TO: Mayor and Members
General Issues Committee

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: June 9, 2011

SUBJECT/REPORT NO:
2011 City of Hamilton Water, Wastewater, Stormwater, Go-Transit Development Charge By-law and Amendment for Development Charge By-law 09-43 (FCS11053) (City Wide)

SUBMITTED BY:
Roberto Rossini
General Manager,
Finance & Corporate Services Department

PREPARED BY:
Joseph Spiler (905) 546-2424, ext. 4519

SIGNATURE:

Note: Recommendations represent new Development Charge charges and/or Development Charge Policies (refer to Appendix “E” of report FCS11053 for summary of Development Charge Policies to be carried over from previous and existing DC By-laws).

RECOMMENDATION

(a) That the City-wide residential development charge rate for a single detached unit increase to $26,567 (excludes Board of Education DC). All residential classes to increase per Appendices “B”, “C” and “D” of report FCS11053, effective July 6, 2011;

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

(c) That the industrial development charge rate be set at $8.85 per sq. ft. (per Option 2 of Table 2 of report FCS11053) effective July 6, 2011;
(d) That Council consider the mitigating options for the 33% increase in Industrial Development Charges to $8.85 per sq. ft., as presented in Table 3 of report FCS11053;

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

1. For developments up to 5,000 sq. ft. at 50% of the rate in effect ($7.50 sq. ft.).

2. For developments, 5,001 to 10,000 sq. ft. at 75% of the rate in effect ($11.25 sq. ft.).

3. For developments 10,001 sq. ft. and greater at 100% of the rate in effect ($15.05 sq. ft.).

(f) That the 2011 City of Hamilton Development Charge Background Study for Water, Wastewater, Storm-water and GO Transit Services prepared by CN Watson & Associates and dated May 20, 2011, be adopted;

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

(h) That the non-residential development charge no longer include Centralized storm-water facilities. This will be considered a local servicing component (site-specific). The non-residential development charge will include the site-specific storm-water growth costs associated with non-pond related infrastructure (culverts, sewer over-sizing, etc). The developer’s obligations and responsibilities are outlined in Appendix “A” of report FCS11053, entitled “City of Hamilton – Local Servicing Policy” and within the City of Hamilton’s Engineering Guidelines;

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

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

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

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

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

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

That the development charge rates payable are the rates in effect on the date a completed building permit application is received and accepted by the City, provided that the permit is issued within 6 months of the effective date of a rate increase. Where the building permit is revoked by the Chief Building Official on or after the date of the rate increase, any subsequent application for a building permit on the lands or site will be subject to the rates in effect on the date of permit issuance;

(o) That, whenever appropriate, the City request donors to clearly designate grants, subsidies, and other contributions as being for the benefit of existing development (or new development as applicable);

(p) That the Development Charges By-laws, attached hereto as Appendix “B”, “C” and “D” of report FCS11053, be passed and enacted;

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

Development Charges are a necessary financial tool for municipalities to recover the capital costs associated with residential and non-residential growth within the municipality. A municipality’s Development Charges and related policies are contained within Development Charge By-laws which legislatively have a maximum life of 5 years and are supported by a Development Charge Background Study which is a growth Capital forecast detailing the required growth Capital until the forecast urban build-out period. Municipalities are empowered to impose these charges via the provincial Development Charges Act of 1997.

On June 10, 2009 Council approved report FCS09060 and made effective July 6, 2009 Development Charge By-law 09-143 (growth roads, all soft services, stormwater,...etc) for a maximum term of 5-years and Development Charge By-law 09-144 (water and wastewater growth infrastructure) for a maximum term of 2-years. A shortened 2-year term for DC By-law 09-144 was based upon Council wanting more timely and detailed information regarding the main project within the City’s wastewater Capital program, the $675 million (2008 $’s) Woodward Wastewater Treatment Plant rehabilitation and expansion. The following issues with the wastewater plant rehabilitation and expansion needed to be updated during the 2-year period:

1. **Affordability.**

Since the 2009 Development Charge Review and subsequent rate budget processes, staff have presented to Council the financial risks associated with spending $763 (2011 $’s) million on the total Woodward Wastewater Treatment Plant Rehabilitation and Expansion project. Spending $763 million without the corresponding growth revenues could result in existing ratepayers having to absorb the under-funded cost. Therefore staff within the 2011 Rate Budget balanced the need to invest in infrastructure with changing trends in demand for water and a lower pace of development relative to the Province’s planning document titled “Places to Grow”. Staff spread out the project costs over a longer time period and split the plant expansion into 2 phases. The original project budget had the expansion costs budgeted 100% in 2012. Phase 1 of the expansion in the 2011 rate budget now occurs in 2017 and Phase 2 in 2025. The decreased risk of affordability through this approach has been confirmed by a peer review completed by consultants Watson and Associates Economists Ltd. The peer review was directed by Council through report FCS10035.
Table 1

Woodward Wastewater Plant Rehabilitation and Expansion Costs/Growth Splits

<table>
<thead>
<tr>
<th>Description</th>
<th>($'s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Woodward Plant Rehab and Expansion Cost</td>
<td>675,120,000</td>
</tr>
<tr>
<td>Inflation per StatsCan Construction Cost Index</td>
<td>64,811,520</td>
</tr>
<tr>
<td>Cost Adjustments per Design and Phase-in</td>
<td>22,915,731</td>
</tr>
<tr>
<td>Total 2011 Cost</td>
<td>762,847,251</td>
</tr>
<tr>
<td>Growth % (per 2009 DC Background Study)</td>
<td>49%</td>
</tr>
<tr>
<td>Benefit to existing</td>
<td>51%</td>
</tr>
<tr>
<td>Fed/Prov Grants received to date $160m</td>
<td>160,185,729</td>
</tr>
<tr>
<td>Total</td>
<td>762,847,251</td>
</tr>
</tbody>
</table>

2. Costing

Table 1 of report FCS11053 illustrates how the costs have changed from the 2009 DC Background Study versus what is included in the 2011 DC Background Study. Construction Cost Inflation from the project which was budgeted in 2008 dollars, design and phase-in revisions as well as the impact of the non-refundable portion of the HST that was implemented since the last study ($9m) are all factors increasing the cost from $675 million to $762 million.

The City of Hamilton’s 2011 – 2031 Rate Budget Forecast had a total project cost of $741 million for the Woodward Wastewater Plant Rehabilitation and expansion (refer to pages 137 and 141 of the 2011 Rate Capital Budget Detail Book).

3. Federal/Provincial Subsidies – Woodward Wastewater Treatment Plant

During the preparation of the 2009 DC Background Study the City had not received any requested Provincial and Federal Subsidies for the Woodward Wastewater Plant project. At that time, staff were assuming that any subsidies received would be directed by the senior levels of government to be used only for the rehabilitation of the existing plant. This was consistent with the purpose of earlier subsidy programs, such as, COMRIF and COIP (during the 1990’s). Since 2009, the City has received $160 million in Federal and Provincial Subsidies for the project. No direction regarding rehabilitation expenditures only has been received and $100 million of the received Provincial subsidy has no formal funding agreement in place. For this reason and the fact that other municipalities, such as Halton, are sharing their subsidies with their development community for a similar wastewater treatment plant rehab and expansion project, staff
are recommending that the $160 million in received subsidy be shared with Hamilton’s development community as required under the Development Charges Act. The $160 million is comprised of the following grants (grant programs):

- $5.2m COIP
- $35m ISF
- $20m CSIF
- $100 Special Provincial subsidy (no signed agreement to date)

There is also a requested subsidy amount of $100 million for the plant to the Federal Government’s Green Infrastructure Fund Program for which the City has received no indication of acceptance. The 2011 DC Background Study does not include this funding as a revenue source but staff have included a recommendation in this report to share this amount with the development community should the funding be received and a formal funding agreement be concluded. The impacts of this shared subsidy approach which has increased the long-term cost of the Wastewater Capital Program for existing ratepayers will be discussed in detail in the financial section of this report.

There are three additional significant policy and rate changes contained within this report FCS11053. They are as follows:

A. Request from the City to the Federal Government for $100 million in Federal Green Infrastructure Funding for the Woodward Wastewater Treatment Plant.

B. That the industrial development charge rate be set at $8.85 per sq. ft. (per Option 2 of Table 2 of report FCS11053) effective July 6, 2011.

C. That the non-residential development charge will no longer include the local component (site-specific) of storm-water ponds.

