SUBJECT: DC Bylaw 04-145 Amendments & GO DC Bylaw (FCS06063) (City Wide)

RECOMMENDATION:

a) That the industrial development charge rate phase-in schedule, as shown in Section 18 of Development Charges Bylaw 04-145 be amended as follows:

Year 3 (July 6, 2006 to July 5, 2007): $2.30 sq. ft. (indexed)
Year 4 (July 6, 2007 to July 5, 2008): $2.80 sq. ft. (indexed)
Year 5: (July 6, 2008 to July 5, 2009): $3.30 sq. ft. (indexed)

With indexing to July 6, 2006, the $2.30 industrial development charge rate would be $2.58 per sq ft;

b) That the commercial/institutional/office development charge rate of $14.28 (in 2004 dollars) per square foot be phased-in over a two year period. The charge would be set at 60% ($8.57) as of July 6, 2006; 80% ($11.42) as of July 6, 2007; and 100% thereafter.

With indexing to July 6, 2006, the $8.57 commercial/institutional/office development charge rate would be $9.62 per sq ft;

c) That the non-residential development charge rate for new commercial/institutional/office developments be set as follows:

1. For developments up to 5,000 sq. ft. at 50% of the rate in effect
2. For developments, 5,001 to 10,000 sq. ft. at 75% of the rate in effect.
3. For developments 10,001 sq. ft. and greater at 100% of the rate in effect;

d) That the residential development charge rate increase under Bylaw 04-145, as amended, be phased in with 50% of the amendment increase taking effect on July 6, 2006 and the full rate increase taking effect on January 6, 2007;
e) That apartment developments be permitted to defer payment of development charges by entering into a development charge deferral agreement;

f) That the interest rate charged on development charge deferral agreements conform with the general City policy for external loans and therefore be set at the five-year debenture rate plus one-quarter percent (for administration);

g) That the development charge reimbursement for stormwater management ponds identified in the development charge background study and constructed by developers be limited to a maximum of the total dollar value identified in the background study for land and construction costs;

h) That a permanent transition policy be implemented as follows:

- That the development charge rates payable are the rates in effect on the date a completed building permit application is received and accepted by the City, provided that the permit is issued within 6 months of the effective date of a rate increase.

Where the building permit is revoked by the Chief Building Official on or after the date of the rate increase, any subsequent application for a building permit on the lands or site will be subject to the rates in effect on the date of permit issuance;

i) That a one-time transition policy be implemented as follows:

- For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2006, and no building permit in relation thereto has been issued prior to July 6, 2006, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2006, provided that the building permit is issued prior to Jan 6, 2007.

Where the building permit is revoked by the Chief Building Official on or after July 6, 2006, 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;

j) That the amending development charge background study titled, “City of Hamilton 2006 Development Charges Update Study” prepared by CN Watson & Associates and dated May 2006, be adopted and approved along with the capital project listings set out therein, subject to annual review during the capital budget process;

k) That the GO Transit development charge background study titled, “City of Hamilton Development Charge Background Study for the GO Transit Service” prepared by CN Watson & Associates and dated June 5 2006, be adopted, and that Council ensure that the GTTA (GO Transit) approved 2006-2016 Ten Year Growth Capital Plan be carried out herewith, including the City’s share of the program cost in its 10-year capital forecast;
l) That the assumptions with respect to anticipated development, levels of service, capital grants, subsidies, and other contributions and other deductions required under the Development Charges Act contained within the background studies identified in recommendations (j) and (k) be adopted;

m) 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);

n) That the amending Development Charges By-law, attached hereto as Appendix A, being an amendment to Development Charges By-law 04-145, be passed and enacted;

o) That the GO Transit Development Charges By-law, attached hereto as Appendix B, be passed and enacted;

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

Joseph L. Rinaldo
General Manager
Finance and Corporate Services

**EXECUTIVE SUMMARY:**

Development Charge (DC) By-Law 04-145 was enacted on July 6, 2004. A review and resulting amendments were considered necessary by staff due to significant existing growth capital (budgeted and actuals) cost increases and the inclusion of new projects in the park development, stormwater, water and wastewater service components of the City’s DC Background Study. Administrative changes to the By-Law are also required due to a Council approved report regarding McMaster University and related student residence development.

The proposed amended DC by-law is attached as Appendix A. The amended bylaw would take effect on July 6, 2006 to coincide with the annual indexing of DC rates. The proposed GO Transit DC bylaw is attached as Appendix B and would also take effect on July 6, 2006. Table 1 summarizes the impact of cost revisions and new projects on the Development Charge quantum for the former City of Hamilton while Appendix C provides a complete summary of the new quantum on the whole City.
### Table 1
DC Rate Summary

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Current Rates</td>
<td>Unamended Rates as of July 6, 2006*</td>
<td>Proposed / Amended Rates as of January 6, 2007*</td>
<td>Proposed / Amended Rates as of January 6, 2007*</td>
<td>$ increase (column 4 minus column 2)</td>
<td>% increase (column 5 vs column 2)</td>
</tr>
<tr>
<td>Residential (former Hamilton) Per Single Detached Unit (SDU)</td>
<td>$13,422</td>
<td>$14,133</td>
<td>$15,875</td>
<td>$17,615</td>
<td>$3,482</td>
<td>25</td>
</tr>
<tr>
<td>Residential GO Transit DC Per SDU</td>
<td>$0</td>
<td>$0</td>
<td>$186</td>
<td>$186</td>
<td>$186</td>
<td>n/a</td>
</tr>
<tr>
<td>Non-Residential Industrial (per sq ft)</td>
<td>$1.60</td>
<td>$2.25</td>
<td>$2.58</td>
<td>$2.58</td>
<td>$0.33</td>
<td>15</td>
</tr>
<tr>
<td>Commercial/Institutional/ Office (per sq ft)</td>
<td>1st 5000 sq ft</td>
<td>$4.68</td>
<td>$6.16</td>
<td>$4.81</td>
<td>$4.81</td>
<td>-$1.35</td>
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<tr>
<td></td>
<td>next 5000 sq ft</td>
<td>$7.02</td>
<td>$9.24</td>
<td>$7.22</td>
<td>$7.22</td>
<td>-$2.03</td>
</tr>
</tbody>
</table>

*Includes scheduled 5.3% indexing

A summary of the $3,482 rate increase for a single detached unit is broken down as follows:

- Stormwater infrastructure cost increase = $788.
- Woodward Capacity Increase = $1,379.
- Other Capital Adjustments = $1,315

Please note that most other municipalities charge separately for stormwater infrastructure on top of their regular Development Charge rates while Hamilton’s Development Charges have this infrastructure cost included. This comparative component equates to approximately $2,985 of Hamilton’s development charge quantum for a single detached unit. This has been reflected in the comparison graphics within this report.

