
<tr>
<td>Administration</td>
<td>$438</td>
<td>$283</td>
<td>$0.38</td>
<td>$0.29</td>
</tr>
<tr>
<td>Ambulance</td>
<td>$13</td>
<td>$16</td>
<td>$0.01</td>
<td>$0.01</td>
</tr>
<tr>
<td></td>
<td>$19,573</td>
<td>$26,875</td>
<td>$17.61</td>
<td>$19.47</td>
</tr>
</tbody>
</table>

Of note in Table 4 are the new services being charged for as well as the increase in the wastewater and water service components. The increase in water and wastewater DC’s is happening across municipalities in southern Ontario as a consequence of growth and much tougher Provincial and Federal water and wastewater regulations regarding water quality and the quality of wastewater effluent.

Table 5 below puts in context the City’s development charges and all other permit fees relative to the ability to pay for the residential construction industry. It appears that Hamilton is no longer near the bottom of the list in terms of sustainability of growth revenues and in fact has required the construction industry to pay for an increasing equitable share of the costs associated with growth.
Table 5
Comparison of All Building Fees as a % of new home selling price (SDU)

<table>
<thead>
<tr>
<th>Ranking</th>
<th>Municipality</th>
<th>All Municipal Fees***</th>
<th>Average New Home Price**</th>
<th>Fees as % of Home price</th>
<th>By-Law Expiry Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Guelph</td>
<td>$43,602.00</td>
<td>$361,456.00</td>
<td>12.1%</td>
<td>March 1, 2014</td>
</tr>
<tr>
<td>2</td>
<td>Brantford</td>
<td>$25,199.00</td>
<td>$219,938.00</td>
<td>11.5%</td>
<td>May 16, 2009</td>
</tr>
<tr>
<td>3</td>
<td>Milton</td>
<td>$49,980.00</td>
<td>$441,956.00</td>
<td>11.3%</td>
<td>June 27, 2009</td>
</tr>
<tr>
<td>4</td>
<td>Burlington</td>
<td>$49,101.00</td>
<td>$471,420.00</td>
<td>10.4%</td>
<td>June 30, 2009</td>
</tr>
<tr>
<td>5</td>
<td>Hamilton</td>
<td>$37,276.00</td>
<td>$378,233.00</td>
<td>9.9%</td>
<td>July 5, 2009</td>
</tr>
<tr>
<td>6</td>
<td>London</td>
<td>$28,211.00</td>
<td>$332,377.00</td>
<td>8.5%</td>
<td>August 3, 2009</td>
</tr>
<tr>
<td>7</td>
<td>Niagara</td>
<td>$27,646.00</td>
<td>$339,352.00</td>
<td>8.1%</td>
<td>August 1, 2009</td>
</tr>
<tr>
<td>8</td>
<td>Kitchener</td>
<td>$24,319.00</td>
<td>$338,603.00</td>
<td>7.2%</td>
<td>June 29, 2009</td>
</tr>
<tr>
<td>9</td>
<td>Windsor</td>
<td>$15,982.00</td>
<td>$253,373.00</td>
<td>6.3%</td>
<td>August 30, 2009</td>
</tr>
<tr>
<td>10</td>
<td>Toronto</td>
<td>$31,746.00</td>
<td>$944,011.00</td>
<td>3.4%</td>
<td>April 30, 2014</td>
</tr>
</tbody>
</table>

**New Home prices from CMHC based on most recent Year-to-Date information available from December 2008
***Includes GO Transit and Education Development Charges

RECOMMENDATION: That the residential development charge rate for a single detached unit increase to $26,875. All residential classes to increase per Table 1 of this report, taking effect on July 6, 2009.

b) Industrial DCs

Currently, the City’s industrial development charges are being phased in at 50 cent increase increments annually plus inflation. The current rate per sq. ft. is $4.22. Staff are proposing a 60% increase to $6.75 per sq. ft. The justification for this increase is that $6.75 represents the wastewater DC component and this amount would be required to fund the required growth debt charges. The City cannot afford to exempt any part of this and subsequently fund this through wastewater rate revenues.

In Appendix D is a letter from the Chamber of Commerce which has a viewpoint that this significant increase will erode any competitive advantage the City may have with other municipalities. While it is true that the City is above the provincial average with respect to certain categories for industrial property taxes staff must balance the overall cost of industrial development with the necessity of at least covering the most critical of growth infrastructure which would be the wastewater plant expansion and the corresponding linear components (pipes). As Graph 2 illustrates, Hamilton would still be in the bottom half of similar municipalities with regards to industrial DC rates.

(Note: The DCA imposes a mandatory exemption on industrial expansions up to 50% of the existing gross floor area of the building).
RECOMMENDATION: That the industrial DC rate be increased by 60% so that it covers the wastewater service component. Year 1: $6.75 per sq.ft. (indexed).

PROS
- Increased DC revenue minimizes our reliance on the tax and rate levies.
- We would be collecting for the major components that industrial developments require the most, thereby better allowing us to provide required infrastructure for industrial parks.
- Industrial development would not be significantly inhibited since the full rate would not be applied.

CONS
- Less of an incentive than an outright exemption.
- Since we would not be charging the full DC, the growth-related costs for services not included in the charge would have to be paid for by the levy.

Other Options

a) Exempt industrial development totally.
b) Charge the full DC rate.
c) Alter the components that make up the charge - i.e. charge for water and wastewater only.

c) Commercial / Institutional Development Charges

Feedback from the commercial development sector indicated that new smaller office and retail development would find it quite prohibitive for new commercial/office
development if development charge rates were significantly higher than the current Hamilton commercial DC rates. In order to promote the growth of new small business, staff propose to continue the current stepped commercial DC rate policy as per the following:

That non-industrial (includes commercial/institutional) new developments be charged:

1. 1 – 5,000 sq. ft = 50% of the “non-industrial” rate in effect.
2. 5,001 – 10,000 sq. ft. = 75% of the “non-industrial” rate in effect.
3. 10,001 and greater = 100% of the “non-industrial” rate in effect.

Graph 3 shows that Hamilton’s full commercial DC rate is one of the highest in the Province. By continuing the existing phase-in policy, the overall rate becomes somewhat lower for all developments. This is especially critical for smaller retail/office developments which are more cash-flow sensitive to capital costs than larger developments.

RECOMMENDATION: That non-residential, (excluding industrial but including commercial, institutional and office) new developments be charged the following DC rates:

- 1 - 5,000 sq. ft = 50% of the “non-industrial” rate in effect. ($9.74 per sq.ft.)
- 5,001 – 10,000 sq. ft. = 75% of the “non-industrial” rate in effect. ($14.60)
10,001 and greater = 100% of the “non-industrial” rate in effect. ($19.47)

PROS
- A phased in rate would not have as much of a negative impact on smaller commercial developments.

CONS
- Some DC revenue will be foregone if a discounted charge is used.

Other Options
a) No phase-in

d) DCs and Stormwater Infrastructure

Prior to the 2004 DC Bylaw, stormwater management ponds and related infrastructure had been dealt with via the Municipal Act. The City or a developer would front-end the project with costs being recovered from benefiting landowners at a specified time – typically when the land develops.

Although this method theoretically allows for full cost recovery, the City was often required to front-end the cost of the works since it is unattractive for a developer to do so. Also, many landowners appealed for a payment deferral or total exemption, further delaying and/or reducing the City’s cost recovery.