A. Should the City receive Federal Infrastructure Funding for the Woodward Wastewater Treatment Plant for the requested amount of $100 million, the City would then amend the new Wastewater, Water, Storm-water Development Charges By-law subject to the conditions of an agreement. Conversely, should the City receive direction from the Province or the Federal Government that any of the subsidies received or requested to date are to be used for the rehabilitation of existing infrastructure only, then staff would present this new information to Council and seek direction to re-open the Wastewater DC By-law and incorporate the revised funding formulae. The impact of receiving and or re-purposing the use of $100 million in funding would mean a decrease in a Single Detached Unit of $804 and a decrease of 47 cents a square foot for the non-residential component (this would be in the case of receiving the Federal $100 million in GIF funding and sharing with the development community). By not sharing the Provincial subsidy, the
opposite would occur (an increase of $804 for a SDU and an increase of 47 cents a square foot for the non-residential DC).

B. That the industrial development charge rate be set at $8.85 per sq. ft. (per Option 2 of Table 2 of report FCS11053) effective July 6, 2011.

Table 2

<table>
<thead>
<tr>
<th>4 Options - Industrial DC Rate ($'s per square foot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
</tr>
<tr>
<td>Current Rate $6.65 (wastewater/storm/5% roads)</td>
</tr>
<tr>
<td>Option 2</td>
</tr>
<tr>
<td>Wastewater services/storm/50% roads</td>
</tr>
<tr>
<td>Option 3</td>
</tr>
<tr>
<td>Wastewater services/storm/100% roads</td>
</tr>
<tr>
<td>Option 4</td>
</tr>
<tr>
<td>Full non-res rate</td>
</tr>
</tbody>
</table>

Staff recommends Option 2 in Table 2 of report FCS11053. As Table 2 illustrates, this option would recover the DC service costs of wastewater, centralized non-residential storm-water requirements and 50% of the non-residential road services. This is critical in order to recover the costs of the wastewater growth program and also to replenish the roads non-residential DC reserve which, as of December 31, 2010, had a negative balance of $22 million dollars. While this is a significant 33% increase to the industrial DC rate, staff has proposed for Council’s consideration two mitigation measures for industrial developers. They are contained in Table 3 of report FCS11053 as follows.

Table 3

<table>
<thead>
<tr>
<th>Industrial DC Rate Increase - Mitigation Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Phase in of the rate increase</td>
</tr>
<tr>
<td>July 6, 2011 - January 5, 2012, Increase = 0</td>
</tr>
<tr>
<td>January 6, 2012, Increase = $1.10, DC Rate = $7.75</td>
</tr>
<tr>
<td>July 6, 2012, Increase = $1.10, DC Rate = $8.85</td>
</tr>
<tr>
<td>2. Stepped Rate for New Industrial Developments less than 10,000 square feet. The rate = 75% of the Council approved rate. Therefore the rate would be $6.65 per sq.ft.</td>
</tr>
</tbody>
</table>
Table 3 of report FCS11053 provides two mitigation measures for the Industrial DC rate increase which would accomplish the following objectives:

1) Allow for the industrial development community to revise its business and development plans and prepare for this significant rate increase.

2) Provide relief for small industrial businesses.

Of note, is that the proposed stepped rate for the industrial development charge would remain at $6.65 sq. ft. until 100% of the increase is implemented and afterwards it would revert to 75% of the industrial DC rate in effect.

C. That the non-residential development charge no longer include the Centralized storm-water facilities. This will be considered a local servicing component (site-specific). The non-residential development charge will include the site-specific storm-water growth costs associated with non pond related infrastructure (culverts, sewer oversizing, etc). The developer’s obligations and responsibilities are outlined in Appendix “A” of report FCS11053, titled “City of Hamilton – Local Servicing Policy” and within the City’s Engineering Guidelines.

With the completion of the Airport Employment Growth District (AEGD) secondary plan in 2010, approximately $45 million in non-residential storm-pond costs were identified. Current Industrial DC exemptions would result in the city absorbing these costs in addition to other non-residential ponds. In addition the development of the AEGD contemplated using low impact development techniques thereby reducing pond requirements. These types of developments would reduce the actual pond costs to development. Furthermore industrial developments are typically on large parcels of land which provide for better opportunities to address storm water on site. Additional consideration was giving to long term cost benefit to the municipality not having to operate and maintain private facilities. Drainage is a requirement in Section 41(7) of the Planning Act as developer cost.

During the 2011 City Development Charge process, staff met with the City’s Development Charges Stakeholder committee twice. In addition, staff met with various development groups and individuals on an as requested basis to hear their concerns. One of the results of this consultation is that mitigating options have been formulated for Council’s consideration regarding the significant quantum increase being proposed for Industrial DC’s. Staff have also attached as Appendix “F” comments from members of the City’s DC Stakeholder Committee and others as received. The HHHBA Board had not endorsed a position on the recommendations as of the completion of this report.
Financial:

The purpose for this report was that Development Charge By-law 09-144 (water and wastewater growth infrastructure) expires on July 6, 2011, and a new Development Charges By-law for those services is required. A shortened two-year term for DC By-law 09-144 (versus the five-year maximum limit) was based upon Council wanting more timely and detailed information regarding the main project within the City’s Wastewater Capital Program, the $675 million (2008 $’s) Woodward Wastewater Treatment Plant rehabilitation and expansion. In addition, staff have amended DC By-law 09-143 by extracting the storm-water services out of that By-law and inserting into the new DC By-law, replacing 09-144. Go Transit DC By-law 06-174 is expiring July 6, 2011, and a new separate Go Transit DC By-law will replace the current one. In conclusion, there will be a new DC By-law replacing 09-144 which will account for three growth services, Water, Wastewater, Storm-water and a separate Go-Transit DC By-law.

The Go-Transit Development Charge for the 2011 Go-Transit DC By-law has decreased by $10 for the single detached unit residential category. The City passes on DC revenue collections for the Go-Transit growth services on to Metrolinx, an agency of the Government of Ontario. In 2010, this amount totalled $467,062.

For the other three services, report FCS11053 includes proposed policy and DC rate changes with the following financial impacts:

1. Federal and Provincial Subsidies for the Woodward Wastewater Treatment Plant Rehabilitation and Expansion – City of Hamilton Rate Budget Implications.

During the preparation of the 2009 DC Background Study, the City had not received any requested Provincial and Federal Subsidies for the $762 Woodward Wastewater Plant project. Staff were assuming at that time that any subsidies received would be directed by the senior levels of government to be used only for the rehabilitation of the existing plant. This was consistent with the purpose of earlier subsidy programs such as COMRIF and COIP (During the 1990’s). Since 2009, the City has received $160 million in Federal and Provincial Subsidies for the $762 million project. The direction that only rehabilitation expenditures were eligible has not been received and $100 million of the received Provincial subsidy has no formal funding agreement in place. For this reason and the fact that other municipalities such as Halton are sharing their subsidies with their development community for a similar wastewater treatment plant rehab and expansion project, staff are recommending that the $160 million in received subsidies be shared with Hamilton’s development community. There is also a requested subsidy...
amount of $100 million for the plant to the Federal Government’s Green Infrastructure Fund (GIF) Program for which the City has received no indication of acceptance. The 2011 DC Background Study does not include the $100m Federal GIF funding as a revenue source but staff have included a recommendation in this report to share the $100m with the development community should the funding be received and a formal funding agreement be concluded. The financial impacts of the $160m shared received subsidy approach which has increased the long-term cost of the Wastewater Capital Program for existing ratepayers is illustrated in Table 4 of report FCS11053. Table 4 of report FCS11053 shows that the existing City of Hamilton water and wastewater ratepayers will be responsible for an additional $125,767,376 million in costs during the time period (2012 – 2031) that the existing wastewater plant is refurbished and expanded. By financing these costs over a 15-year period at 6%, this would represent a 7% rate budget increase. Staff will update the 2012 – 2021 rate budget forecast to reflect the revised rate budget financial assumptions.

### Table 4

<table>
<thead>
<tr>
<th>Wastewater Plant Costs/Growth Splits</th>
<th>Grants Shared ($’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Subsidies received $160,185,728</td>
<td></td>
</tr>
<tr>
<td>Total Cost</td>
<td>762,847,251</td>
</tr>
<tr>
<td>Growth %</td>
<td>49%</td>
</tr>
<tr>
<td>Benefit to existing</td>
<td>51%</td>
</tr>
<tr>
<td>City Cost (net of 51% subsidy)</td>
<td>307,357,376</td>
</tr>
<tr>
<td>Development Cost (net of 49% subsidy)</td>
<td>295,304,146</td>
</tr>
<tr>
<td>Net City Cost per 2011 rate budget</td>
<td>130,590,000</td>
</tr>
<tr>
<td>Additional City (Rate Budget Cost) (2012-2031)</td>
<td>176,767,376</td>
</tr>
<tr>
<td>Additional City (Rate Budget Cost) if the $100m Fed GIF received</td>
<td>125,767,376</td>
</tr>
<tr>
<td>Additional Rate Budget % increase (2012-2031) if the $100m Fed GIF received</td>
<td>7%</td>
</tr>
</tbody>
</table>

2. Non-Residential Rate Policy Revisions – Financial Impact

For the 2011 DC Background Study, the non-residential rate has decreased from the current $19.00 sq. ft. to the proposed $15.05 sq. ft. The decrease has occurred for two reasons:
1. The sharing of the $160 million in received subsidies for the Woodward Wastewater Treatment Plant (49% growth which is further split into 69% residential and 31% non-residential) This represents a reduction of approximately 70 cents a square foot.