**McMaster University Student Residences**

As part of report FCS05063a “Development Charges – McMaster University Student Residences and Athletic Centre”, Council approved a 50% DC reduction for student residences built by McMaster. This is reflected in the amended DC by-law attached as Appendix A.

**GO Transit Development Charges By-Law**

The City of Hamilton is required by the Province to contribute to the GO Transit growth-capital program. Hamilton’s contribution over the ten year period from 2006 to 2015 is approximately $13 million of which $3.8 million is recoverable from development charges.

That equates to a residential GO Transit development charge of $186 per single detached equivalent unit.
Hamilton’s share of the GO Transit improvements have been allocated 100% to residential development.

It is important to note that within the City’s development charge by-law there are basically 2 types of development charge rates. There is the residential development charge rate with its different categories based on average densities (single-detached unit, apartment unit, etc.). Then there is the non-residential rate for which the City of Hamilton has 2 categories. One is the industrial rate and the other includes all other non-industrial type developments (commercial/institutional/office developments) which for this report will be called the commercial DC rate.

**BACKGROUND:**

Development Charges (DC) By-Law 04-145 was enacted on July 6, 2004, based on the findings of the Development Charges Background Study dated May 19, 2004. As per the Development Charges Act, 1997, DC By-Laws can be in effect for a maximum period of five years before a new Background Study and By-Law are required to be enacted. However, municipalities may elect to enact a new By-Law or amend their By-Laws before the five year period expires.

Since the City’s current DC By-Law was enacted in July 2004, several areas of the Background Study and By-Law that require updating have been identified.

As a result, staff are recommending that several amendments be made to DC By-Law 04-145. The proposed amended by-law is attached as Appendix A. Explanations and recommendations for each amendment are outlined in the “Analysis/Rationale” section of this report.

**CAPITAL COST ADJUSTMENTS**

The main reason for the amendments is to update capital costs in the 2004 background study which forms the basis of the charges in the by-law. The amendments take into account cost increases and previously unidentified projects that require DC funding.

The amended residential rate is $17,615 per single family dwelling (former Hamilton) and the amended non-residential rate is $16.03 per sq ft.

The impact on DC rates is summarized in Table 2.
**Table 2**

<table>
<thead>
<tr>
<th>DC Rate Summary</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td>next 5000 sq ft</td>
<td>$7.02</td>
<td>$9.24</td>
<td>$7.22</td>
<td>$7.22</td>
<td>-$2.03</td>
</tr>
</tbody>
</table>

*Includes scheduled 5.3% indexing

The DC rates are scheduled to be indexed by 5.3% for inflation on July 6, 2006 regardless of the proposed amendments.

**Residential DC Rates**

With the amendments, the full calculated rate that could potentially be charged to residential developments is $17,615 per single detached equivalent unit. That is an increase of $3482 (25%) from what the rates would have been on July 6, 2006 if the by-law were not amended.

This amendment is taking place as a result of significant cost increases and the inclusion of new projects, however the rates under the by-law were scheduled to be in effect until 2009. The rate increases that would take effect on July 6, 2006 have not been anticipated by the development community and as a result have not been factored into their business models.

As a result, it is recommended that the residential DC rate increase be phased in with 50% of the increase taking effect on July 6, 2006 with the full rate increase in effect on January 6, 2007.

Residential rates would be as follows in Table 3:
Non-residential - Industrial DC Rates

With the amendments, the full calculated rate that could potentially be charged to non-residential developments is $16.03 per square foot.

However, under DC by-law 04-145 the industrial rate was set at $1.00 in July 2004 with annual increases of $0.50 per year to 2009 (plus annual indexing). The industrial rate is currently $1.60 per square foot and is scheduled to increase to $2.25 per square foot as of July 6, 2006.

To recognize the fact that the City wants to encourage industrial development and to remain competitive with surrounding municipalities, it is recommended that a discounted rate be continued. However, to recognize that the calculated rate has increased it is also recommended that the industrial DC rate be increased proportionately. Rates would continue to increase by $0.50 each July 6th (plus indexing).

Table 4 illustrates the proposed industrial DC rate as well as estimated projection of the rates up to 2009.

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Rate Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2006 to July 2007</td>
<td>$2.58</td>
</tr>
<tr>
<td>July 2007 to July 2008*</td>
<td>$3.30</td>
</tr>
<tr>
<td>July 2008 to July 2009*</td>
<td>$4.08</td>
</tr>
</tbody>
</table>

Does not include area specific or education DCs that may apply. See Appendix C for a complete listing by area.

Commercial DC Rates (i.e. commercial/institutional/office)
The commercial DC rate was phased-in under the 2004 bylaw with the full rate scheduled to be charged as of July 6, 2006. Including the proposed amendments, the proposed full rate would be $16.03 per sq ft.

Under the current DC By-Law, the following stepped-rate DC reductions exist and would continue to exist under the proposed amendments. In summary, these are;

1. For expansions of existing buildings (July 6, 2004) up to 5,000 sq ft, the commercial DC rate = $0, Anything over 5,000 sq ft would then pay the full rate in effect.
2. For new developments, the commercial DC rate for 1 to 5,000 sq ft = 50% of the rate in effect, for 5,000 – 10,000 sq ft = 75% of the rate in effect and for the portion of development greater than 10,000 sq ft, the full commercial DC rate in effect would have to be paid.

It is recommended that the commercial DC rate be again, phased in over two years. 60% of the full calculated rate would be charged in year 1 and 80% of the full rate would be charged in year 2. Starting in year 3 the full rate would be charged.

Table 5 presents a schedule of the City’s current and proposed rates to 2009.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st 5000 sq ft</td>
<td>$4.68</td>
<td>$4.81</td>
<td>$6.41 (plus indexing)</td>
<td>$8.02 (plus indexing)</td>
</tr>
<tr>
<td>2nd 5000 sq ft</td>
<td>$7.02</td>
<td>$7.22</td>
<td>$9.62 (plus indexing)</td>
<td>$12.02 (plus indexing)</td>
</tr>
<tr>
<td>thereafter</td>
<td>$9.36</td>
<td>$9.62</td>
<td>$12.82 (plus indexing)</td>
<td>$16.03 (plus indexing)</td>
</tr>
</tbody>
</table>

Does not include area specific or education DCs that may apply. See Appendix C for a complete listing by area.

In addition to the DC rate amendments, the following administrative amendments are addressed:

**McMASTER UNIVERSITY STUDENT RESIDENCES**

As part of report FCS05063a “Development Charges – McMaster University Student Residences and Athletic Centre”, Council approved a 50% DC reduction for student residences built by McMaster. This is reflected in the amended DC by-law attached as Appendix A.