Also, to reduce the upfront cost, small stormwater management (SWM) ponds have been constructed by developers scattered about the City. As a result, these numerous small ponds are leading to increased City maintenance costs. It is now the objective of the City to move towards large central ponds serving entire drainage areas. Land requirements are extensive.

By incorporating SWM ponds and other storm infrastructure into the DC, funds are collected for these larger centralized ponds, thereby reducing future maintenance costs and eliminating small SWM facilities (and loss of lots) on individual developments.

RECOMMENDATION: To continue the existing City policy of collecting for future stormwater infrastructure costs from DCs.

PROS
- Will enable funds to be collected for the cost of larger, centralized ponds.
- Larger, centralized ponds would reduce future maintenance costs for the City.
- The City no longer carries the front-end cost of ponds.
- By recovering the costs in the DC, individual land owners are not overburdened by high costs as was sometimes the case under the Municipal Act method.
• The City is in a better position to take the lead on SWM pond projects, providing needed infrastructure to areas such as business parks.
• Developers do not lose lot yield.

CONS
• Non-growth share of the ponds would need to be paid for by the levy.
• DC share of exempted developments would need to be paid for by the levy.

OTHER OPTIONS

a) Return to the policy of recovering costs via the Municipal Act rather than DCs.

e) Stormwater Credits

There are situations where a developer was required to construct, at his own cost, a stormwater management pond as a condition of development. In these instances, where stormwater management was provided at the developers own expense, the stormwater component of the DC should be credited from the total outstanding DCs payable.

PROS
• Developer has already provided for his own stormwater management facility. It would be double-charging to also impose the DC stormwater component.

**RECOMMENDATION:** That, where stormwater management facilities in a particular subdivision have been provided at the cost of the developer as a condition of approval of a plan of subdivision, the facility be considered a “credit for services-in-lieu” and that accordingly, DCs on any unbuilt lots within the subject subdivision shall be reduced to the extent of the cost for the stormwater component.

f) Hospital Exemptions

Council in 2003 approved a 50% exemption for hospitals (Refer to Report FCS02100c). Staff recommended this partial exemption in recognition of the fact that many GTA municipalities totally exempt hospitals governed by the Public Hospitals Act from DC’s as well as provide capital cost grants. Staff felt that while the City is not in a fiscal position to provide grants, a partial DC exemption would be somewhat feasible. Council has also approved 10-year DC deferral payment plans for all hospital developments since the year 2000. For equity purposes, staff are recommending that the 10-year deferral payment option be enshrined in the proposed DC bylaws.

The decision to exempt hospitals (in whole or part) is frequently tied to the municipality’s policy on health facility contributions. Municipalities which elect to make voluntary contributions generally do so by DC exemptions or direct grants, both funded from
It should be noted that hospitals pay a payment-in-lieu of property taxes which is much less than the property taxes they would pay otherwise.

RECOMMENDATION: That hospitals governed by the Public Hospitals Act be 50% exempt from development charges and that the 10-year DC deferral payment also be applicable only to hospitals. This is a continuation of current City DC policy approved by Council in 2003 and previous deferral agreement approvals. (Policy previously approved by Council through Report FCS02100c).

PROS
• Consideration given to the social good that hospitals contribute to, while still collecting a nominal charge.
• Provincial contributions towards the capital costs of the hospital would be flowed down to the City.

CONS
• Since we would not be charging the full charge, some growth-related costs would have to be paid for by the tax levy and rates.

OTHER OPTIONS

a) Exempt hospitals totally.

b) Offer no exemption.

g) Dundas/Waterdown and Binbrook Special Area Charges (SAC’s)

These special area DC’s are imposed in addition to the regular DC’s that are payable. They pertain to infrastructure that was put in place to service these areas. Under agreements that are in place, the City collects the special area charges and remits them to the front-ending developer until the financial terms of the agreements are satisfied.

During the previous DC Bylaw process, Council (by resolution adopted for the 2004 DC report FCS03051A) endorsed the principle of limiting the use of special area charges in the future. Staff concur, on the basis that in the new City of Hamilton there are instances where development in former municipal boundaries (i.e., Dundas and the Red Hill Parkway) pay for growth infrastructure without receiving commensurate benefits. The current SAC’s were put in place at a time when former municipal boundaries still existed and the notion of an amalgamated City was just beginning. Also, due to the relatively minor impact on the City-wide DC that merging these SAC’s will have, staff are recommending that this occur in the proposed DC Bylaws. Some developers contend that this would give the area-specific developers an unfair cost advantage (refer Appendix D). This would be true when City-wide DC’s were approximately $8,000 (year 2000). Now the proposed DC is approaching $30,000 and the impact of any cost
advantage has significantly diminished. Table 6 illustrates the 2 Options before Council with Option 1 being the staff recommended Option.

### Table 6

<table>
<thead>
<tr>
<th>Special Area Charge (SAC) Impacts</th>
<th>Staff recommended</th>
<th>Option 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Option 1 Merge SAC</td>
<td>Keep SAC separate</td>
</tr>
<tr>
<td>City-wide DC</td>
<td>$ 26,684</td>
<td>$ 26,684</td>
</tr>
<tr>
<td>Binbrook</td>
<td>52</td>
<td>7,034</td>
</tr>
<tr>
<td>Subtotal Binbrook</td>
<td>$ 26,736</td>
<td>$ 33,718</td>
</tr>
<tr>
<td>Dundas/Waterdown</td>
<td>139</td>
<td>1,563</td>
</tr>
<tr>
<td>Subtotal Dundas Waterdown</td>
<td>-</td>
<td>$ 28,247</td>
</tr>
<tr>
<td>Total City-wide (Option 1)</td>
<td>$ 26,875</td>
<td>-</td>
</tr>
</tbody>
</table>

**RECOMMENDATION:** That the current special area charges be merged as per Option 1, Table 6.

**PROS**
- City-wide DC reinforces the notion that everyone pays for the growth infrastructure benefits regardless of City location. More equitable.

**OTHER OPTIONS**
- Keep the current Special Area Charges in place.

### h) Deferral Policies

Currently, the City has the following development charge deferral policies:

*Non-residential developments:* Charges can be deferred for up to 5 years with interest (external debenture rate plus .25% administration). ("Residential facilities" are also eligible for this deferral).

Considering the City’s need to attract non-residential development it is recommended that the non-residential deferrals be maintained.

**RECOMMENDATION:** That the City continue its existing DC deferral agreement policy (except in the case of Hospital developments – 10 years, no interest).

**PROS**
- In-line with objective of increasing non-residential tax assessment.
- For the most part interest charges apply so there is minimal DC revenue lost.
Other Options

a) Do not allow for deferral agreements.