2. The removal of the Storm-pond component of storm-water services. This component has been valued at $4.27 per square foot. In the new DC By-law, non-residential development will be responsible for providing or contributing funding to take care of their storm-water run-off. For the non-residential DC on a net basis, other water and wastewater growth capital had added approximately $1.00 per square foot to the non-residential DC.

For non-residential commercial and office developments, the net financial impact is minimal when the net reduction in DC rates is combined with new storm-water pond costs/responsibilities.

For industrial developments, the City currently charges $6.65 per square foot out of a total calculated $19.00 per sq. ft. non-residential DC. This means that with each industrial development, $13.35 per sq. ft. of revenue is never realized by the City. Table 5 of report FCS11053 is a six-year summary of exemptions categorized by use. The Table contains both mandatory DC Act exemptions and City approved exemptions. The most significant dollar amount is contained within the industrial exemption category. Approximately 22% of the industrial exemptions over the last 6 years have occurred due to mandatory exemptions legislated by the Province’s DC Act (Industrial expansions). While the City, in the rate budget over the last two years, has funded a significant portion of the foregone water/wastewater DC revenues due to exemptions, other DC service reserves such as non-residential roads is short $22 million. The City has taken steps to replace this funding gap 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 non-residential roads 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 the growth infrastructure contained in the 2011 DC Background Study.
Table 5 - Annual DC Exemptions by Development Category

<table>
<thead>
<tr>
<th>Year</th>
<th>Res-Phase Ins/Erase 08,06</th>
<th>Downtown</th>
<th>Industrial</th>
<th>Commercial</th>
<th>Agricultural</th>
<th>Non-Profit</th>
<th>Hospitals, Church</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>7,831,000</td>
<td>14,459</td>
<td>7,807,375</td>
<td>2,138,994</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>4,960,164</td>
<td>1,872,477</td>
<td>1,925,510</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>300,735</td>
<td>503,008</td>
<td>2,315,020</td>
<td>3,064,452</td>
<td>20,388</td>
<td>45,066</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>204,344</td>
<td>5,505,753</td>
<td>3,145,695</td>
<td>24,508</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>96,978</td>
<td>176,545</td>
<td>5,040,284</td>
<td>2,029,753</td>
<td>246,207</td>
<td>435,627</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>546,977</td>
<td>4,068,248</td>
<td>1,861,298</td>
<td>422,347</td>
<td>309,628</td>
<td>168,729</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>13,188,877</td>
<td>26,609,157</td>
<td>442,735</td>
<td>969,986</td>
<td>7,377,227</td>
<td></td>
<td>61,663,776</td>
</tr>
</tbody>
</table>

Based on the impact that the industrial exemptions have had to date on DC reserves such as the non-residential roads reserve (negative $22 million) and City staff's assessment of the industrial sectors ability to pay, staff are recommending that the Industrial Development charge increase from $6.65 sq. ft. to $8.85 sq. ft. Staff's assessment of industrial development's ability to pay for this increase is also based on the information presented in Table 6. Some of the important cost variables for industrial development such as DC’s, property taxes, land costs and water/wastewater rates are totalled and then compared to southern Ontario municipalities. Table 6 of report FCS11053 illustrates that Hamilton, even with the proposed industrial DC increase, is competitive with other Ontario municipalities.

TABLE 6
Industrial Development - Total Annual Cost Comparison

<table>
<thead>
<tr>
<th>Rank</th>
<th>Municipality</th>
<th>a</th>
<th>b</th>
<th>c</th>
<th>d</th>
<th>e</th>
<th>f=c+d+e</th>
<th>Total Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mississauga</td>
<td>11.42 $</td>
<td>3,865,621</td>
<td>$ 500,616</td>
<td>$ 165,271</td>
<td>$ 16,370</td>
<td>$ 682,257</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Oakville (N. of Dundas)</td>
<td>16.43</td>
<td>3,359,485</td>
<td>435,069</td>
<td>207,003</td>
<td>24,645</td>
<td>666,717</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Brampton</td>
<td>10.68</td>
<td>3,595,178</td>
<td>465,592</td>
<td>177,023</td>
<td>16,370</td>
<td>658,985</td>
<td></td>
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<tr>
<td>4</td>
<td>Oakville (S. of Dundas)</td>
<td>13.55</td>
<td>3,143,707</td>
<td>407,124</td>
<td>207,003</td>
<td>24,645</td>
<td>638,772</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Hamilton Proposed DC</td>
<td>18.77</td>
<td>3,126,305</td>
<td>404,071</td>
<td>202,310</td>
<td>24,645</td>
<td>631,826</td>
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</tr>
<tr>
<td>6</td>
<td>Milton</td>
<td>19.63</td>
<td>3,147,738</td>
<td>407,647</td>
<td>188,512</td>
<td>24,645</td>
<td>620,804</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Waterloo</td>
<td>13.80</td>
<td>2,323,937</td>
<td>300,961</td>
<td>280,057</td>
<td>30,262</td>
<td>611,280</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Burlington</td>
<td>16.00</td>
<td>2,918,768</td>
<td>377,994</td>
<td>207,031</td>
<td>24,645</td>
<td>609,670</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Cambridge</td>
<td>10.65</td>
<td>2,195,430</td>
<td>284,318</td>
<td>284,489</td>
<td>27,846</td>
<td>596,653</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Halton hills (N. of Steeles)</td>
<td>15.00</td>
<td>2,843,845</td>
<td>368,291</td>
<td>202,310</td>
<td>24,645</td>
<td>595,246</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Kitchener</td>
<td>13.04</td>
<td>2,051,996</td>
<td>265,743</td>
<td>283,007</td>
<td>34,809</td>
<td>583,559</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Hamilton Current</td>
<td>6.65</td>
<td>1,654,938</td>
<td>214,322</td>
<td>294,781</td>
<td>27,119</td>
<td>536,222</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Guelph</td>
<td>5.78</td>
<td>1,723,655</td>
<td>223,143</td>
<td>301,833</td>
<td>27,846</td>
<td>548,382</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Brantford</td>
<td>5.17</td>
<td>1,032,352</td>
<td>133,694</td>
<td>387,067</td>
<td>24,508</td>
<td>548,232</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Total</td>
<td>58.53</td>
<td>13,188,877</td>
<td>26,609,157</td>
<td>442,735</td>
<td>969,986</td>
<td>7,377,227</td>
<td>61,663,776</td>
</tr>
</tbody>
</table>

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
In conclusion, staff are proposing a significant 33% increase to industrial development charges for the following reasons:

a) Hamilton’s Industrial DC rate would remain competitive.

b) The cost of exemptions, due to subsidized Industrial DC rates, would decrease.

c) Gradually start correcting the imbalance of the non-residential DC service reserves (roads).

Staff have also proposed a stepped Industrial DC rate policy (75% rate for developments less than 10,000 sq. ft.) as well as a one-year phase-in for the proposed increase. The phase-in would give industrial developers enough time to adjust their business plans should they be affected by the proposed increase.

The foregone revenue due to a stepped rate based on historical industrial development patterns (2008-2010) would have included approximately 60% of the total number of industrial developments (44). Assuming the 60% of developments (26) averaged 5,000 square feet, the foregone revenue totals approximately ((26 x 5,000) + (18 x 10,000)). Multiplied by the stepped rate differential of $2.20 per sq. ft. ($8.85 sq. ft. - $6.65 sq. ft.) and the foregone revenue would have averaged approximately $230,000 per year.

3. Removal of Local Component (site-specific – storm-water ponds) from the Non-Residential Development Charge.

Prior to the 2004 DC Bylaw, storm-water 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 storm-water 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.

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Staffing: N/A.

Legal: Staff’s recommendations require that the City’s current DC By-laws (09-144, 09-145) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period. Staff recommend that to avoid duplication, the amendments contained within this report be included with the general water/wastewater DC review which will be effective July 6, 2011.

HISTORICAL BACKGROUND

Woodward Wastewater Treatment Plant

Based on the last census, the City of Hamilton’s population in 2006 was 517,815 (includes 2.63% census undercount) and is forecast to grow to 660,000 by 2031 based on the Province’s “Places to Grow” population forecast. 2031 is the year that build-out in the City’s urban designated lands is forecast to occur. Development charges are a revenue tool which the City uses to put into place the required infrastructure to service the growth in population. For the previous (2009) and the current DC process, Table 7 of report FCS11053 details the progression of residential and non-residential development which is forecast to occur until urban build-out.