**UNITS WITH 6+ BEDROOMS**

*Proposed Amendment* – That dwelling units with more than 5 bedrooms be required to pay the residential facility rate for each bedroom over and above 5 in addition to paying the applicable dwelling unit rate.
Under the current by-law developments could be considered apartments with up to 6 and 8 bedrooms per unit but in reality charge individuals on a per bedroom basis (Common kitchen and bathroom).

The two or more bedroom apartment rate is based on an average persons per unit (ppu) of 2.2. Under the bylaw currently, an apartment unit can have an unlimited number of bedrooms and still only be required to pay the two+ bedroom apartment rate. By requiring developments with more than 5 bedrooms to pay the residential facility rate for each bedroom over and above 5 we would be collecting DCs that are more appropriate for the actual number of persons occupying the apartment.

Table 6 illustrates the difference in DCs payable. The example assumes a facility with 32 units. In the example each unit contains 8 bedrooms.

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Units/</th>
<th>Current DC Rates</th>
<th>DCs Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended Policy</td>
<td>32 x 8-bedroom units</td>
<td>$8,750</td>
<td>$280,000</td>
</tr>
<tr>
<td># of bedrooms &gt; 5</td>
<td>96 (32 x 3) x 8</td>
<td>$3,960</td>
<td>$380,160</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$660,160</td>
</tr>
</tbody>
</table>

Since each apartment unit has 8 bedrooms, each unit would be required to pay the apartment rate (currently $8750 per unit) plus the residential facility rate (currently $3960 per bedroom) for each additional bedroom above the 5 bedroom limit, in this case the 6th, 7th, and 8th bedrooms.

In this example the difference in DCs payable would be about $380,000. By approving the recommendation DCs paid would be more appropriate given the occupancy of the building.

**APARTMENT DC RATES**

Certain types of apartment developments are more marketable than others (condominiums) meaning that DCs do not always play a role in whether or not an apartment development is economically viable.

It should be noted that Council currently has several programs/policies in place which already provide financial relief to multi-unit developments. They include:

- Lower property tax rates for new apartment developments (tax rate=1.54 vs. 3.76)
- E.R.A.S.E. program
- DC exemption for downtown developments
- DC credit policy for building conversions
- Loan programs for building conversions to residential
No discount in apartment rates is recommended, however cash flow relief for apartment developers is recommended by allowing apartments to enter into deferred payment agreements. Under a deferred payment agreement payment of DCs can be postponed for up to five years. Interest applies.

Council may, at its discretion, provide further relief on a case by case basis as a grant-in-lieu of DCs.

**DEVELOPMENT CHARGE DEFERRAL AGREEMENT INTEREST RATES**

It is recommended that the interest rates charged on development charge deferral agreements be set at the five year debenture rate (currently 6%) plus one-quarter per cent (0.25%) for administration. This would match the City’s policy on external loans.

Currently the interest rate charged on DC deferral agreements is the prime rate (currently 5.75%).

**GO TRANSIT DEVELOPMENT CHARGES BY-LAW**

The City of Hamilton is required by the Province to contribute to the GO Transit growth-capital program. Hamilton’s contribution over the ten year period from 2006 to 2015 is approximately $13 million of which $3.8 million is recoverable from development charges.

That equates to a residential GO Transit development charge of $186 per unit.

Hamilton’s share of the GO Transit improvements have been allocated 100% to residential development so there is no non-residential GO Transit development charge.

Service improvements that benefit Hamilton include:

- An increase in the peak period service to Hamilton from three to six trains.
- Hamilton’s share of improvements to Union Station as well as rail maintenance and storage facilities.

The proposed GO Transit development charge by-law is attached as Appendix B.

**TRANSITION POLICY**

**Recommendation** - That a permanent transition policy be implemented as follows:

- That the development charge rates payable are the rates in effect on the date a completed building permit application is received and accepted by the City, provided that the permit is issued within 6 months of the effective date of a rate increase.

Where the building permit is revoked by the Chief Building Official on or after the date of the rate increase, any subsequent application for a building permit on the lands or site will be subject to the rates in effect on the date of permit issuance.
This permanent transition policy would apply to all developments for all rate increases and phase in adjustments in current and future years.

The transition policy is recommended so as not to penalize developments in progress with rate increases that have not been taken into account.

**Recommendation** - That a *one-time* transition policy be implemented as follows:

- For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2006, and no building permit in relation thereto has been issued prior to July 6, 2006, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2006, provided that the building permit is issued prior to Jan 6, 2007.

Where the building permit is revoked by the Chief Building Official on or after July 6, 2006, 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.

This one-time transition policy is recommended to recognize that some developments may have already started the site plan process without knowing of the proposed amendment and rate increases. It is proposed as one-time only since future phase-in and indexing of rates can be anticipated to a certain degree.

**STORMWATER MANAGEMENT PONDS**

It is recommended that in instances where a developer constructs a stormwater management pond that is identified in the DC study, the City’s liability for DC reimbursement be limited to the dollar value as identified in the DC study.

Since DCs are indexed annually by the construction price index, the maximum amount eligible for payout would be adjusted by the same factor.

This would protect the City’s liability in situations where land and/or construction costs increase more than the level of the construction price index.

**Development Charges Stakeholders Committee**

As part of the 2004 DC process a Stakeholders committee was formed to keep the community informed throughout the review process. The Development Charges Stakeholders Committee has reconvened throughout the 2006 amendment process. The purpose of the Committee is to review and provide feedback on proposed DC policies.

Members’ comments are attached as Appendix D.

The Committee membership is as follows:
Timelines

As per the Development Charges Act, 1997, a public meeting must be held before passing a DC by-law. The June 21, 2006 Corporate Administration Committee meeting is being proposed to serve as the public meeting. Required notice of the public meeting was advertised in the May 26th and June 2nd 2006 editions of the Hamilton Spectator and all Brabant Newspapers.

The amended background study and by-law were made available to the public on June 06, 2006, two weeks in advance of the public meeting as required under the Act. The GO Transit background study and by-law were also made available on this date.

If approved by Council, required notice of the passage of the amended by-law and new GO Transit by-law will be given in the Hamilton Spectator and Brabant Newspapers, notifying the public of the amended rates with the effective date of July 6, 2006, along with the deadline for appeal submissions which is 40 days after the by-law has been passed. It should be noted that only the amended portion of the by-law 04-145 is open to appeals.

ANALYSIS/RATIONALE:

Explanations and recommendations for each amendment are outlined below.