**ALTERNATIVES FOR CONSIDERATION:**

Alternatives have been discussed within each proposed policy section.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Development Charges allow for the recovery of capital costs for services attributable to growth. These services include “hard services” such as water, wastewater and roads as well as “soft services” such as libraries and recreational facilities. Development Charges in the current bylaw represent a $30 to $35 million annual funding source. The financial issues which are most significant for the municipality as it relates to the proposed DC bylaw are:

1. Provinces “Places to Grow” population and employment forecast (to the year 2031) and its relationship to the infrastructure required to service this forecast (wastewater plant expansion is the most costly and critical component). The Province’s Growth Plan for the Greater Golden Horseshoe (Places to Grow) released in June 2006, directs that by 2031, the City of Hamilton plan for a population of 660,000 and employment of 300,000. As required under the “Places to Grow Act” 2005, the City of Hamilton must bring its Official Plan into conformity and use the population targets to plan for the infrastructure required to service same. However, census data has shown that Hamilton (as well as other municipalities) is not keeping pace with the projected growth. For example, Hamilton over the last 5 years has averaged approximately 1,750 single-detached unit equivalents for its residential construction activity. Places to Grow, in its forecast to 2031, requires Hamilton to average approximately 3,000 units annually. That forecast is what staff must plan for in expanding for example, its wastewater capacity. If the growth does not occur, the City would still have to meet its debt obligations which funded the growth infrastructure. The City does not have the financial capacity to meet these obligations from other funding sources. This is why Council has instructed staff to look at phasing in the wastewater plant expansion and/or explore other financing options which would mitigate the risk of not meeting DC revenue and growth targets. Tables 7, 8 and 9 outline the target population forecast with the Capital and DC revenue required. As Table 7 illustrates, staff have had to match the overall DC 2031 growth targets with the provincial forecasts however results to date and short-term projections have required reallocating growth towards the back end of the forecast.
Table 7

<table>
<thead>
<tr>
<th>Places to Grow vs Staff Forecast</th>
<th>2009 - 2015</th>
<th>2016 - 2023</th>
<th>2024 - 2031</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff SDU</td>
<td>14,250</td>
<td>28,000</td>
<td>31,215</td>
<td>73,465</td>
</tr>
<tr>
<td>PTG</td>
<td>21,735</td>
<td>26,570</td>
<td>25,160</td>
<td>73,465</td>
</tr>
<tr>
<td>Shortfall</td>
<td>(7,485)</td>
<td>1,430</td>
<td>6,055</td>
<td>-</td>
</tr>
</tbody>
</table>

Table 8

<table>
<thead>
<tr>
<th>Water / Wastewater / Storm Capital Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Millions</td>
</tr>
<tr>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>Plant Expansion</td>
</tr>
<tr>
<td>Other Wastewater</td>
</tr>
<tr>
<td>Water</td>
</tr>
<tr>
<td>Storm</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Table 9

<table>
<thead>
<tr>
<th>Water / Wastewater Growth Capital Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Millions</td>
</tr>
<tr>
<td>2009 2010 2011 2012 2013 Totals</td>
</tr>
<tr>
<td>-------------------------------------------</td>
</tr>
<tr>
<td>Growth Debt Charges</td>
</tr>
<tr>
<td>DC Revenues</td>
</tr>
<tr>
<td>Shortfall</td>
</tr>
</tbody>
</table>

2. Development Charge Exemptions. Table 10 illustrates that from 2004 to 2008, the lost DC revenue from policy exemptions totalled $47 million. While the City in the rate budget over the last 2 years has funded a significant portion of the foregone water/wastewater DC revenues, other DC services such as roads is short $19 million. The City has taken steps to replace some of this funding (by including growth projects in the most recent “Stimulus” Subsidy funding program however any unfunded balances will have to find other revenue sources if all of the growth infrastructure is to be built. Of note is that 40% of the City’s growth must come from intensified development of areas already urban. The City must carefully balance any DC program to stimulate growth in these areas through exemptions by keeping in mind that the lost revenue must be replaced by other funding sources if it wants to construct all of the growth infrastructure contained in the DC Background Study.
Table 10
Development Charge Exemptions

<table>
<thead>
<tr>
<th>Year</th>
<th>Water</th>
<th>WasteWater</th>
<th>Roads</th>
<th>All Other Services</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>$1,549,805</td>
<td>$637,895</td>
<td>$2,819,977</td>
<td>$1,770,084</td>
<td>$6,777,761</td>
</tr>
<tr>
<td>2005</td>
<td>$1,934,839</td>
<td>$1,849,006</td>
<td>$3,935,920</td>
<td>$2,081,505</td>
<td>$9,801,270</td>
</tr>
<tr>
<td>2006</td>
<td>$1,484,044</td>
<td>$1,012,084</td>
<td>$3,964,955</td>
<td>$1,803,941</td>
<td>$8,265,024</td>
</tr>
<tr>
<td>2007</td>
<td>$2,703,264</td>
<td>$2,592,752</td>
<td>$5,476,068</td>
<td>$2,738,465</td>
<td>$13,500,549</td>
</tr>
<tr>
<td>2008</td>
<td>$1,704,028</td>
<td>$1,628,541</td>
<td>$3,472,441</td>
<td>$1,886,171</td>
<td>$8,691,181</td>
</tr>
<tr>
<td>Total Exemptions</td>
<td>$9,375,980</td>
<td>$7,710,278</td>
<td>$19,669,361</td>
<td>$10,280,166</td>
<td>$47,035,785</td>
</tr>
</tbody>
</table>

In the long-term, the City would find it very problematic foregoing DC revenue in high-growth/high demand areas. The City of Hamilton has, to date, used DC exemptions in the Downtown as a financial incentive to stimulate development.

Policies Affecting Proposals:
The following DC Bylaws would be repealed and replaced with 2 new DC Bylaws:

City of Hamilton - 04-145 approved June 16, 2004

City of Hamilton - 06-173 (amendment to 04-145) approved June 28, 2006

City of Hamilton - 08-221 (amendment to 04-145) approved September 24, 2008

Relevant Consultation:
Planning and Economic Development Department
Public Works Department
Legal Services Division, Corporate Services Department
Community Services Department
Public Health

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
THE CITY OF HAMILTON
BYLAW NO. 09-

Being a By-law respecting development charges for Water and Wastewater Services 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, 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 2009 Development Charge Background Study," prepared by Watson & Associates dated May 20, 2009;

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 4, 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;

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 10, 2009, has adopted and approved the said background study and the development charges and policies recommended by the General Manager of the 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 FCS09060 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,

(b) “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.

(c) “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.

(d) “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.

(e) “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.

(f) “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.

(g) “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.

(h) “Council” means the Council of the City of Hamilton.

(i) “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.

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

(k) “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.

(l) “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. (06-173, s. 1(a))
(m) “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 2009 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.

(n) “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, Chapter 21 and assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation.

(o) “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.

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

(q) “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.

(r) “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

(iv) 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 and motels.
(s) "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.15, Sched. A or successor legislation.

(t) "lot" means a lot, block or parcel of land which can be legally and separately conveyed pursuant to Section 50 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, and includes a development having two (2) or more lots consolidated under a single ownership.

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

(v) "mobile home", means a building recognized in the Building Code as a “Mobile Home” in accordance with the standard for mobile homes in CANICS-A240.2.1 “Structural requirements for Mobile Homes”.

(w) "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.

(x) "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 hotels, motels and other forms of tourist accommodation.

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

(z) "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.

(aa) "Regulation" means Ontario Regulation 82/98 under the Development Charges Act, 1997, as amended.

(bb) "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.

(cc) “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, R.S.O. 1990, c. P. 13, as amended. 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))

(dd) “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.

(ee) “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.

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

(gg) “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.

 hh) “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.

1. **Schedules**

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

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

3. The development of land in the City of Hamilton is also subject to By-law 09 - , as amended, and By-law 06 – 174, 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.

4. (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) Notwithstanding Section 2 above, where a building permit is issued for a building or structure located on land outside of the Urban Area Boundary 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 on Schedule “C” is proposed, the applicable Urban Area Charge on Schedule “C” shall be applied to the said development.