<table>
<thead>
<tr>
<th>Time Horizon</th>
<th>Total Population</th>
<th>Total Units</th>
<th>Employment Growth (W/NFPOW)</th>
<th>Growth in Gross Floor Area (sq.ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 Study - 2031 Urban Buildout</td>
<td>126,676</td>
<td>72,618</td>
<td>75,081</td>
<td>445,564,497</td>
</tr>
<tr>
<td>2011 Study - 2031 Urban Buildout</td>
<td>121,514</td>
<td>71,787</td>
<td>65,292</td>
<td>39,621,300</td>
</tr>
</tbody>
</table>

An important piece of infrastructure required to service this growth to 2031 is a refurbishment of the Woodward Wastewater Plant and expansion. Refurbishment is required due to more stringent standards for effluent disposal into Lake Ontario and expansion from 409 mega litres per day (current capacity) to 500 mld for the growth in population and employment. Table 8 of report FCS11053 illustrates the total cost of this project ($762 million) and the apportionment of the costs between existing population benefit (51%) and the benefit attributable to growth (49%). The apportionment is consistent with the approach used for the 2009 DC Background Study. Table 8 of report FCS11053 also details staff’s most up-to-date forecast of the timing of expenditures related to this project and revenue sources.
Table 8

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>710,247</td>
<td>51,347</td>
<td>50,100</td>
<td>15,200</td>
<td>20,400</td>
<td>20,400</td>
<td>3,100</td>
<td>155,700</td>
<td>204,500</td>
<td>89,500</td>
<td>100,000</td>
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</tr>
<tr>
<td>Design</td>
<td>52,600</td>
<td>27,000</td>
<td>3,100</td>
<td>5,100</td>
<td>8,100</td>
<td>3,100</td>
<td>3,100</td>
<td>3,100</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Expense</td>
<td>762,847</td>
<td>78,347</td>
<td>50,100</td>
<td>15,200</td>
<td>20,400</td>
<td>23,500</td>
<td>8,200</td>
<td>158,800</td>
<td>207,600</td>
<td>92,600</td>
<td>0</td>
<td>100,000</td>
</tr>
</tbody>
</table>

Revenue

<table>
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<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dev Charges - Non-Res 31%</td>
<td>103,757</td>
<td>2,757</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dev Charges - Res 69%</td>
<td>230,843</td>
<td>8</td>
<td>8,313</td>
<td>1,862</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal/Prov Grants/Subsidies</td>
<td>160,185</td>
<td>39,174</td>
<td>25,050</td>
<td>10,138</td>
<td>13,607</td>
<td>5,469</td>
<td>4,503</td>
<td>4,503</td>
<td>45,670</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>From Operating Fund</td>
<td>91,766</td>
<td>1,700</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>From WIP Transfers</td>
<td>30,323</td>
<td>27,773</td>
<td>2,550</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Revenue</td>
<td>616,938</td>
<td>66,847</td>
<td>40,370</td>
<td>12,000</td>
<td>13,607</td>
<td>15,675</td>
<td>5,469</td>
<td>5,403</td>
<td>145,670</td>
<td>189,000</td>
<td>78,208</td>
<td>44,560</td>
</tr>
<tr>
<td>Net Cost</td>
<td>145,939</td>
<td>11,401</td>
<td>9,730</td>
<td>3,200</td>
<td>6,793</td>
<td>7,826</td>
<td>2,731</td>
<td>2,697</td>
<td>13,130</td>
<td>18,600</td>
<td>14,392</td>
<td>55,440</td>
</tr>
</tbody>
</table>

City of Hamilton Stormwater Development Charge History

In 2004, with the completion of the City of Hamilton Central Mountain drainage study the city decided to include identified storm-pond facilities in the 2004 Development Charge Background Study instead of the previous practise of passing a municipal act project to collect for the required improvements. The reason for the switch regarding cost recovery methodology was that the cost recovery rates for the municipal act projects was approximately 65% due to exemptions and other policies reflecting individual landowners ability to pay back the costs front-ended by the municipality. The municipality could not afford this type of approach.

As identified in Table 9 of report FCS11053, most municipal storm pond facilities are treated as a local servicing requirement of the developer. However, based on the number of benefiting parcels of lands that would need to be captured in a Municipal Act project, administration cost to track and adjust costs based on level of benefit (water quality), the opportunity to reduce the number of storm facilities and maximize yield of developable land as well as the cost recovery issues mentioned above, the city included centralized storm facilities in the development charge in 2004. At this time, the city included land values of $100,000/acre for the storm ponds. As part of a transition policy, storm-ponds identified as having been constructed by developers prior to this by-law were provided Stormwater Management credits for any un-built developments that were included in the background study.

In 2006, staff came forward with an amendment to the DC Background Study and By-laws as a result of substantial increases in land costs for storm-ponds. These increases can be contributed in part as a result of the Green Belt legislation. Land costs were increased from $200,000 to $300,000/acre along with placing maximums values the city would pay out for centralized facilities for both construction and land costs.

In 2009, a new DC By-law was brought forward. Consideration was given to unidentified SWM facilities and impacts of using Low Impact Development (LID) options. As per the previous By-law any un-built units for facilities constructed by a developer were
accounted for in the DC quantum. In addition, credits were provided for any development that utilities LID techniques. The LID credits were only available for applications where the maintenance and operation could be enforced under a site plan agreement. The intent was to use newer, environmentally friendly techniques and reduce the storm-pond footprint downstream.

Stormwater pond funding methodologies considered by staff for this by-law:

2. Adjusted storm-pond size based on substantial increases in impervious surfaces current trends resulting from the form of development increased impervious area on residential developments from $c = 0.4$ to $0.65$. Non-res remained at approximately $c=0.9$
3. Inflationary increases to land costs. (residential) – capture any recent increases or decreases in land value.
4. Consideration to remove all ponds from the DC and return to local service requirement – developers have imposed private cost sharing conditions to address potential short fall in city contribution to infrastructure cost. This could slow the pace of development while private cost sharing agreements are arranged. This methodology would reduce city exposure.
5. Removing non-residential storm-ponds from the development charge – with the completion of the Airport Employment Growth District (AEGD) secondary plan approximately $48$ million in pond cost were identified. Current DC exemptions would result in the city absorbing these costs. In addition the development of the AEGD contemplated using low impact development techniques thereby reducing storm-pond requirements. Industrial developments are typically on large parcels of land which provide for better opportunities to address storm water on site. Additional consideration to long term cost benefits to the municipality of not having to operate and maintain private facilities. Drainage is a requirement in Section 41(7) of the Planning Act as a developer cost.
6. Removing single benefiting land owner from the DC- in some cases a storm-pond that has been identified that only benefits one developer. Financial analysis has shown that monies collected for the storm water component of the DC generally is not equitable. However overall centralized facilities do benefit fragmented land ownership. Separating based on these criteria could be challenging.
7. Adjust contributing land based on impervious surface – generally non-res have a higher impervious value resulting in higher flows then the equivalent parcel of land for residential use.
8. Land acquisition policy-building on the current practise of setting an upset limit for land value, moving forward it would be the responsibility of the developer wishing to proceed to acquire lands in its entirety for the centralized SWM facility...
should the facility be external to plan. The city would reimburse based on current practises.

In formulating the staff proposed stormwater DC policies, the stormwater DC related recommendations in report FCS11053 are a combination of options 2, 3, 5, 7, 8 and construction cost increases.

For industrial developments, the following scenarios summarize staff proposed industrial stormwater management (SWM) policies:

1. In the case where a centralized storm-pond is benefiting both residential and non-residential development: if the storm-pond resides on non-residential land, there are costs built into the DC for the city to contribute to the centralized facility for the residential share. The non-residential would be responsible for their proportionate share.

2. The case where the centralized pond is located in the residential lands and benefits non-residential lands then provisions must be built in or accounted for expansion to include the external non-residential lands. The cost recoveries could be incorporated through condition of draft plan approval, Best Efforts or Municipal Act. Should the benefiting non-residential land opt out of contributing then they would be responsible for their own on site SWM.

3. Should the pond only benefit non-residential development then the developers would be responsible for their own cost sharing arrangements or apply options identified in point 2.