CAPITAL COST ADJUSTMENTS

The development charge (DC) by-law sets out the charges that are imposed on new developments so that growth pays its fair share of growth costs. The charges outlined in the current bylaw are based on the DC Background Study dated May 19, 2004.

The Background Study details on a project by project basis the future growth-related capital projects for which development charges are being imposed. The growth-related costs of the projects have been established based on information available at the time the study was undertaken.

The main reason for amending the DC by-law is to adjust certain components of the DC to reflect more accurate and up to date costs.
The Amended Background Study dated May 2006 contains the detailed project by project listings that will support the amended DC by-law. A summary of the changes follows:

- **Stormwater Land Acquisition Costs** – Costs to acquire land for stormwater infrastructure have increased substantially throughout the City. The 2004 background study included a city-wide provision of $250,000/ha ($100,000/acre). The amendments provide for a range of $430,000 to $618,000/ha ($175,000 to $250,000/acre) depending on area of the City.

- **Additional water, sewer, and storm water growth capital projects** – Certain growth-related projects that were not identified in 2004 have now been added to the background study.

- **Revised water, sewer, storm water and park development growth capital projects** – costs for certain DC financed projects in the 2004 study have been revised. The costs for these projects have been updated for more accurate DC funding.

- **Woodward Avenue Wastewater Plant** - One major project that has been added relates to the Woodward Avenue Wastewater Treatment Plant. $340 million in upgrades are planned for 2007 – 2013 to address long-term requirements for wastewater treatment.

Table 7 below provides a breakdown of the DC rate change with affected components highlighted.
Table 7
DC Service Component Breakdown

<table>
<thead>
<tr>
<th>Service Component</th>
<th>Residential Rate 2004 By-law</th>
<th>Residential Rate Amended By-law</th>
<th>Non-Res Rate 2004 By-law</th>
<th>Non-Res Rate Amended By-law</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residential Rate $/unit</td>
<td>Residential Rate $/unit</td>
<td>Non-Res Rate $/sq ft</td>
<td>Non-Res Rate $/sq ft</td>
</tr>
<tr>
<td>Water</td>
<td>$1,562</td>
<td>$2,209</td>
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<td>$2.81</td>
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<td>Wastewater</td>
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<td>$2,502</td>
<td>$1.08</td>
<td>$3.18</td>
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<td>Storm water</td>
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<td>Ambulance</td>
<td>$10</td>
<td>$10</td>
<td>$0.01</td>
<td>$0.01</td>
</tr>
<tr>
<td></td>
<td>$12,589</td>
<td>$15,690</td>
<td>$10.97</td>
<td>$14.28</td>
</tr>
</tbody>
</table>

Indexed to July 6, 2006 $17,615 $16.03

Impact on Residential DC Rates

Table 8 illustrates the impact on residential DC rates as a result of the amendment. It should be noted that the proposed amended rates includes a 5.3% indexing that was scheduled to take effect on July 6, 2006 regardless of the amendments.

Table 8 - Residential DC Summary

<table>
<thead>
<tr>
<th></th>
<th>Single Detached Unit</th>
<th>Apartment Units 2+ Bedrooms</th>
<th>Apartment Units 1 Bedroom</th>
<th>Townhouse Units</th>
<th>Residential Facility (per bedroom)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Rates</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City-Wide (by-law 04-145)</td>
<td>$13,422</td>
<td>$8,750</td>
<td>$5,225</td>
<td>$10,649</td>
<td>$3,960</td>
</tr>
<tr>
<td>As of July 6, 2006</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City-Wide (by-law 04-145)</td>
<td>$15,875</td>
<td>$10,349</td>
<td>$6,181</td>
<td>$12,596</td>
<td>$4,685</td>
</tr>
<tr>
<td>GO Transit</td>
<td>$186</td>
<td>$121</td>
<td>$72</td>
<td>$178</td>
<td>$55</td>
</tr>
<tr>
<td></td>
<td>$16,061</td>
<td>$10,470</td>
<td>$6,253</td>
<td>$12,774</td>
<td>$4,740</td>
</tr>
<tr>
<td>As of January 6, 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City-Wide (by-law 04-145)</td>
<td>$17,615</td>
<td>$11,484</td>
<td>$6,859</td>
<td>$13,977</td>
<td>$5,197</td>
</tr>
<tr>
<td>GO Transit</td>
<td>$186</td>
<td>$121</td>
<td>$72</td>
<td>$178</td>
<td>$55</td>
</tr>
<tr>
<td></td>
<td>$17,801</td>
<td>$11,605</td>
<td>$6,931</td>
<td>$14,155</td>
<td>$5,252</td>
</tr>
</tbody>
</table>

Does not include area specific or education DCs that may apply. See Appendix C for a complete listing by area.

Graph 1 provides a residential DC comparison with other municipalities.
Impact on Industrial DC Rates

Under the current by-law the non-residential rate was originally calculated as $10.97 per sq ft but the industrial rate was set at $1.00 or about 9% of the full rate. A phase in of the rate was approved whereby the rate would increase by $0.50 per year (plus indexing) each year as of July 6 up to July 6, 2009.

With the amendments, the full calculated rate that could potentially be charged to industrial developments is $16.03 per square foot.

To recognize the fact that the City wants to encourage industrial development and to remain competitive with surrounding municipalities, it is recommended that a discounted rate be continued. However, to recognize that the calculated rate has increased it is also recommended that the industrial DC rate be increased proportionately.

By increasing the rate in proportion to the rate increase the industrial DC rate would be $2.58 per sq ft as of July 6, 2006. The following is an explanation of the calculation.

Due to the cost amendments the non-residential rate has increased by $3.31. Adding that to the original $10.97 calculated rate equals $14.28. 9% of this equals $1.30. Adding two $0.50 increases for two years worth of phase-in equals $2.30 in 2004 dollars. Indexing this value to July 6, 2006 results in an industrial DC rate of $2.58 per square foot.
The calculation would be repeated each July 6 to adjust the rate for the $0.50 annual increase (plus indexing).

Table 9 shows the recommended industrial DC rate as of July 6, 2006 along with the projected rates to July 2009.

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Rate Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2006 to July 2007</td>
<td>$2.58</td>
</tr>
<tr>
<td>July 2007 to July 2008*</td>
<td>$3.30</td>
</tr>
<tr>
<td>July 2008 to July 2009*</td>
<td>$4.08</td>
</tr>
</tbody>
</table>

*5% indexing assumed

Does not include area specific or education DCs that may apply. See Appendix C for a complete listing by area.

It should be noted that, as per the Development Charges Act, 1997, any discount in rates given to industrial developments cannot be imposed on other types of developments. For example, the industrial DC discount cannot be made up by charging more DCs on residential developments.