**Designation of Services**

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

6. 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**

7. 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*, RSO 1990, c. P. 13, or successor legislation;

   (b) the approval of a minor variance under Section 45 of the *Planning Act*; RSO 1990, c. P. 13, or successor legislation;

   (c) a conveyance of land’ to which a By-law passed under subsection 50(7) of the *Planning Act* applies, RSO 1990, c. P. 13, or successor legislation;

   (d) the approval of a plan of subdivision under Section 51 of the *Planning Act*, RSO 1990, c. P. 13, or successor legislation;
(e) a consent under Section 53 of the Planning Act, RSO 1990, c. P. 13, or successor legislation;

(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 or successor legislation, as amended, in relation to a building or structure.

8. Where two or more of the actions described in section 7 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.

9. Where a development requires an approval described in section 7 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 7 of this By-law.

10. If a development does not require a building permit but does require one or more of the approvals described in section 7 of this By-law, then, notwithstanding section 11 of this By-law, development charges shall nonetheless be payable.

11. 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, R.S.O. 1990, c.P.13, 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

12. 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))

13. 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” of this By-law.

Exemptions for Intensification of Existing Housing

14. (1) No development charge shall be imposed where the only effect of an action referred to in Section 7 of this By-law is to:

(a) permit the enlargement of an existing dwelling unit; or,

(b) permit the creation of up to two additional dwelling units, as prescribed, subject to the restrictions, prescribed in s. 2 of the Regulation.

Exemptions for Certain Buildings

15. 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

16. 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.

17. 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.

18. 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.

19. 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
20. 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.

Downtown Community Improvement Plan (CIP) Exemption

21. 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

22. 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, R.S.O. 1990, c. E. 2, 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 herein, is exempt from fifty percent (50%) of the development charges otherwise payable under this By-law.

(f) development of student residences by McMaster University is exempt from 50% of the development charge otherwise payable pursuant to this By-law.

Rules with Respect to Redevelopment - Demolitions

23. 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

24. 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.

25. 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.

26. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with sections 24 and 25.

27. 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

28. 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 35 of this By-law and/or submit security satisfactory to the General Manager of 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

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

Prepayment or Deferral Agreements

30. (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(x) 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 22(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

31. 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

32. 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

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

Indexing

34. 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

35. The General Manager of Corporate Services shall, in each year prior to May 01 thereof,
commencing May 01, 2010 for the 2009 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

36. 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.

37. 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 2009, and no building permit in relation thereto has been issued prior to July 06, 2009, 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, 2009, provided that:

(a) any building permit required in relation to the said approval has been issued prior to January 6, 2010; 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 37, 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

38. This By-law may be referred to as the “City of Hamilton Water and Wastewater Development Charges By-law, 2009”.

39. The following Schedules are attached to and form part of this By-law:

   Schedule “A”: Map of the City of Hamilton
   Schedule “B”: Downtown Community Improvement Plan (CIP) Area
   Schedule “C”: Urban Area Charges

Date By-law Effective

40. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2009.
Date By-law Expires

41. This By-law expires five 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.

44. **Severability**

   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 10th DAY OF JUNE 2009.

__________________________________        ___________________________________
MAYOR                                                               CLERK
Schedule "B"

Map of Downtown Community Improvement Plan (CIP) Area
### Schedule "C"

**BY-Law No. 09-XXX**  
**CITY OF HAMILTON**  
**LIST OF SERVICES AND DEVELOPMENT CHARGES**  
**URBAN AREA CHARGES**

<table>
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<tr>
<th>Service</th>
<th>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</th>
<th>Apartments 2+ Bedrooms (per unit)</th>
<th>Apartments Bachelor &amp; 1 Bedroom (per unit)</th>
<th>Townhouses &amp; Other Multiple Unit Dwellings (per unit)</th>
<th>Residential Facility Dwelling (per bedroom)</th>
<th>Non-Residential (per square foot)</th>
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</tbody>
</table>

Note: there are two categories of Non-Residential charges: "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 Charge in effect
- 5,001-10,000 sq. ft.: 75% of Charge in effect
- 10,000 sq. ft. and greater: 100% of 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
- Square Footage in excess of 5000: 100% of the 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 service.*
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, 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 2009 Development Charge Background Study,” prepared by Watson & Associates Economists Ltd., dated May 20, 2009;

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 4 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;

AND WHEREAS, Council intends that development-related 2009 – 2018 or 2031 capacity, as the case may be, will be paid for by development charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 10, 2009, has adopted and approved the said background study and the development charges and policies recommended by the General Manager of the 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 FCS09060 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,

(b) "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.

(c) "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.

(d) "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.

(e) "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.

(f) "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.

(g) "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.

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

(i) "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.

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

(k) "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.

(l) "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.
(m) “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 2009 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.

(n) “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, Chapter 21 and assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation.

(o) “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.

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

(q) “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.

(r) “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

(iv) 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 and motels.
(s) "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.15, Sched. A, or successor legislation.

(t) "lot" means a lot, block or parcel of land which can be legally and separately conveyed pursuant to Section 50 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, and includes a development having two (2) or more lots consolidated under a single ownership.

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

(v) "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”.

(w) "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.

(x) "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 hotels, motels and other forms of tourist accommodation.

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

(z) "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.

(aa) "Regulation" means Ontario Regulation 82/98 under the Development Charges Act, 1997, as amended.

(bb) "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.

(cc) “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, R.S.O. 1990, c. P. 13, as amended. 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))

(dd) “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.

(ee) “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.

(ff) “services” means services designated in Schedules “C” and “D” of this By-law or designated in an agreement under Section 44 of the Act.

(gg) “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.

(hh) “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.

1. **Schedules**

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

This By-law applies to all land within the City of Hamilton, being the lands shown on Schedule “A”.

3. The development of land in the City of Hamilton is also subject to By-law 09 - _, as amended, and By-law 06 – 174, as amended, and any additional development charges by laws enacted by the Council of the City of Hamilton during the life of this By-law.

4. Where there is development of land within that part of the City which is not depicted as part of the Urban Area Boundary on Schedule “A” to this By-law, the development charges payable pursuant to this By-law shall be those set out on Schedule “C” to this By-law.

5. 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 sum of:

   (a) the development charges set out in Schedule “C” to this By-law; and,

   (b) the development charges set out in Schedule “D” to this By-law.

   (c) Notwithstanding Section 4 above, where a building permit is issued for a building or structure located on land outside of the Urban Area Boundary on Schedule “A” to this By-law, and a connection of that building or structure to any storm water drainage and control services on Schedule “D” is proposed, then the applicable Urban Area Charge on Schedule “D” shall also be applied to the development.

6. For greater clarity and notwithstanding paragraphs 5 and 7, the Transit Charge set out on Schedule “D” to this By-law shall only apply to development on lands that are within the defined Urban Transit Area.

**Designation of Services**

7. All development of land within the area to which this By-law applies will increase the need for services.

8. 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**

9. 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*, RSO 1990, c. P. 13, or successor legislation;

(b) the approval of a minor variance under Section 45 of the *Planning Act*; RSO 1990, c. P. 13, or successor legislation;

(c) a conveyance of land to which a By-law passed under subsection 50(7) of the *Planning Act* applies, RSO 1990, c. P. 13, or successor legislation;

(d) the approval of a plan of subdivision under Section 51 of the *Planning Act*, RSO 1990, c. P. 13, or successor legislation;

(e) a consent under Section 53 of the *Planning Act*, RSO 1990, c. P. 13, or successor legislation;

(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 or successor legislation, as amended, in relation to a building or structure.