The city has currently approximately 5 centralized SWM facilities being contemplated that have non–residential development deriving benefits. In two cases the benefiting land is generally one developer, in other cases the pond benefits both residential and non-residential (one land owner) with an external non-residential contributing and multiple non-residential development. In these cases each situation must be reviewed based on the willingness of the participants to move forward.
Table 9

Summary of Stormwater Works Included in Municipal Development Charges

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Basis for Charge</th>
<th>Area Specific vs. Municipal Wide</th>
<th>Works Included in Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milton</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Total Floor Area</td>
<td>Area Specific</td>
<td>Costs for Monitoring only</td>
</tr>
<tr>
<td>Mississauga</td>
<td>Charged on net developable hectares (same charge for res &amp; non-res)</td>
<td>Charge on all lands unless under a prior registered subdivision plan or under a pre-DCA agreement</td>
<td>Erosion Control - Identified works, Conveyance Works (Channelization, Culvert improvements, Storm Sewer improvements), New Facilities (ponds), Pond - Quality Retrofits, Storm Sewer Oversizing, Monitoring &amp; Studies</td>
</tr>
<tr>
<td>Burlington</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Erosion control &amp; restoration works, culvert improvements (shared with development), over-control of ponds due to downstream constraints (otherwise ponds are developer responsibility), and quality control measures required to mitigate impacts of development</td>
</tr>
<tr>
<td>London</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Drainage works including trunk/oversized storm sewers, SWM facilities &amp; related outfalls, open watercourses including creeks, channels, etc.</td>
</tr>
<tr>
<td>Guelph</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Local Servicing Oversizing (storm sewers or ponds)</td>
</tr>
<tr>
<td>Cambridge</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Drainage facilities</td>
</tr>
<tr>
<td>Kitchener</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Storm/Watercourse rehabilitation projects</td>
</tr>
<tr>
<td>Waterloo</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Storm Sewers, SWM ponds &amp; watercourse improvements</td>
</tr>
<tr>
<td>Toronto</td>
<td>Res - based on unit type; Non-Res. Based on sq.ft. of Gross Floor Area</td>
<td>Municipal Wide</td>
<td>Off site works including source control, flood prevention, shoreline management, stream restoration &amp; reforestation, end of pipe facilities</td>
</tr>
</tbody>
</table>

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 following Table 10 of report FCS11053 details the service component changes (highlighted in grey) in the for the 2011 Development Charges By-law.
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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

Table 10

<table>
<thead>
<tr>
<th>DC Service Component Breakdown</th>
<th>Current Res Rate</th>
<th>Residential Rate</th>
<th>Non-Res Rate</th>
<th>Non-Res Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(2009 By-law in 2011 $/unit)</td>
<td>2011 By-law $/unit</td>
<td>(2009 By-law in 2011 $/sq ft)</td>
<td>2011 By-law $/sq ft</td>
</tr>
<tr>
<td>Water</td>
<td>$3,723</td>
<td>$3,186</td>
<td>$2.69</td>
<td>$1.88</td>
</tr>
<tr>
<td>Wastewater</td>
<td>$4,735</td>
<td>$4,230</td>
<td>$3.01</td>
<td>$2.49</td>
</tr>
<tr>
<td>Wastewater - WWTP</td>
<td>$4,271</td>
<td>$4,444</td>
<td>$3.50</td>
<td>$2.61</td>
</tr>
<tr>
<td>Storm water</td>
<td>$3,630</td>
<td>$4,669</td>
<td>$2.30</td>
<td>$0.57</td>
</tr>
<tr>
<td>Roads</td>
<td>$5,950</td>
<td>$5,950</td>
<td>$6.36</td>
<td>$6.36</td>
</tr>
<tr>
<td>Homes for the Aged</td>
<td>$4</td>
<td>$4</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Transit</td>
<td>$218</td>
<td>$218</td>
<td>$0.24</td>
<td>$0.24</td>
</tr>
<tr>
<td>Fire</td>
<td>$289</td>
<td>$289</td>
<td>$0.19</td>
<td>$0.19</td>
</tr>
<tr>
<td>Police</td>
<td>$252</td>
<td>$252</td>
<td>$0.17</td>
<td>$0.17</td>
</tr>
<tr>
<td>Outdoor Recreation</td>
<td>$800</td>
<td>$800</td>
<td>$0.05</td>
<td>$0.05</td>
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<tr>
<td>Health</td>
<td>$38</td>
<td>$38</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Social &amp; Child Services</td>
<td>$46</td>
<td>$46</td>
<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>Social Housing</td>
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<td>$0.00</td>
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<tr>
<td>Indoor Recreation</td>
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<tr>
<td>Library</td>
<td>$367</td>
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<td>$0.06</td>
<td>$0.06</td>
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<tr>
<td>Administration</td>
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<td>$278</td>
<td>$0.28</td>
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<tr>
<td>Airport</td>
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<td>$0.09</td>
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<tr>
<td>Ambulance</td>
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<td>$16</td>
<td>$0.01</td>
<td>$0.01</td>
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<tr>
<td></td>
<td><strong>$26,182</strong></td>
<td><strong>$26,352</strong></td>
<td><strong>$19.00</strong></td>
<td><strong>$15.05</strong></td>
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</table>

Table 11 is a summary of the new proposed 2011 Residential Development Charges.

Table 11

<table>
<thead>
<tr>
<th>PROPOSED NEW RESIDENTIAL DEVELOPMENT CHARGES ($/unit)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Wide</td>
</tr>
<tr>
<td>Education DC</td>
</tr>
<tr>
<td>GO Transit DC</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Rural</td>
</tr>
</tbody>
</table>

| EXISTING CHARGES                                      |
| City Wide                                            |
| Education DC                                         |
| GO Transit DC                                        |
| Total                                                |
| Rural                                                |

*Binbrook SAC = $3,571 per SDU
*Waterdown SAC = $1.563 per SDU
Table 12 is a summary of the new proposed 2011 Commercial/Institutional Development Charges.

### Table 12

<table>
<thead>
<tr>
<th>PROPOSED COMMERCIAL / INSTITUTIONAL DC's ($/sq ft)</th>
<th>0-5000 Square Feet</th>
<th>5001-10000 Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Wide*</td>
<td>15.05</td>
<td>7.50</td>
</tr>
<tr>
<td>Education DC</td>
<td>0.18</td>
<td>0.18</td>
</tr>
<tr>
<td>Total</td>
<td>15.23</td>
<td>7.68</td>
</tr>
</tbody>
</table>

### EXISTING CHARGES

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

Table 13 is a comparative summary of Residential Development charges for a single-detached unit in Southern Ontario.

### Table 13

<table>
<thead>
<tr>
<th>Rank</th>
<th>Municipality</th>
<th>Upper Tier Excluding Water, Wastewater $</th>
<th>Lower/Single Tier Excluding Water, Wastewater and Stormwater $</th>
<th>Water and Wastewater $</th>
<th>Lower/ Single Tier Stormwater $</th>
<th>Education $</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Milton - (Sherwood)</td>
<td>14,924</td>
<td>10,868</td>
<td>15,646</td>
<td>40</td>
<td>2,576</td>
<td>44,054</td>
</tr>
<tr>
<td>2</td>
<td>Oakville (North of Dundas)</td>
<td>14,924</td>
<td>18,106</td>
<td>10,227</td>
<td>-</td>
<td>-</td>
<td>43,257</td>
</tr>
<tr>
<td>3</td>
<td>Brampton</td>
<td>7,637</td>
<td>24,022</td>
<td>9,711</td>
<td>-</td>
<td>-</td>
<td>43,129</td>
</tr>
<tr>
<td>4</td>
<td>Mississauga *</td>
<td>7,637</td>
<td>15,898</td>
<td>9,711</td>
<td>3,847</td>
<td>1,759</td>
<td>38,652</td>
</tr>
<tr>
<td>5</td>
<td>Burlington</td>
<td>14,924</td>
<td>6,853</td>
<td>10,227</td>
<td>702</td>
<td>2,576</td>
<td>35,282</td>
</tr>
<tr>
<td>6</td>
<td>Hamilton (Proposed) **</td>
<td>-</td>
<td>10,038</td>
<td>11,860</td>
<td>4,669</td>
<td>610</td>
<td>27,177</td>
</tr>
<tr>
<td>7</td>
<td>Hamilton (Current) **</td>
<td></td>
<td>10,048</td>
<td>12,729</td>
<td>3,830</td>
<td>610</td>
<td>27,017</td>
</tr>
<tr>
<td>8</td>
<td>Waterloo</td>
<td>8,558</td>
<td>10,435</td>
<td>5,647</td>
<td>3,630</td>
<td>749</td>
<td>26,653</td>
</tr>
<tr>
<td>9</td>
<td>Guelph</td>
<td>8,558</td>
<td>8,950</td>
<td>14,200</td>
<td>171</td>
<td>2,297</td>
<td>24,318</td>
</tr>
<tr>
<td>10</td>
<td>Cambridge</td>
<td>8,558</td>
<td>5,387</td>
<td>8,845</td>
<td>635</td>
<td>749</td>
<td>24,174</td>
</tr>
<tr>
<td>11</td>
<td>Toronto</td>
<td>-</td>
<td>11,026</td>
<td>5,869</td>
<td>5,325</td>
<td>-</td>
<td>22,220</td>
</tr>
<tr>
<td>12</td>
<td>Kitchener (Suburban Area)</td>
<td>8,558</td>
<td>7,434</td>
<td>5,344</td>
<td>122</td>
<td>749</td>
<td>22,207</td>
</tr>
<tr>
<td>13</td>
<td>Niagara Falls</td>
<td>3,913</td>
<td>4,132</td>
<td>7,762</td>
<td>2,260</td>
<td>-</td>
<td>18,068</td>
</tr>
<tr>
<td>14</td>
<td>Brantford</td>
<td>-</td>
<td>13,201</td>
<td>2,507</td>
<td>-</td>
<td>628</td>
<td>16,336</td>
</tr>
<tr>
<td>15</td>
<td>Toronto</td>
<td>-</td>
<td>11,637</td>
<td>2,067</td>
<td>321</td>
<td>544</td>
<td>14,669</td>
</tr>
</tbody>
</table>

Notes: * DC charge per ha. applied assuming 8 units per acre
Table 14 is a comparative summary of Non-residential Commercial/Institutional Development charges per square foot in Southern Ontario.