It should also be noted that the Development Charges Act, 1997 exempts DCs from being imposed on industrial expansions for up to 50% of the already existing gross floor area.

Graph 2 provides an industrial DC rate comparison with various other municipalities including our existing and proposed rates.
Includes both upper and lower tier DCs where applicable. All development in Mississauga is also charged $20,600 per acre for storm water management in addition to the DCs shown in Graph 2. Brantford charges industrial DCs of $30,492 on a per acre basis which equates to approximately $2.80 per square foot.

Impact on Commercial DC Rates (i.e. commercial, institutional)

The commercial DC rate was phased-in under the 2004 bylaw with the full rate scheduled to be charged as of July 6, 2006. The by-law also provided for a stepped-rate calculation as follows:

1\textsuperscript{st} 5000 sq ft = 50\% of the charge in effect
2\textsuperscript{nd} 5000 sq ft = 75\% of the charge in effect
Thereafter = 100\% of the charge in effect

Including the proposed amendments, the full rate would be $16.03 per sq ft.

As a result, it is recommended that the rate be phased-in over two years. 60\% of the full calculated rate would be charged in year 1 and 80\% of the full rate would be charged in year 2. Starting in year 3 the full rate would be charged.

Table 10 provides a summary of the recommended commercial DC rates:
Table 10
Schedule of Commercial DC Rates (Per Square Foot)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st 5000 sq ft</td>
<td>$4.68</td>
<td>$4.81</td>
<td>$6.41 (plus indexing)</td>
<td>$8.02 (plus indexing)</td>
</tr>
<tr>
<td>2nd 5000 sq ft</td>
<td>$7.02</td>
<td>$7.22</td>
<td>$9.62 (plus indexing)</td>
<td>$12.02 (plus indexing)</td>
</tr>
<tr>
<td>thereafter</td>
<td>$9.36</td>
<td>$9.62</td>
<td>$12.82 (plus indexing)</td>
<td>$16.03 (plus indexing)</td>
</tr>
</tbody>
</table>

(Plus indexing applies to commercial rates for July 2007 onwards. Rates are subject to adjustment based on cost of living index)

Does not include area specific or education DCs that may apply. See Appendix C for a complete listing by area.

It should be noted that a 5,000 square foot commercial expansion exemption was also approved in 2004 for properties that were in existence as of July 6, 2004. This exemption would remain in effect.

Graph 3 provides a comparison of Commercial DC rates in other municipalities.

Graph 3 - Commercial DCs

Includes both upper and lower tier DCs where applicable. All development in Mississauga is also charged $20,600 per acre for storm water management in addition to the DCs shown in Graph 3.

UNITS WITH 6+ BEDROOMS

Proposed Amendment – That dwelling units with more than 5 bedrooms be required to pay the residential facility rate for each bedroom over and above 5 in addition to paying the applicable dwelling unit rate.
This issue has come up recently in regards to private student residence developments that are apartment buildings with units containing up to 8 bedrooms each.

By paying the two+ bedroom apartment rate the DCs payable on these types of developments are significantly less than they should be based on occupancy levels.

The apartment rate for apartment units with two or more bedrooms is based on a persons per unit average of 2.2 and was not set with 6 and 8 bedroom apartments in mind.

Table 11 illustrates the difference in DCs payable. The example assumes a facility with 32 units. In the example, each unit contains 8 bedrooms.

<table>
<thead>
<tr>
<th>Table 11</th>
<th>Units/Development Type</th>
<th>Current DC Rates</th>
<th>DCs Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td># of 8-bedroom units</td>
<td>32 x $8,750</td>
<td>$280,000</td>
</tr>
<tr>
<td>Recommended Policy</td>
<td># of bedrooms &gt; 5</td>
<td>96 (32 x 3) x $3,960</td>
<td>$380,160</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$660,160</td>
</tr>
<tr>
<td>Existing Policy</td>
<td># of 8-bedroom units</td>
<td>32 x $8,750</td>
<td>$280,000</td>
</tr>
</tbody>
</table>

Since each apartment unit has 8 bedrooms, each unit would be required to pay the apartment rate (currently $8750 per unit) plus the residential facility rate (currently $3960 per bedroom) for each additional bedroom above the 5 bedroom limit, in this case the 6th, 7th, and 8th bedrooms.

In this example the difference in DCs payable would be about $380,000. By approving the recommendation the DCs payable would be more appropriate given the occupancy of the building.

Similar developments have taken place elsewhere. A private student residence development in Guelph was recently built with 7 bedrooms per unit. The development was charged as apartments.

The City of Oshawa has a special "lodging unit" rate which applies to student residences. This would be the equivalent of our "residential facility" rate. Imposing this type of rate on private student residence developments does not solve the problem since the developer could claim that the units are not specifically marketed to students.

In response to such problems in the past, the City of London amended their Zoning By-law to limit a dwelling unit to a maximum of 5 bedrooms. If there are more than 5 bedrooms London considers the facility to be a commercial lodging house and charges their non-residential DC on a per square foot basis.

To prevent this from happening in the future, it is recommended that dwelling units with more than 5 bedrooms be required to pay the residential facility rate for each bedroom over 5 in addition to the applicable dwelling unit rate.
The amendment will be more reflective of the actual number of persons living in the building meaning that these types of developments would pay their fair share of growth costs.

The alternative to the recommendation would be to maintain the status quo.

**APARTMENT DC RATES**

There are two DC rates for apartment units, a 1 bedroom apartment unit rate and a 2+ bedroom apartment unit rate.

The 1 bedroom rate is based on an average persons per unit (ppu) of 1.3. The 2+ bedroom rate is based on average ppu of 2.2.

Below is a summary schedule of current apartment rates and proposed apartment rates based on the by-law amendments.

<table>
<thead>
<tr>
<th></th>
<th>Proposed Amended Rates</th>
<th>Proposed Amended Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Current Rates</td>
<td>July 6, 2006*</td>
</tr>
<tr>
<td>one bedroom unit</td>
<td>$5,225</td>
<td>$6,181</td>
</tr>
<tr>
<td>two+ bedroom unit</td>
<td>$8,750</td>
<td>$10,349</td>
</tr>
</tbody>
</table>

*includes 5.3% indexing

Graph 4 presents a comparison of apartment rates in various neighbouring municipalities.
The downtown core is exempt from DCs as are affordable housing projects (throughout the City). As a result, apartment developments (and other forms of development) are not required to pay DCs in the downtown core or if they are an affordable housing project.

Certain types of apartment developments are more marketable than others (condos) meaning that DCs do not always play a role in whether or not an apartment development proceeds. Some are economically viable at current DC rates whereas others may not be.

Also, certain apartment developments may be beneficial to the community (i.e. revitalization), but may not be economically viable without support. In these cases it can be argued that some sort of DC relief is justifiable.