10. Where two or more of the actions described in section 9 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.

11. Where a development requires an approval described in section 9 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 9 of this By-law.

12. If a development does not require a building permit but does require one or more of the approvals described in section 9 of this By-law, then, notwithstanding section 9 of this By-law, development charges shall nonetheless be payable.

13. 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*, R.S.O. 1990, c.P.13, 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**

14. 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))

15. 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 Schedules “C” and “D” of this By-law.

Non – Residential Development Charge

16. The Non-Residential development charge shall be as set out in Schedule “C” to this By-law.

Exemptions for Intensification of Existing Housing

17. (1) No development charge shall be imposed where the only effect of an action referred to in Section 9 of this By-law is to:

   (a) permit the enlargement of an existing dwelling unit; or,

   (b) permit the creation of up to two additional dwelling units, as prescribed, subject to the restrictions, prescribed in s. 2 of the Regulation.

Exemptions for Certain Buildings

18. 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

19. 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.
20. 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.

21. 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.

22. 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

23. Notwithstanding any other provision of this By-law, the following types of development are exempted from development charges under this By-law, including the Area Specific Charges, 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) 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, save and except for the Transit Component as set out in Schedule “D”;

(e) a temporary building or structure, subject to section 31.

Downtown Community Improvement Plan (CIP) Exemption

24. 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

25. 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, R.S.O. 1990, c. E. 2, 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, save and except for the Transit Component as set out in Schedule “D”;

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

(f) development of student residences by McMaster University is exempt from 50% of the development charge otherwise payable pursuant to this By-law.

Rules with Respect to Redevelopment - Demolitions

26. 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 applicable 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

27. 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 Schedules “C” and “D”, as applicable, applied against the gross floor area so converted to residential use.

28. 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 Schedules “C” and “D”, as applicable, 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.

29. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with sections 28 and 29.

30. 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

31. 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 35 of this By-law and/or submit security satisfactory to the General Manager of 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**

32. Subject to the provisions of section 33, development charges are payable at the time a building permit is issued with respect to a development.

**Prepayment or Deferral Agreements**

33. (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(x) above to permit, on such terms 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 24(d) above to permit, on such terms 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**

34. 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**

35. 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

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

Indexing

37. The development charges set out in Schedules “C” and “D” 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

38. The General Manager of Corporate Services shall, in each year prior to May 01 thereof, commencing May 01, 2010 for the 2009 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

39. 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.

40. 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 2009, and no building permit in relation thereto has been issued prior to July 06, 2009, 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, 2009, provided that:

(a) any building permit required in relation to the said approval has been issued prior to January 6, 2010; 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 40, 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

41. This By-law may be referred to as the “City of Hamilton Development Charges By-law, 2009”.

42. The following Schedules are attached to and form part of this By-law:

- Schedule “A”: Map of the City of Hamilton
- Schedule “B”: Downtown Community Improvement Plan (CIP) Area
- Schedule “C”: Municipal-Wide Charges
- Schedule “D”: Urban Area Charges

Date By-law Effective

43. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2009.

Date By-law Expires

44. This By-law expires five years after the date on which it comes into force.

By-law Registration

45. 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

46. 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.

47. Severability

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 10th DAY OF JUNE 2009.

__________________________________        ___________________________________
MAYOR                                                               CLERK
Schedule "B"

Map of Downtown Community Improvement Plan (CIP) Area
### RESIDENTIAL CHARGES ($) and NON-RESIDENTIAL ($) Charges

<table>
<thead>
<tr>
<th>Service</th>
<th>Municipal Wide Services</th>
<th>Non-Industrial ($)</th>
<th>Municipal Wide Charges</th>
<th>Non-Industrial ($)</th>
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<tr>
<td></td>
<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling</td>
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<td>Apartments 2+ Bedrooms</td>
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<td>(per unit)</td>
<td></td>
<td>(per unit)</td>
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<td><strong>1683</strong></td>
<td><strong>6.89</strong></td>
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Note: there are two categories of Non-Residential charges: "Industrial" and "Non-Industrial" as defined in this by-law

The Industrial Development Charges shall be as follows:

- Year 1: Amount A = $6.76 per sq. ft.
- Year 2: Amount B = $6.76 per sq. ft. (indexed)
- Year 3: Amount C = Amount B (indexed)
- Year 4: Amount D = Amount C (indexed)
- Year 5: Amount E = Amount D (indexed)

New "Non-Industrial" developments are charged as follows:

- 1-5,000 sq. ft.: 50% of Charge in effect
- 5,001-10,000 sq. ft.: 75% of Charge in effect
- 10,000 sq. ft. and greater: 100% of 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
- Square Footage in excess of 5000: 100% of the charge in effect
Appendix B to Report FCS09060

Schedule "D"
BY-Law No. 09-XXX
CITY OF HAMILTON
LIST OF SERVICES AND DEVELOPMENT CHARGES

URBAN AREA CHARGES

<table>
<thead>
<tr>
<th>Service</th>
<th>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</th>
<th>Apartments 2+ Bedrooms (per unit)</th>
<th>Apartments Bachelor &amp; 1 Bedroom (per unit)</th>
<th>Townhouses &amp; Other Multiple Unit Dwellings (per unit)</th>
<th>Residential Facility Dwelling (per bedroom)</th>
<th>Non-Residential (per square foot)</th>
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<td><strong>4415</strong></td>
<td><strong>2709</strong></td>
<td><strong>1810</strong></td>
<td><strong>3165</strong></td>
<td><strong>799</strong></td>
<td>3.08</td>
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</tbody>
</table>

Note: there are two categories of Non-Residential charges: "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 Charge in effect
- 5,001-10,000 sq. ft.: 75% of Charge in effect
- 10,000 sq. ft. and greater: 100% of Charge in effect

For expansions of "Non-Industrial" developments already in existance at the commencement of this by-law the following rates apply:

- 1st 5000 sq. ft. of expansion: Exempt
- Square Footage in excess of 5000: 100% of the 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 service.
a) That the DC’s payable on brownfields be reduced by the environmental remediation costs approved under ERASE.

b) That redevelopment credits be based on the rate in effect in the active by-law. (ie. if a demolished building type is exempt under the by-law, no credit is applicable).

c) That demolitions be subject to a 5-year redevelopment expiry period starting with the date the demolition permit was issued.

d) That the downtown DC exemption area be set to match the expanded downtown Community Improvement Project (CIP) area. All developments, both residential and non-residential, would be exempt in the area bounded by Queen, Cannon, Victoria and Hunter Streets (both sides of the boundary streets), along with properties that front onto James Street from LIUNA Station to Charlton Avenue.

e) That Places of Worship that are exempt from taxation under the Assessment Act be exempt from development charges.

f) That farm buildings related to bona fide farming operations be exempt from development charges (includes greenhouses). Farm help houses would also be considered part of a bona-fide farming operation. If there is any portion of the structure which is deemed retail/value added, then that portion would be charged the industrial DC rate.

g) That if a greenhouse is to be serviced by City water and/or wastewater for use in production (excluding fire suppression systems – Hydrant) then the entire development be designated as industrial for DC purposes.

h) That “residential facilities”, as defined in the DC by-law, be charged the residential facility rate on a per unit basis.

i) That the development of facilities for direct academic uses related to universities, other post secondary schools, and private schools be exempt from development charges except for the component for transit services ($0.73 per sq ft).

j) That non-residential temporary use facilities that do not have a foundation and are scheduled to be in place for less than 1 year be exempt from development charges. Applicants would be required to provide security in the amount of the development charge payable. If the structure is not removed after 1 year, the security would be drawn on.
**APPENDIX C of Report FCS09060**

(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).