Table 14

<table>
<thead>
<tr>
<th>Rank</th>
<th>Municipality</th>
<th>Upper Tier Excluding Water and Wastewater $</th>
<th>Lower/Single Tier Excluding Water, Wastewater &amp; Stormwater $</th>
<th>Water &amp; Wastewater $</th>
<th>Stormwater $</th>
<th>Education $</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Oakville (North of Dundas)</td>
<td>8.19</td>
<td>6.54</td>
<td>7.52</td>
<td>-</td>
<td>0.72</td>
<td>22.97</td>
</tr>
<tr>
<td>2</td>
<td>Milton - Calculated (Sherwood)</td>
<td>8.19</td>
<td>5.40</td>
<td>7.52</td>
<td>0.10</td>
<td>0.72</td>
<td>21.93</td>
</tr>
<tr>
<td>3</td>
<td>Burlington</td>
<td>8.18</td>
<td>7.64</td>
<td>3.75</td>
<td>0.28</td>
<td>0.72</td>
<td>20.57</td>
</tr>
<tr>
<td>4</td>
<td>Hamilton (Current)</td>
<td>-</td>
<td>7.49</td>
<td>9.20</td>
<td>2.31</td>
<td>0.16</td>
<td>19.18</td>
</tr>
<tr>
<td>5</td>
<td>Brampton</td>
<td>4.46</td>
<td>9.04</td>
<td>3.93</td>
<td>-</td>
<td>0.53</td>
<td>17.96</td>
</tr>
<tr>
<td>6</td>
<td>Hamilton (Proposed)</td>
<td>-</td>
<td>7.49</td>
<td>6.99</td>
<td>0.57</td>
<td>0.18</td>
<td>15.23</td>
</tr>
<tr>
<td>7</td>
<td>London</td>
<td>-</td>
<td>7.90</td>
<td>2.40</td>
<td>4.98</td>
<td>-</td>
<td>15.18</td>
</tr>
<tr>
<td>8</td>
<td>Mississauga *</td>
<td>4.46</td>
<td>5.92</td>
<td>3.93</td>
<td>0.21</td>
<td>0.53</td>
<td>15.05</td>
</tr>
<tr>
<td>9</td>
<td>Waterlo</td>
<td>5.48</td>
<td>4.19</td>
<td>3.96</td>
<td>0.17</td>
<td>-</td>
<td>13.80</td>
</tr>
<tr>
<td>10</td>
<td>Kitchener (Suburban Area)</td>
<td>5.48</td>
<td>2.91</td>
<td>4.43</td>
<td>0.22</td>
<td>-</td>
<td>13.04</td>
</tr>
<tr>
<td>11</td>
<td>Niagara Falls</td>
<td>4.45</td>
<td>1.25</td>
<td>5.00</td>
<td>1.44</td>
<td>-</td>
<td>12.14</td>
</tr>
<tr>
<td>12</td>
<td>Guelph</td>
<td>5.48</td>
<td>3.53</td>
<td>8.07</td>
<td>0.12</td>
<td>-</td>
<td>11.72</td>
</tr>
<tr>
<td>13</td>
<td>Cambridge</td>
<td>5.48</td>
<td>0.68</td>
<td>4.24</td>
<td>0.25</td>
<td>-</td>
<td>10.65</td>
</tr>
<tr>
<td>14</td>
<td>Toronto</td>
<td>-</td>
<td>7.12</td>
<td>2.54</td>
<td>0.36</td>
<td>0.58</td>
<td>10.60</td>
</tr>
<tr>
<td>15</td>
<td>Brantford</td>
<td>-</td>
<td>4.01</td>
<td>1.16</td>
<td>-</td>
<td>-</td>
<td>5.17</td>
</tr>
</tbody>
</table>

Notes: * DC charge per ha. applied assuming 30% coverage

Table 15 is a comparative summary of Non-residential Industrial Development charges per square foot in Southern Ontario.

Table 15

<table>
<thead>
<tr>
<th>Rank</th>
<th>Municipality</th>
<th>Upper Tier Excluding Water and Wastewater $</th>
<th>Lower/Single Tier Excluding Water, Wastewater &amp; Stormwater $</th>
<th>Water &amp; Wastewater $</th>
<th>Stormwater $</th>
<th>Education $</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Milton - Calculated (Sherwood)</td>
<td>8.19</td>
<td>3.12</td>
<td>7.52</td>
<td>0.08</td>
<td>0.72</td>
<td>19.63</td>
</tr>
<tr>
<td>2</td>
<td>Oakville (North of Dundas)</td>
<td>8.19</td>
<td>-</td>
<td>7.52</td>
<td>-</td>
<td>0.72</td>
<td>16.43</td>
</tr>
<tr>
<td>3</td>
<td>Burlington</td>
<td>8.18</td>
<td>3.07</td>
<td>3.75</td>
<td>0.28</td>
<td>0.72</td>
<td>16.00</td>
</tr>
<tr>
<td>4</td>
<td>Waterlo</td>
<td>5.48</td>
<td>4.19</td>
<td>3.96</td>
<td>0.17</td>
<td>-</td>
<td>13.80</td>
</tr>
<tr>
<td>5</td>
<td>Kitchener (Suburban Area)</td>
<td>5.48</td>
<td>2.91</td>
<td>4.43</td>
<td>0.22</td>
<td>-</td>
<td>13.04</td>
</tr>
<tr>
<td>6</td>
<td>Mississauga *</td>
<td>4.01</td>
<td>4.89</td>
<td>3.93</td>
<td>0.21</td>
<td>0.53</td>
<td>11.42</td>
</tr>
<tr>
<td>7</td>
<td>Brampton</td>
<td>1.93</td>
<td>4.26</td>
<td>3.93</td>
<td>-</td>
<td>0.53</td>
<td>10.68</td>
</tr>
<tr>
<td>8</td>
<td>Cambridge</td>
<td>5.48</td>
<td>0.68</td>
<td>4.24</td>
<td>0.25</td>
<td>-</td>
<td>10.65</td>
</tr>
<tr>
<td>9</td>
<td>Hamilton (Proposed)</td>
<td>-</td>
<td>3.17</td>
<td>5.11</td>
<td>0.57</td>
<td>0.18</td>
<td>9.93</td>
</tr>
<tr>
<td>10</td>
<td>Hamilton (Current)</td>
<td>-</td>
<td>3.17</td>
<td>5.11</td>
<td>0.57</td>
<td>0.18</td>
<td>9.93</td>
</tr>
<tr>
<td>11</td>
<td>Guelph</td>
<td>-</td>
<td>1.25</td>
<td>4.49</td>
<td>0.04</td>
<td>-</td>
<td>5.76</td>
</tr>
<tr>
<td>12</td>
<td>Brantford</td>
<td>-</td>
<td>4.01</td>
<td>1.16</td>
<td>-</td>
<td>-</td>
<td>5.17</td>
</tr>
<tr>
<td>13</td>
<td>Niagara Falls</td>
<td>1.26</td>
<td>-</td>
<td>0.94</td>
<td>-</td>
<td>-</td>
<td>2.20</td>
</tr>
<tr>
<td>14</td>
<td>Toronto</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.58</td>
<td>0.58</td>
</tr>
<tr>
<td>15</td>
<td>London</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Notes: * DC charge per ha. applied assuming 30% coverage
POLICY IMPLICATIONS

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

- A Public Meeting would need to be held concerning the amendment. This meeting could be held prior to the regular scheduled General Issues Committee (GIC) meeting.
- 20 days public notice will be given prior to this meeting.
- This proposed amendment will be made available to the public 14 days prior to the meeting.
- At the Public Meeting, people may make representations concerning the amendment.
- The amendment would be subject to a 40 day appeal period whereby appeals can be made to the Ontario Municipal Board (OMB).
- The following City By-laws would be amended:
  1. 09-144 Development Charge By-law effective July 6, 2009, expires July 6, 2011.
  2. 09-143 Development Charge By-law approved on July 6, 2009, expires July 6, 2014.
  3. 06-174 GO Transit Development Charge By-law approved on June 28th, 2006, expires July 6, 2011

RELEVANT CONSULTATION

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

ALTERNATIVES FOR CONSIDERATION

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

Alternative 1: No increase to the Industrial Development Charge.
The current discounted industrial charge is $6.65 per square foot. The current policy is all industrial development charge revenue will first go to the wastewater reserve and all additional revenue will then be prorated among the other reserves. The current by-law has the waste water portion of the charge at $5.11 per square foot. This would leave the remaining $1.54 to be divided among all the other reserves. The discounted rate would leave a shortfall in the water services reserve of $.91 per square foot. This difference would be recouped from the rates budget (refer to Table 16).