For these reasons staff are not recommending a DC discount to apartment developments but Council may, at its discretion, provide for a grant-in-lieu of DCs on a case by case basis. This allows only those developments that need and deserve the grant an opportunity to receive the grant.

However, it is recommended that apartment developments be allowed to enter into DC deferral agreements. The City's current policy is to allow non-residential developments and residential facility developments to enter into DC deferral agreements. Under the agreement DCs can be deferred for up to 5 years (interest applies). It is recommended that the same terms be extended to apartment developments as well.
DEVELOPMENT CHARGE DEFERRAL AGREEMENT INTEREST RATES
It is recommended that the interest rates charged on development charge deferral agreements be set at the five year debenture rate (currently 6%) plus one-quarter per cent (0.25%) for administration. This is would match the City’s policy on external loans.

Currently the interest rate charged on DC deferral agreements is the prime rate (currently 5.75%).

McMASTER STUDENT RESIDENCES
As part of report FCS05063a “Development Charges – McMaster University Student Residences and Athletic Centre”, Council approved a 50% DC reduction for student residences built by McMaster. This is reflected in the amended DC by-law attached as Appendix A.

GO TRANSIT DEVELOPMENT CHARGES BY-LAW
The City of Hamilton is required by the Province to contribute to the GO Transit growth-capital program. Hamilton’s contribution over the ten year period from 2006 to 2015 is approximately $13 million of which $3.8 million is recoverable from development charges.

That equates to a residential GO Transit development charge of $186 per single detached unit.

Hamilton’s share of the GO Transit improvements have been allocated 100% to residential development so there is no non-residential GO Transit development charge.

Service improvements that benefit Hamilton include:

- An increase in the peak period service to Hamilton from three to six trains.
- Hamilton’s share of improvements to Union Station as well as rail maintenance and storage facilities.

The proposed GO Transit development charge by-law is attached as Appendix B.

The effective date of the by-law would be July 6, 2006, the same date that the proposed amendments take effect.

ALTERNATIVES FOR CONSIDERATION:

Residential DC Rates
If the recommendation is approved, the residential development charge (DC) rate increase would be phased in with the rate being $15,875 per single detached equivalent unit as of July 6, 2006. The full calculated rate of $17,615 per single detached equivalent unit would come into effect on January 6, 2007 (six months later).
The alternative would be to charge the full calculated rate of $17,615 per unit as of July 6, 2006, however the rate increase has not been anticipated by the development community and as a result has not been factored into their business models.

**Non-Residential DC Rates**

*Industrial*
If the recommendation is approved the industrial DC rate would be $2.58 per sq ft as of July 6, 2006. The full calculated rate is $16.03 per square foot. This recommended rate is comparable to surrounding municipalities with which Hamilton is competing to attract industrial development.

As an alternative the industrial rate could be set anywhere up to $16.03 per sq ft. However a high rate will discourage industrial developments from locating in Hamilton whereas if a low rate is approved we will be unnecessarily under-collecting from industrial development.

*Commercial*
The recommendation is to phase in the full calculated rate of $16.03 per sq ft over 2 years. 60% of the full rate would be charged as of July 6, 2006. 80% of the full rate would be charged as of July 6, 2007. The full rate would be charged as of July 6, 2008.

Up to the full rate of $16.03 can be charged but a balance between recovering growth costs and attracting development to help grow the municipal tax base and create local jobs is necessary.

*Units with 6+ Bedrooms*
The alternative would be to not amend the existing policy. There would be no limit on the number of bedrooms a dwelling unit can have for DC purposes. As a result, apartment units can have an unlimited number of bedrooms and only pay the two+ bedroom apartment rate. The impact would be that DCs collected from these types of developments would be significantly less under this alternative.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

None

**POLICIES AFFECTING PROPOSAL:**

**TRANSITION POLICY**
Development charges (DCs) are payable upon permit issuance. However, a transition policy is proposed to deal with developments in progress that are nearing the permit issuance stage.
The current policy as approved in Report FCS05057 “Phase-in & Indexing of Development Charge Rates 2005” is as follows:

“The development charge rate payable is the rate in effect on the date that a completed building permit application is received by the City provided that the building permit is issued within 6 months of the application date”.

The intent of the policy was to provide developments that have recently applied for permits sufficient time to have their permits issued and not be penalized by sudden and unexpected rate increases.

A slight change to the current policy is recommended since there have been cases where a completed permit application is submitted well in advance of the permit issuance date. These applicants cannot benefit from the same length of transition period after the rate increase takes effect.

Therefore, staff are recommending that the transition policy be changed slightly as follows (changes in bold):

- 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.

The word “accepted” has also been added to stress that the permit application must be accepted as a complete application by the Building Department. The deadline for permit issuance has been changed to 6 months after the date of a rate increase so that all applicants have the same length of time after a rate increase takes effect to have their permits issued and still pay the rates in effect at the time of application.

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.

This permanent transition policy would apply to all developments for all rate increases and phase in adjustments in current and future years.

In addition to the permanent transition policy a one-time transition policy is recommended as follows:

- For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2006, and no building permit in relation thereto has been issued prior to July 6, 2006, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2006, provided that the building permit is issued prior to Jan 6, 2007.
Where the building permit is revoked by the Chief Building Official on or after July 6, 2006, 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.

This one-time transition policy is recommended to recognize that some developments may have already started the site plan process without knowing of the proposed amendment and rate increases. It is proposed as one-time only since future phase-in and indexing of rates can be anticipated to a certain degree.

**STORMWATER MANAGEMENT FACILITIES**

It is recommended that in instances where a developer constructs a stormwater management pond that is identified in the DC study, the City’s liability for DC reimbursement be limited to the dollar value identified in the DC study.

Since DCs are indexed annually by the construction price index, the maximum amount eligible for payout will be adjusted by the same factor.

This will protect the City’s liability in situations where land and/or construction costs increase more than the level of the construction price index.

The DC contribution upset limit would be based on the total cost (land plus construction costs). Table 13 illustrates what the City’s maximum DC contribution would be under various circumstances assuming a stormwater management pond that is identified in the background study with a total cost of $500,000 ($150,000 for land and $350,000 for construction).

<table>
<thead>
<tr>
<th>Actual land costs</th>
<th>Example 1</th>
<th>Example 2</th>
<th>Example 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Actual constructions costs</td>
<td>$250,000</td>
<td>$300,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>Total Costs</td>
<td>$350,000</td>
<td>$500,000</td>
<td>$600,000</td>
</tr>
<tr>
<td>Maximum DC payout</td>
<td>$350,000</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

As can be seen from Table 13, total costs would be reimbursed up to a maximum of the total DC amount identified in the background study.