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**a) Timing of DC Collections**

Currently, we collect all DC’s at building permit stage. However, the Development Charges Act allows the city to collect for water, wastewater, storm, roads, police and fire services prior to building permit issuance - at subdivision registration for example.

The rationale for collecting these services at an earlier stage is because these services have to be in place before the first unit is occupied, whereas the DC’s
for other services (parks and recreation for example) do not need to be in place until a substantive part of the new population for the neighbourhood has moved in.

Collection prior to subdivision registration would likely induce major changes to the scale and process of final plan registration, servicing, building & property assessment administration. Experience elsewhere indicates these changes would create significant new staff costs and administration problems for many departments and agencies.

**RECOMMENDATION:** That the current policy of collecting all DC’s at building permit issuance be maintained.

**PROS**
- Easier to administer. There are no adjustments/ rebates that need to be made based on final unit determinations at building permit stage.
- The DC Act allows the city to build into the DC the cost of debt issued to adjust for timing differences. Therefore, any expected interest costs can be built into the charge.
- No lump sum payment required, therefore subdivision registrations will be less fragmented than they otherwise would be, reducing administration time and costs.
- If lump sum pre-registration payments are required, we can expect more “lotless block” subdivision submissions.
- Front-ending. Significant cash flow concerns would be dealt with through front-ending agreements. For example, DC credits would be given in exchange for the developer performing the work.

**CONS**
- Our cash flows may not be optimal; however the previous “pro” comment would deal with this.

**Other Options**

a) Collect some or all of the eligible components at a stage other than building permit.

b) Commercial Expansions
Staff are finding that many commercial developers that undertake expansion projects protest the payment of DC’s, claiming that their development will not result in an increased need for services. Often, these expansion projects are relatively small in size, with the cost of DC’s being a big percentage of overall project costs. A comparison of other municipal DC policies indicates that most offer an exemption for small scale expansions of commercial buildings.

**RECOMMENDATION:** The continuation of the City’s existing policy whereby the initial 5,000 sq ft of non-industrial (includes commercial/institutional) expansions of developments be exempt from DC’s. Expansion square footage greater than 5,000 sq.ft. to be assessed 100% of the “non-industrial” rate in effect.

**PROS**
- Surrounding municipalities (Peel, Halton) which are our direct competitors have similar policies in place.
- May provide more of an incentive for commercial developers which translates into more tax revenues.
- Infrastructure required of a 5000 sq ft or less expansion is typically already in place as a result of the original development, therefore the development does not require new infrastructure that DC’s are designed to provide.

**CONS**
- Decreased DC revenues place a greater demand on tax/rate budgets.

**Other Options**
- a) Offer no exemptions for non-industrial developments at all.
- b) Base the expansion exemption on a dollar amount rather than a sq ft amount (ie. exempt for first $50,000).

**c) BROWNFIELDS**

Brownfields are defined by the City as:

“Abandoned, idled, or under-used industrial and commercial properties in built up areas where expansion or redevelopment is complicated by real or perceived environmental contamination, building deterioration/obsolescence and/or inadequate infrastructure.”

It is estimated that there are approximately 150-200 sites in the area north of Barton St and along the 403 (Main to Aberdeen).
Many older municipalities in North America are experiencing similar problems. Governments are seeking to assist Brownfield redevelopments. The potential benefits include:

- increased tax assessment
- creation of employment opportunities
- better use of existing infrastructure
- assists in the revitalization of neighbourhoods
- removal of health threats to workers and residents

The City has developed the ERASE program to help spur brownfield redevelopments. Under the program grants are available to assist in offsetting redevelopment costs defined as environmental remediation and studies, demolition, and site preparation costs. The grant is provided only when redevelopment results in increased assessment and taxation. The grant will recover the redevelopment costs for the developer by flowing back 80% of the increase in City taxes for up to 10 years.

The following is an example of how the ERASE program works:

**Eligible Costs**

| Environmental Remediation | $811,083 |
| Demolition | 67,750 |
| Infrastructure Upgrade | 224,200 |
| **Total Eligible ERASE Costs** | **$1,103,033** |

**Assessment & Taxes**

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<th>After Redevelopment</th>
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<td><strong>Annual Grant Available</strong></td>
<td>$157,204 (equals 80% of change in City taxes)</td>
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**Years for Developer to Recover Costs**

| Eligible Costs | $1,103,033 |
| Annual Grant   | 157,204    |
| Years for recovery | 7.02 |
Other municipalities have DC policies for brownfields. The City needs to promote the development of brownfields over greenfields.

**RECOMMENDATION:** That the existing DC policy of DC’s able to be reduced by the environmental remediation costs approved under ERASE be continued.

**PROS**
- Policy would be an addition to a leading edge brownfield redevelopment program.

**CONS**
- Loss of DC revenues

Other Options

a) Offer no DC exemptions/incentives to brownfield properties.

d) Places of Worship

Current policy is to exempt Places of Worship that are exempt from paying property taxes under the Assessment Act. Most municipalities provide for this exemption.

Approximately $435K was exempted in 2006 and approximately $40K was exempted in 2007.

**RECOMMENDATION:** Exempt Places of Worship that are exempt from taxation under the Assessment Act. (Ancillary buildings that are taxable would still be charged DC’s).

**PROS**
- Consistent with the majority of other municipalities.

**CONS**
- Growth-related costs would have to be paid for by rates and the tax levy.

**OTHER OPTIONS**

a) Offer no exemption to Places of Worship.
e) Non-residential Farm Buildings

The current application varies – a couple former municipalities charge for non-residential farm buildings but exempt facilities related to bona fide farming operations.

**RECOMMENDATION:** Exempt buildings related to bona fide farming operations. However, retail and industrial uses such as packers and slaughterhouses, etc. on farmland would still pay DC’s.

**Note:** Farm help houses should also be considered part of a bona-fide farming operation.

**PROS**
- We would still be collecting our fair share of DC’s for non-residential buildings that would be charged DC’s if the development occurred elsewhere.
- Bona fide farming operations would not be burdened with the additional costs of DC’s.

**OTHER OPTIONS**

a) Exempt all non-residential development that occurs on agricultural land, regardless of use.
b) Charge DC’s on all development on agricultural land, regardless of use.

f) Greenhouses

In the past, greenhouses were considered to function much like a warehouse or manufacturing facility and were considered industrial. Similar to a warehouse or manufacturing facility, DC’s would make up a large percentage of the cost to construct a greenhouse.

In other Regions such as Halton and Peel, the charge imposed on greenhouses is based on the use of the greenhouse. If the purpose is to sell products to the final consumer, then it would be deemed commercial. If the purpose was not to sell to the final consumer (i.e. to a grocer) then it would be deemed a type of manufacturing facility and the industrial rate would be imposed.
RECOMMENDATION: That greenhouses that are not considered agricultural uses be designated as industrial for DC purposes.