Table 16

<table>
<thead>
<tr>
<th>Service Component</th>
<th>NON-RESIDENTIAL ($) PER SQUARE FOOT</th>
<th>Industrial ($) PER SQUARE FOOT</th>
<th>Industrial ($) PER SQUARE FOOT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Study</td>
<td>Proposed</td>
<td>Option</td>
</tr>
<tr>
<td>Urban Area Charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Services</td>
<td>1.88</td>
<td>1.88</td>
<td>0.97</td>
</tr>
<tr>
<td>Wastewater Services</td>
<td>5.11</td>
<td>5.11</td>
<td>5.11</td>
</tr>
<tr>
<td>Storm Water Drainage and Control Services</td>
<td>0.57</td>
<td>0.57</td>
<td>0.57</td>
</tr>
<tr>
<td>Total Urban Area Charges</td>
<td>7.56</td>
<td>7.56</td>
<td>6.65</td>
</tr>
<tr>
<td>Total Municipal Wide Charges</td>
<td>7.49</td>
<td>1.29</td>
<td>0.00</td>
</tr>
<tr>
<td>Grand Total (Municipal Wide &amp; Urban Area)</td>
<td>15.05</td>
<td>8.85</td>
<td>6.65</td>
</tr>
</tbody>
</table>

Pros: Lower industrial DC rates makes the City of Hamilton more appealing to developers and industry and more competitive with surrounding municipalities with lower development costs.

Cons: The resulting loss in revenue required to pay for infrastructure to service these lands will require the necessary funds to build this infrastructure to come from other revenue sources resulting in higher water rates and taxes making us less competitive with other municipalities in those areas. Non-residential DC reserves are already in strained positions due to the discounting of rates. This would further add to that strain.

Alternative 2: Leave the cost/obligations of non-residential stormwater ponds in the non-residential Development Charge.
By leaving the stormwater ponds in the non-residential Development Charge the development charge would increase to $19.32 from $15.05 (refer to table 17 of report FCS11053). This increase would not effect industrial development since that rate is discounted and capped at a fixed rate. This would increase the amount that would need to be refunded to the development charge reserve through the rates budget. This amount would increase the stepped non-residential rate. Should Council wish to continue the current practise of having non-res storm water in the DC then the following should be included: fixing land costs for industrial and commercial land based on their current raw land value. Require on site swm to reducing the centralized pond foot print.

### Table 17

<table>
<thead>
<tr>
<th>Service Component</th>
<th>Study ($)</th>
<th>Option ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Services</td>
<td>1.88</td>
<td>1.88</td>
</tr>
<tr>
<td>Wastewater Services</td>
<td>5.11</td>
<td>5.11</td>
</tr>
<tr>
<td>Storm Water Drainage and Control Services</td>
<td>0.57</td>
<td>4.84</td>
</tr>
<tr>
<td><strong>Total Urban Area Charges</strong></td>
<td><strong>7.56</strong></td>
<td><strong>11.83</strong></td>
</tr>
<tr>
<td><strong>Total Municipal Wide Charges</strong></td>
<td><strong>7.49</strong></td>
<td><strong>7.49</strong></td>
</tr>
<tr>
<td><strong>Grand Total (Municipal Wide &amp; Urban Area)</strong></td>
<td><strong>15.05</strong></td>
<td><strong>19.32</strong></td>
</tr>
</tbody>
</table>

**Pros:** Collecting for shared storm water ponds takes burden off of the developers to come to an agreement over cost sharing due to benefits derived from storm ponds by multiple properties and developers. This also prevents ponds from decreasing in size and being more fragmented leading to increased maintenance costs.

**Cons:** This would result in a higher development charge reducing the competitiveness of the City of Hamilton to attract new non-residential construction. Our industrial rate is discounted, this would increase the amount discounted further putting a further burden on the rates budget and the tax budget. Non-residential DC reserves are already in strained positions due to the discounting of rates. This would further add to that strain.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

Staffing Implications: N/A
Legal Implications: N/A
Policy Implications: Any changes to current DC policies will require amendments to be made to the DC By-law. The amendment process is outlined above.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Skilled, Innovative & Respectful Organization
• More innovation, greater teamwork, better client focus
• Council and SMT are recognized for their leadership and integrity

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

Social Development
• Everyone has a home they can afford that is well maintained and safe

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

APPENDICES / SCHEDULES
Appendix “A” – Local Service Policy
Appendix “B” – Amendment to By-law 09-143
Appendix “C” – Development charge By-law respecting Storm Water, Water and Wastewater services
Appendix “D” – Development charge By-law respecting GO Transit services
Appendix “E” – Existing DC policies
Appendix “F” – City of Hamilton DC Stakeholder Position Papers
APPENDIX A - LOCAL SERVICE POLICY FOR WATER, WASTEWATER AND STORMWATER SERVICES

Storm Sewer Oversizing (Residential and Non-Residential)

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

Stormwater Management Facilities

Residential:

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

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

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

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

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

Low Impact Residential Development

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

Sanitary and Watermain Oversizing (Residential and Non-Residential)

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

Being a by-law to amend By-law 09-143, as amended,
Respecting development charges on lands within the City of Hamilton

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) in the case of any other residential building, the gross floor
Appendix “B” of Report FCS11053
Respecting Development Charges on Lands Within the City of Hamilton
Page 3 of 4

area of the smallest dwelling unit contained in the residential building.

8. Section 22 of by-law 09-143 is hereby deleted and the following substituted therefor, namely:

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

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

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

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

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

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

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

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

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

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

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

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

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

________________________________________  _______________________________________
Mayor                                      City Clerk
WHEREAS the Development Charges Act, 1997, S.0.1997, c.27 (hereinafter referred to as the "Act") authorizes municipalities to pass a By-law for the imposition of development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the said By-law applies.

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

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

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

AND WHEREAS the Council of the City of Hamilton, through its General Issues Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, the said By-law;

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

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

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

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

1. In this By-law,


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production or processing takes place; and
(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.

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

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

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

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

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

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

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

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

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

(dd) "residential development" means:

(i) a single detached dwelling;

(ii) a semi-detached dwelling;

(iii) a residential facility;

(iv) a mobile home;

(vi) a multiple unit dwelling;

(v) an apartment; or

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

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

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

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

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

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

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

Schedules

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

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

Lands Affected

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

Amount of Charge

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

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

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

Designation of Services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Calculation of Development Charges**

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

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

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

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

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

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

Exemptions for Intensification of Existing Housing

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

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

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

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

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

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

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

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

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

   (a) the City of Hamilton;

   (b) a Board of Education; or,

   (c) a local board.

Exemption for the Enlargement of Existing Industrial Buildings

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

18. Where a proposed enlargement exceeds fifty (50%) per cent of the gross floor area of an existing industrial building, development charges are payable on the amount by which the proposed enlargement exceeds fifty percent (50%) of the gross floor area before the enlargement.

19. The cumulative total of the gross floor area previously exempted hereunder shall be included in the determination of the amount of the exemption applicable to any subsequent enlargement.

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

Other Exemptions from Development Charges

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

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

   (b) an agricultural use;

   (c) a place of worship;

   (d) a covered sports field;

   (e) a temporary building or structure, subject to section 32; and
(f) any affordable housing project that is approved to receive funding from a senior level of government affordable housing programme or an approved City of Hamilton or CityHousingHamilton Corporation affordable housing programme, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of government.

Downtown Community Improvement Plan (CIP) Exemption

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

Partial Exemptions

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

(a) the initial five thousand (5,000) square feet of gross floor area of an expansion of a non-industrial development provided that:

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

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

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

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

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

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

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

Where development has been exempted pursuant to this sub-section, the exemption set out in sub-section (a) above does not apply to any subsequent expansion on such development.
(c) development of a brownfield property that has been approved by the City for an ERASE Redevelopment Grant, or any successor thereof. The amount of the exemption hereunder is equivalent to the cost of environmental remediation on, in or under the property as approved by the City under the ERASE Redevelopment Grant program and required to be paid by the owner, up to but not exceeding the amount of the development charges otherwise payable under this By-law;

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

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

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

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

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

Rules with Respect to Redevelopment - Demolitions

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

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

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

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

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

Rules with Respect to Redevelopment - Conversions

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

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

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

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

Temporary Buildings or Structures

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

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

Prepayment or Deferral Agreements

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

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

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

Credit for Services-in-lieu Agreement

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

Front-Ending Agreements

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

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

Indexing

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

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

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

Reserve Fund Report

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

Transition

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

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

   (a) any building permit required in relation to the said approval has been issued prior to January 6, 2012; and
(b) construction has commenced thereafter within six (6) months of the date of issuance of the said building permit or permits, such construction to be deemed to have commenced when all footings and foundations have been completed.