**RELEVANT CONSULTATION:**

- Planning & Development
- Building & Licensing
- Economic Development
- Legal Services
CITY STRATEGIC COMMITMENT:

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

Evaluate the implications of your recommendations by indicating and completing the sections below. Consider both short-term and long-term implications.

Community Well-Being is enhanced. ☑ Yes ☐ No

Environmental Well-Being is enhanced. ☑ Yes ☐ No

Economic Well-Being is enhanced. ☑ Yes ☐ No

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
THE CITY OF HAMILTON  
BYLAW NO. ___-___  

Being a by-law to amend By-law 04-145  
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 the 6th day of July 2004, enact Bylaw 04-145 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 28, 2006, did receive recommendations for amendments to the said Development Charges By-law from the General Manager of Finance and Corporate Services and did resolve to take steps to amend Bylaw 04-145 as hereinafter provided;

AND WHEREAS as required by Section 10 of the Act, the City has undertaken and completed a development charge background study in respect of the amendments hereinafter provided for, 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 May 2006 completion of the said development charge background study set out in the said Report to the Corporate Administration Committee dated June 1, 2006 by the General Manager of Finance and Corporate Services;

AND WHEREAS in advance of passing this Bylaw the Council of the City of Hamilton has given notice of and held a public meeting on June 21, 2006 in accordance with Section 12 of the Act regarding its proposals for this development charges bylaw;

AND WHEREAS the Council of the City of Hamilton, through its Corporate Administration Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, this bylaw;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 28th, 2006, 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 FCS06063 “DC Bylaw 04-145 Amendments & GO DC Bylaw” 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:

1. Section 1 of By-law 04-145 is hereby amended as follows;

(a) Clause (m) titled “dwelling unit” is hereby deleted and the following substituted
therefor, namely:

“(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 provided for the exclusive use of such person or persons.”

(b) Clause (ee) titled “residential facility” is hereby amended by deleting the words “dwelling unit” from the first and second lines thereof and substituting therefor the word “bedrooms”.

2. Section 16 of By-law 04-145 is hereby deleted and the following substituted therefor, namely:

“16. 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; and

(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.”

3. Section 18 of By-law 04-145 is hereby amended by deleting “Years 3, 4 and 5” and accompanying figures and text and substituting the following therefor:

“Year 3: $2.30 per square foot (indexed);”
“Year 4: $2.80 per square foot (indexed);”
“Year 5: $3.30 per square foot indexed).”

4. Section 19 of By-law is hereby deleted and the following substituted therefor, namely:

“19. The non-residential charge for development other than industrial shall be imposed and collected as follows, namely:

(a) Year 3: $8.57 per sq ft (indexed)
(b) Year 4: $11.42 per sq ft (indexed)
(c) Year 5: $14.28 per sq ft (indexed)
5. Paragraph “(d)” of Section 28 of By-law 04-145 is hereby amended by inserting the word “is” between the words “development” and “used” in the fourth line thereof.

6. Paragraph “(d)” of Section 28 of By-law 04-145 is hereby amended by deleting the words “such development” from the end of the fifth and the beginning of the sixth lines thereof.

7. Paragraph “(e)” of Section 28 of By-law 04-145 is hereby amended by deleting the word “such” from the first line thereof and substituting therefore the word “is”.

8. Section 28 of By-law 04-145 is hereby amended by adding the following clause thereto, namely:

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

9. Section 36 of By-law 04-145 is hereby amended by inserting the words “or an apartment development” between the words “facility” and “only” in the second line.

10. Section 42 of By-law 04-145 is hereby deleted and the following substituted therefor, namely,

“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”.

11. Section 43 of By-law 04-145 is hereby deleted and the following substituted therefor, namely

“For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2006, and no building permit in relation thereto has been issued prior to July 6, 2006, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2006, provided that the building permit is issued prior to Jan 6, 2007. Where the said building permit is revoked by the Chief Building Official on or after July 6, 2006, 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 for site plan approval” 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, together with all applicable fees.”.

12. Schedule “E” to By-law 04-145 is hereby deleted and the Schedule attached to this amending by-law as Schedule “A” is hereby substituted therefor.

13. Schedule “F” to By-law 04-145 is hereby deleted and the Schedule attached to this amending by-law as Schedule “B” is hereby substituted therefor.

14. Schedule “G” to by-law 04-145 is hereby deleted and the Schedule attached to this amending by-law as Schedule “C” is hereby substituted therefor.

15. This bylaw shall come into force and take effect at 12:01 a.m. on July 6, 2006.
16. This bylaw may be referred to as the “2006 Development Charges Amending Bylaw”.

17. The definitions of phrases and terms in the Bylaw shall apply to this amending bylaw.

18. Bylaw 04-145, save as amended herein, is hereby confirmed and continued.

PASSED AND ENACTED THIS 28TH DAY OF JUNE 2006.

____________________________    _________________________
MAYOR       CLERK
SCHEDULE A TO BYLAW 06-___

SCHEDULE "E"
BY-LAW NO. 04-145
CITY OF HAMILTON
LIST OF SERVICES AND DEVELOPMENT CHARGES
MUNICIPAL WIDE CHARGES

Rates Effective July 6, 2006 to January 5, 2007

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>Residential (per unit rates unless indicated otherwise)</th>
<th>Non-Residential (per s.f. of gross floor area)</th>
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<tbody>
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<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling</td>
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<tr>
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<td>Apartments 2 Bedrooms +</td>
<td>Apartments Bachelor &amp; 1 Bedroom</td>
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<tr>
<td>Municipal Wide Services</td>
<td>4933</td>
<td>3216</td>
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<tr>
<td>Other Transportation Services</td>
<td>91</td>
<td>59</td>
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<tr>
<td>Fire Protection Services</td>
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<td>Police Services</td>
<td>167</td>
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<tr>
<td>Outdoor Recreation Services</td>
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<tr>
<td>Indoor Recreation Services</td>
<td>890</td>
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<tr>
<td>Library Services</td>
<td>403</td>
<td>263</td>
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<tr>
<td>Administration</td>
<td>342</td>
<td>223</td>
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<tr>
<td>Homes for the Aged</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>Health and Child Services</td>
<td>403</td>
<td>223</td>
</tr>
<tr>
<td>Ambulance</td>
<td>10</td>
<td>7</td>
</tr>
</tbody>
</table>

Total Municipal Wide Charges: 7936 5174 3090 6297 2342 6.56

*Note: All figures are in 2004 dollars prior to appropriate indexing being applied.
There are two categories of non-residential charge - "industrial" and "non-industrial" as defined in this by-law.