OTHER OPTIONS:

a) Charge greenhouses based on use (retail or manufacturing).

b) Exempt food producing greenhouses.

g) “Residential Facility” Charges

Residential facilities can be described as buildings containing two or more units for residential accommodation, which units do not have self-contained kitchens. Examples of residential facilities are retirement homes, nursing homes, long-term care facilities, and dormitories.

In the 1999 Regional by-law, these facilities were classified as non-residential. This was challenged and the classification changed to residential with the charge being based on the # of units in the facility. The end result was that DC’s payable, were lower on average than if the non-residential rate was charged.

The “residential facility” rate is based on a density of 1 person per unit.

A 2001 study by the Planning & Development Department documents significant changes occurring in residential care services (de-institutionalization). A growing percentage of these services are now being offered within conventional forms of housing.

RECOMMENDATION: That “residential facilities”, as defined in the DC by-law, be charged the residential facility rate on a per unit basis.

PROS

- The residential facility rate better reflects the impact on infrastructure based on unit densities.

CONS

- Imposing the residential rate instead of the non-residential rate would most likely reduce DC revenues on average.
OTHER OPTIONS

a) Charge these facilities the non-residential rate.

h) Universities & Private Schools

A court case in Ottawa has determined that colleges are agents of the Crown and therefore exempt from DC’s. As a result of that decision McMaster University, an independent institution, appealed to Council in 2000 to be treated in the same manner as Mohawk College.

The DC Act also statutorily exempts schools governed by a “Board” under the Education Act (le. the Public and Catholic school boards).

The former Region and City of Hamilton by-laws were amended in 2000 to provide for exemptions to universities, not-for-profit academic education schools, and other post secondary schools. Universities are funded by the province however the others are often funded by non-profit organizations (le. religious organizations).

Universities are generally amongst the highest users of hard service and transit capacities in an urban area.

About 15-20 other municipalities provide for similar exemptions (le. Halton, Brantford).

Approximately $1.0M has been exempted for this category in both 2006 and 2007.

RECOMMENDATION: That the development of facilities for direct academic uses related to universities, other post secondary schools, and not-for-profit private schools be exempt from development charges except for the component for transit services ($0.73/sq ft). Direct academic uses would not include dormitories or other residences.

PROS

• Developments that are ancillary to direct academic uses would be required to pay development charges.
• For direct academic uses the transit component will be collected, strengthening the City’s ability to provide transit services, an infrastructure component that schools use heavily.
CONS

- Exemptions for direct academic uses would need to be paid for by rates and the tax levy.

OTHER OPTIONS

a) Do not exempt universities, other secondary schools, or private schools at all.

b) Exempt developments undertaken by universities, other secondary schools, and private schools regardless of use.

i) Temporary Use Facilities

These are facilities that are only in use for a limited period of time and then removed from the property.

Common examples of these types of facilities are retail sales trailers, garden centres that are only up for the summer months, tents at a carnival midway, etc.

Currently, we require that DC’s be paid on all types of temporary structures. Of course, redevelopment credits are available as is the case with any redevelopment.

Durham region charges temporary structures the same as permanent structures. Under the Durham model, a garden centre would pay DC’s once and be eligible for the redevelopment credit year after year.

Halton currently charges temp use structures but is proposing a change for their upcoming by-law revision. They plan on exempting non-residential temporary structures provided that there is no foundation, the structure is scheduled to be up for less than a year, and also requiring the applicant to provide security in the amount of the DC’s payable. The security would then be drawn on if the structure was not removed after the year passed.

RECOMMENDATION: Exempt non-residential temporary use facilities that do not have a foundation and are scheduled to be in place for less than 1 year. Applicants would be required to provide security in the amount of the DC’s payable. If the structure is not removed after 1 year, the security would be drawn on.

PROS
If the structure is not in fact temporary, we will have security that can be drawn on in the amount of the DC’s payable.

OTHER OPTIONS

a) Charge temporary use facilities in the same manner as permanent use facilities.

j) Airport Development

Airports are federally regulated and as such, building permits are and other development requirements and fees are not needed to proceed with development.

**RECOMMENDATION:** Exempt development undertaken for the purposes of aeronautical uses at the Airport. Aeronautical use refers to uses required for the function of an airport (ie. control tower, etc.)

**PROS**

- Ancillary airport uses would still be required to pay DC’s (ie. restaurants in the airport, airplane hangars)
- DC’s are payable at building permit issuance. If no building permit is required it would be difficult to require the payment of DC’s.

k) Parking Garage Exemption

Currently, parking garages exclusively devoted to parking, including the construction of an outdoor parking lot at grade, or the construction of a parking garage above or below grade are exempt.

**RECOMMENDATION:** Continue with existing parking garage exemption.

OTHER OPTIONS

a) Charge parking garages.
I) Garden Suites

A garden suite is a residential unit that is normally used to allow for an elderly parent to live in a second unit located on a property. A garden suite is not a permanent unit. In fact, a temporary use agreement is required which stipulates a removal date. Although temporary, garden suites are usually in place for over a year.

Currently, our by-law does not distinguish between a garden suite and other types of residential structures, so garden suites are required to pay full DC’s.

**RECOMMENDATION:** That garden suites be charged the residential facility rate. This is the same rate that is applied to residential units in a residential care facility.

**PROS**
- Garden suites are residences for elderly parents, similar in nature to a unit in a residential care facility.

**OTHER OPTIONS**

a) Exempt garden suites.
b) Charge the full single detached rate.
c) Require that security, in the amount of the development charge, be posted and returned once the garden suite is removed.

m) Mobile Homes

Mobile homes are currently charged the residential apartment rate.

Most municipalities impose the apartment rate. However, some stipulate that the full rate is applicable if the mobile home is a stand-alone unit on a property.

**RECOMMENDATION:** That mobile homes be charged the residential apartment rate. (This does not include pre-fabricated movable homes – they would be subject to the single detached equivalent rate).

**PROS**
• Infrastructure used by mobile homes would be the same regardless if the unit was situated on a property with another existing dwelling or not.

OTHER OPTIONS

a) Require that mobile homes that are stand-alone units on a property pay the single-detached equivalent rate.

n) Covered Sports Fields

Development charges on covered sports fields are very high in proportion to overall construction costs and can be prohibitive to this type of development.

The provision of recreational facilities to accommodate growth is one of the components that make up the DC. It would be counterproductive for the City to impose DC’s on covered sports fields, in effect making such developments economically unviable.

**RECOMMENDATION:** That 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.

**PROS**

• Enhances the City’s recreation alternatives – one of the components that DC’s are designed to provide.

Other Options

a) Offer no exemption to covered sports fields.

There are no specific recommendation in the “Recommendations” section of this report to deal with the following issues, however staff would like to include these types of developments and their proposed DC treatment in the report so that there would be no uncertainty with respect to the DC treatment of this type of development.

o) Senior’s Community Developments

These are developments that are marketed to people aged 55 and up. Glanbrook’s by-law was the only one that allowed single detached homes and
townhomes in these types of developments to pay a reduced rate (apartment rate).

The Supreme Court of Canada has issued a decision (Re: Bell et. Al) that prohibits municipalities from passing by-laws that discriminate on the basis of the age, familial or social characteristics of people who occupy dwellings (a zoning case). Regardless of how a “seniors” project is marketed, there is no legal means for governments to restrict/guarantee that the units are only occupied by seniors. A discriminatory DC by-law in favour of seniors may conflict with these legal principles.