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

General

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

Date By-law Effective

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

Date By-law Expires

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

By-law Registration

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

Headings for Reference Only

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

Severability

44. If, for any reason, any provision, section, subsection, paragraph or clause of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.
PASSED AND ENACTED THIS 15th DAY OF JUNE 2011.

__________________________________        ___________________________________
MAYOR                                                               CLERK
Map of Downtown Community Improvement Plan (CIP) Area
THE CITY OF HAMILTON
BY-LAW NO.

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

WHEREAS the Development Charges Act, 1997, S.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 need for service, the deductions required under the Act, estimated capital costs to provide for such increased needs, including the long term capital and operating costs for capital infrastructure required for the service, as well as the attribution related to new residential development.

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

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

AND WHEREAS the Council of the City of Hamilton, through its General Issues Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, the said By-law;

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

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

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

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

Definitions

1. In this By-law,


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


(s) “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.

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

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

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

(w) “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.

(x) “residential facility” means a building containing two or more bedrooms which bedrooms do not have self-contained kitchens. Residential facility includes a garden suite within the meaning of Section 39.1 of the Planning Act. Residential facility does not include a single detached dwelling, a semi-detached dwelling, a farm help house, a multiple unit dwelling or an apartment as defined herein, but shall include such facilities as student dormitories, rooming and boarding houses, lodging houses, long-term care facilities, nursing homes, retirement homes, and group homes.

(y) “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.
(z) “service” means service defined in the by-law or designated in an agreement under Section 44 of the Act.

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

Schedules

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

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

Lands Affected

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

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

Designation of Services

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

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

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

Approvals for Development

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

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

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

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

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

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

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

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

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

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

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

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

Calculation of Development Charges

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

(a) subject to (b), (c) and (d) below, in the case of residential development or the residential portion of mixed use development, based on the number and type of dwelling units;

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

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

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

Exemptions for Intensification of Existing Housing

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

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

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

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

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

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

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

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

Exemptions for Certain Buildings

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

(a) the City of Hamilton;

(b) a Board of Education; or,

(c) a local board.
Other Exemptions from Development Charges

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

(a) an agricultural use; and

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

Downtown Community Improvement Plan (CIP) Exemption

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

Partial Exemptions

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

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

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

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

Rules with Respect to Redevelopment - Demolitions

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

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

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

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

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

Rules with Respect to Redevelopment - Conversions

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

22. Where an existing residential building is converted to non-residential uses, there is no development charge payable under this By-law.
23. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with sections 21 and 22.

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

**Temporary Buildings or Structures**

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

**Collection of Development Charges**

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

**Credit for Services-in-lieu Agreement**

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

**Front-Ending Agreements**

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

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

Indexing

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

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

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

Reserve Fund Report

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

Transition

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

General

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

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

**Date By-law Expires**

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

**By-law Registration**

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

**Headings for Reference Only**

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

**Severability**

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

PASSED AND ENACTED THIS 15th DAY OF JUNE 2011.

_________________________________________  ___________________________
MAYOR                                                               CLERK
### SCHEDULE “A”

**GO TRANSIT DEVELOPMENT CHARGES**

<table>
<thead>
<tr>
<th>Residential Development Type</th>
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<tr>
<td>Apartments</td>
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<td>- 2 Bedrooms+</td>
<td>$133 per unit</td>
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<tr>
<td>- Bachelor and 1 Bedroom</td>
<td>$89 per unit</td>
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<tr>
<td>Residential Facility</td>
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<tr>
<td>Other Multiples</td>
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</table>

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Existing DC policies not changed by report FCS11053

A) Indexing – Rates shall be indexed by the percentage recorded in the Statistics Canada Construction Cost Index from the preceding year, annually on each anniversary date of this by-law (July 6th)

B) Industrial Expansion – Enlargements equal to and up to 50% of the existing gross floor area that existed at the time of the by-law are exempt.

C) Non-Industrial Expansion – The first 5000 square feet of expansion are exempt. All expansion after the one time expansion exemption has been used are subject to 100% of the non-industrial rate

D) Transition Policy – The rates in effect on the date of building permit application may be paid provided that all of the following criteria are met. The permit application must be a complete application as per requirements outlined by the building department. The permit must be issued within 6 months of the effective date of a rate increase. The permit must not be revoked after the date of a rate increase.

E) Downtown Exemption – All development within the boundaries of Queen, Cannon, Victoria and Hunter along with properties that front onto James St from LIUNA Station to Charlton Ave. are exempt from development charges

F) Agricultural Exemption – Development of agricultural buildings are exempt

G) School Exemption – Development used for the purposes of a university, other post-secondary school offering a degree or diploma, or a not-for-profit private elementary or secondary school is exempt, except for the transit component ($0.24 per sq ft), provided that the development is used for the academic or teaching purposes of the school.

H) Affordable Housing Exemption – Projects that receive funding from the City's Community Rental Housing Program are exempt provided that the development charge liabilities are not eligible for funding by senior levels of government.

I) Hospital Exemption – Development of a public hospital is exempt for 50% of the development charges otherwise payable.

J) Places of Worship Exemption – Are exempt provided they are exempt from taxation.

K) Covered Sports Fields Exemption – The playing surface of a covered sports field along with associated seating areas are exempt.

L) Parking Garages/Lots Exemption – Parking garages and surface parking lots are exempt.

M) City of Hamilton, Board of Education, Local Board Exemption – No development charges shall be imposed on any building owned by and/or used for these purposes.

N) Temporary Buildings or Structures Exemption – Temporary buildings to be demolished within 1 year of construction completion are exempt.

O) Redevelopment Credits – Credits may be provided for full or partial conversions from one use to another.
P) Demolition Credits - A credit is allowed for demolitions for a period of 5 years from the date of issuance of the demolition permit.

Q) Value of Credits - The dollar value of the credit is based on the rate in effect at the time of redevelopment and on the exemption status of the demolished/redeveloped building at the time of redevelopment. (ie. no credit if the demolished building is exempt under the current by-law)

R) Enlargement of residential development - Enlargements of existing dwelling units and the creation of up to two additional units in certain residential buildings are not subject to development charges.

S) Brownfield Credits - Development charge credits are available for the redevelopment of a brownfield property that has been approved for an ERASE redevelopment grant and is subject to environmental remediation costs. The amount of the credit is equal to the cost of environmental remediation incurred by the owner and can be used to offset development charges owing.

T) Stormwater Management Pond Credits - Up to 47% of the Stormwater Management services component will be credited in situations 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.

U) Deferral Agreements - For non-residential development, a residential facility or an apartment development only, Council may authorize 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 years (Public hospitals Ten years University or College thirty years), the payment of the development charge before or after it is otherwise payable under this By-law.

V) Credit for Services-in-lieu Agreement - 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.

W) Front-ending Agreements - 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.
May 24, 2011
File: 10323 100
10324 300

Ms. Sally Yong-Lee, P.Eng
Acting Manager, Infrastructure Planning
City of Hamilton
71 Main Street West
Hamilton, ON
L8P 4Y5

Dear Ms Yong-Lee;

Re: City of Hamilton Development
2011 Development Charge Background Study

We are writing to you regarding the City of Hamilton's 2011 Development Charge background Study specifically as it relates to Empire Communities, owner of significant landholdings located throughout the City of Hamilton.

MTE have been active participants in the Two (2) stakeholders meetings held to date by the City and look forward a third meeting being held May 27, 2011.

Through our participation at the stakeholder meetings we understand the current update will address only the water, wastewater and stormwater components of the overall comprehensive City of Hamilton Development Charges By-law.

We have reviewed the Draft tables and schedules circulated for the 2011 Development Charge Background Study to ensure the Capital Projects critical to servicing Empire's numerous landholdings are addressed from both a cost and timing perspective and in addition, qualifying best efforts cost recovery infrastructure is identified in the background study. Our preliminary findings after review of the DRAFT information confirm the City has addressed the required infrastructure.

For the City's reference, we enclose a summary chart of the infrastructure projects related to the servicing of the Empire projects. It should be noted that the majority of the required projects have the ability to be phased while providing full municipal services to the noted communities.
We thank you for providing us the opportunity to provide valuable input into this process.

Yours Truly,

MTE CONSULTANTS INC.

Paul Brown, C.E.T.
Director, Land Development

PXB: emw
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