**POSITION:** Charge the full rate. (ie. single detached homes pay the single detached rate; townhomes pay the townhome rate.)

**PROS**
- No impact on the levy and rate budgets resulting from lost DC revenue.

**CONS**
- Argument against is that these units typically have only one or two residents, not 2.5 to 3+ that townhomes and single detached units typically have. However, there is no way to guarantee that seniors ultimately occupy the residence.

**OTHER OPTIONS**

charge a reduced rate – ie. the apartment rate.

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**p) Not-for-profit housing**

Non-for-profit housing is currently exempt provided it is 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.

**RECOMMENDATION:** Continue the existing policy.

**PROS**
- DC’s add a financial burden on not-for-profit developments.
CONS
- Not-for-profit housing developments impose the same demand on services and infrastructure as for profit developments.
- A portion of most not-for-profit housing developments offer services to people who can afford to pay market rental and ownership costs of their new dwellings.
- Would lessen the burden on the tax base of providing these infrastructure services.

OTHER OPTIONS
a) Don’t exempt not-for-profit housing.
Development Charge Stakeholders Comments:

Development Charge Review
Presentation by Hamilton Chamber of Commerce

The Hamilton Chamber of Commerce believes that the proposed increase in Industrial Development Charges from $4.22 to $8.28, which represents an approximate increase of 95%, should not be implemented at this time. Examined cumulatively since 2004 at which time the rate was $1.00 per square foot, this represents an approximate increase of 850% over a four year period. This magnitude of increase of any component of expansion or relocation costs for any industrial business wishing to expand or relocate to the City is prohibitively expensive and would place the City at a competitive disadvantage compared to other jurisdictions.

The comparative review of Hamilton Development Charges with other jurisdictions undertaken by staff is helpful and recognizes that in attracting new business, and even in retaining existing business operators, the City must compete with other jurisdictions for jobs and financial investment into the community. It is clear from this review that the imposition of the proposed increase in Development Charges will make the City less competitive with respect to Development Charge costs.

It is recognized that the City must use Development Charges to properly plan for and accommodate both residential and non-residential growth, and that this investment is necessary for the long term prosperity of the City. However, if Development Charge rates contribute to lowering the competitive advantage of the City, they begin to work against the benefits created by the provision of adequate infrastructure for new businesses and can become a disincentive at best, or in the worst case, an absolute impediment to new growth in our City.

The Chamber acknowledges that staff recognizes this trade-off and continually tries to impose industrial charges that are less than what a mathematical calculation may indicate. While the Chamber appreciates this approach by staff, we believe there is another element at play at present, and that is the issue of timing. With the preparation of the background material for the Development Charge Review, it is noted there is a suggestion by some that there is a correlation between healthy economic communities
Development Charge Stakeholders Comments:

and high Development Charges. While there was no evidence produced to display this correlation, we find this is not surprising.

However, when formulating policy decisions regarding factors where statistical correlations exist, it is imperative that decision makers understand the reason for that relationship. As an example, it has been suggested by some that because of this high correlation, Development Charges are not a factor in industrial investment decisions.

On the contrary, the Chamber feels that the presence of this correlation reflects the underlying principles at work, which demonstrate that such a situation exists only in the cases where there is strong attraction for investment in the first place. That is, where communities are attractive and self-sustaining in terms of industrial development for whatever reasons, investment will continue in spite of high development charges.

However, it is essential to understand that a strong investment climate must first occur for Development Charges and other factors to become less important.

It is recognized that Development Charges are not the only factor in the consideration of either the expansion of existing businesses or location of a new business within the City. These decisions are very complex and include a variety of considerations. In the case of strong economies, municipalities which have a competitive advantage over their neighbors with a favorable industrial to residential assessment base, strong locational advantages, a variety of site location options, the availability of shovel-ready land and a favorable business community, any one cost becomes marginally less significant. However, in cases like Hamilton, where a considerable number of jobs need to be attracted to the City simply to replace those that have been lost, every single cost factor is important in assisting the City in establishing and maintaining a more competitive position. Therefore, while Development Charges may not be a significant detriment in some municipalities, they are of critical importance to investment decisions for those considering Hamilton as a location to do business in today’s economy.

This reality is reflected not only in comments made by Economic Development staff at the City to the Chamber, but is also reflected in the City's success and the positive implications of reducing business taxes. This approach continues to be successfully used in the downtown area. These kinds of initiatives not only have a positive bottom line impact on business decisions, but have proven to be effective in sending a clear
Development Charge Stakeholders Comments:

and well received message that the City of Hamilton is indeed open for business.

Unfortunately in Hamilton, because of a number of factors, we are not yet in that
enviable position. The Chamber believes that further progress needs to be made in
terms of providing a more favourable business investment climate, in part by providing
a broader range of locational choices for new business, and having the City continue to
demonstrate that it is in fact open for business.

One of the most important criteria in assessing the economic health of the community is
assessing ratio. For example a 70:30 assessment ratio in favour of industrial
development is one where economic development can be considered more self-
sufficient. At that time, the myriad of other factors beyond Development Charges
become more significant, and Development Charge payments become a smaller
consideration in the "bundle of goods" that an industrial investor is considering. As a
result, we see municipalities which are self-sustaining economically can afford to
increase Development Charges because there are so many other factors at play that
have historically and continue to attract new investment on a consistent basis.

However, for the City of Hamilton, until that favourable ratio is achieved and growth
becomes self-sustaining, every charge, fee and cost associated with investment in a
community is carefully scrutinized by potential investors and is of considerable
significance. Since the city is now closer to a 30:70 assessment ratio, now is not the
time to be increasing Development Charges.

The Hamilton Chamber of Commerce has great expectations for our community and we
believe our community has the talent, resources, and opportunity to achieve the
economic stability and growth needed for a healthy and sustainable community.
However, while we believe the opportunities for future growth are greater than ever
before, it will take some time before the City transitions back to a much more favourable
industrial to residential assessment ratio. As the community continues to struggle to
compete with other jurisdictions, to replace a significant number of lost jobs in the
manufacturing centre, and is still a few years away from opening up new employment
lands at the airport, now is not the time to be increasing Development Charges. In fact,
any significant increase and cost for new businesses coming to the City could
undermine the efforts of both the City and the business community to promote the City
of Hamilton at a time when it is most vulnerable.
Development Charge Stakeholders Comments:

Ultimately, as the assessment ratio improves, we believe those within the industrial sector should and will contribute fairly to the infrastructure costs needed to accommodate new growth.

For that reason, the Chamber would recommend there be no changes to the current Development Charge structure for industrial development at this time. The Chamber believes this matter could be revisited as industrial assessment grows and the City achieves a more healthy balance of industrial and commercial assessment.

It is noted that in the usual manner, increases in Development Charges are phased in over time. Consistent with the Chamber position, rather than phase in increases over time, it is recommended that any increases phasing be done in concert with changes in assessment ratios, i.e., as our industrial assessment ratio increases, the market may be more tolerant of accepting small, incremental increases in Development Charge payments.

We look forward to continuing to work with the City to grow the economic base of our community in the most efficient and effective manner. We feel that the proper implementation of a business supportive Development Charge policy consistent with other City initiatives, including business tax reduction, is an important part of a broad overall strategy that must maintain its consistency in delivering a clear message to the business community that Hamilton is the future centre of economic growth in the GTA.

Sincerely,

Ruth Liebersbach

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