The industrial development charge is phased in as follows:
Year 3 (July 6, 2006 to July 5, 2007): $2.30 per sq ft (plus indexing)
Year 4 (July 6, 2007 to July 5, 2008): $2.80 per sq ft (plus indexing)
Year 5 (July 6, 2008 to July 5, 2009): $3.30 per sq ft (plus indexing)

The non-industrial charge is phased in as follows:
3rd year of by-law (July 6, 2006 to July 5, 2007): $8.57 per sq ft (plus indexing)
4th year of by-law (July 6, 2007 to July 5, 2008): $11.42 per sq ft (plus indexing)
5th year of by-law (July 6, 2008 to July 5, 2009): $14.28 per sq ft (plus indexing)

New "non-industrial" developments are charged as follows:
1 - 5000 sq ft: 50% of the charge in effect
5001 - 10,000: 75% of the charge in effect
10,001 sq ft and greater: 100% of the charge in effect

For expansions of "non-industrial" developments already in existence as of July 6, 2004 the following rates apply:
1st 5000 sq ft of expansion: exempt
Sq footage in excess of 5000: 100% of the charge in effect

Rates Effective January 6, 2007

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<tr>
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</table>

Total Municipal Wide Charges: 7985 5206 3109 6336 2356 6.56

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For expansions of "non-industrial" developments already in existence as of July 6, 2004 the following rates apply:
1st 5000 sq ft of expansion: exempt
Sq footage in excess of 5000: 100% of the charge in effect
## SCHEDULE B TO BYLAW 06-___

### SCHEDULE "F"

BY-LAW NO. 04-145  
CITY OF HAMILTON  
LIST OF SERVICES AND DEVELOPMENT CHARGES  
URBAN AREA SERVICES

### Rates Effective July 6, 2006 to January 5, 2007

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>Residential (per unit rates unless indicated otherwise)</th>
<th>Non-Residential (per s.f. of gross floor area)</th>
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<tbody>
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<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling</td>
<td>Multiple Unit Dwellings</td>
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<tr>
<td></td>
<td>Apartments 2 Bed +</td>
<td>Apartments Bachelor &amp; 1 Bedroom</td>
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<tr>
<td>Urban Area Services</td>
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<tr>
<td>Transit (Defined Urban Transit Service Area)</td>
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<td>Storm Water Drainage and Control Services**</td>
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<td>Wastewater Services</td>
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<td>Total Urban Area Services</td>
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### Rates Effective January 6, 2007

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<th>SERVICE</th>
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<td>Urban Area Services</td>
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The industrial development charge is phased in as follows:
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For expansions of "non-industrial" developments already in existence as of July 6, 2004 the following rates apply:
- 1st 5000 sq ft of expansion: exempt
- Sq footage in excess of 5000: 100% of the charge in effect

**Note: Where a permanent/centralized stormwater management facility in a particular subdivision has been provided at the cost of the developer as a condition of approval of a plan of subdivision, the facility shall be considered a credit for services-in-lieu and accordingly, DCs on any of the proponents unbuilt lots within the subject subdivision shall be reduced by the extent of the stormwater management facility sub-component which is 67% of the total stormwater drainage and control services.
SCHEDULE "G"
BY-LAW NO. 04-145
CITY OF HAMILTON
LIST OF SERVICES AND DEVELOPMENT CHARGES
AREA SPECIFIC CHARGES

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>RESIDENTIAL (per unit rates unless indicated otherwise)</th>
<th>NON-RESIDENTIAL (per s.f. of gross floor area)</th>
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<td>Binbrook**</td>
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<tr>
<td>Dundas/Waterdown***</td>
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<td>6935</td>
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** Special Area Charge for that portion of the former Township of Glanbrook designated in the City's Official Plan as the urban settlement area of Binbrook, payable in addition to the municipal wide development charge. Includes the costs associated with the Glanbrook Landfill Leachate Treatment/Removal and with the Binbrook Settlement Water and Wastewater Servicing Project.

***Special Area Charge for the former Town of Dundas and for that portion of the former Town of Flamborough designated in the City's Official Plan as the urban area of Waterdown, payable in addition to the municipal wide development charge. Includes the costs associated with the Dundas/Waterdown Wastewater Flow Diversion Project.
THE CITY OF HAMILTON
BYLAW NO.

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

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

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

AND WHEREAS, as required by Section 11 of the Act, this By-law is being enacted within one year of the June 2006 completion of the said development charge background study, titled “City of Hamilton Development Charge Background Study for the GO Transit Service,” prepared by C.N. Watson and Associates Ltd.;

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 21, 2006 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 Corporate Administration Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, the said By-law;

AND WHEREAS, Council intends that development-related post 2015 capacity will be paid for by future development charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 28, 2006, 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 FCS06063 “DC By-law 04-145 Amendments and GO DC By-law” 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,
Appendix B to Report FCS06063 DC Bylaw 04-145 Amendments & GO DC Bylaw


(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. Rag 168/03 under the Municipal Act, 2001, S.O. 2001, c.15, Shed. A 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, MRS. 1990, cap. 13, as amended, 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) "Regulation” means Ontario Regulation 82/98 under the Development Charges Act, 1997, as amended.

(v) "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.

(w) “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, MRS. 1990, c. P. 13, as amended. Residential facility does not include a single detached dwelling, a semi-detached dwelling, a farm help house, a multiple unit dwelling or an apartment as defined herein, 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.

(x) “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.

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

(z) “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 04-145 as amended and any successor by-law and any additional development charge by-laws that may be passed 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, MRS. 1990, c. P. 13, or successor legislation;

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

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

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

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

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

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

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, MRS. 1990, c.P.13, or successor legislation, that the owner, at his or her own expense, shall install such local services related to or within a plan of subdivision, as Council may require, in accordance with the City’s applicable local services policies in effect at this time.

Calculation of Development Charges

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

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

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

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

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

Exemptions for Intensification of Existing Housing

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

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

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

Exemptions for Certain Buildings

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;

   (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 McMaster University is exempt from 50% of the development charge otherwise payable pursuant to 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) in the case of a demolition of all or part of a building for which a demolition permit is issued between June 19, 1990 and the effective date of this By-law, a credit is allowed against development charges that shall be otherwise payable provided a building permit is issued within the term of this By-law.

(c) 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;

(d) in the case of a building used for a non-residential purpose that has been demolished there is no credit.

(e) 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

(f) 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.

**Prepayment of Deferral Agreements**

27. Save as otherwise specified in this By-law, and for an apartment development or a residential facility 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.

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

28. 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**
29. 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

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

Indexing

31. 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

32. The General Manager of Corporate Services shall 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

33. 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.

34. For site plan applications, where a complete application for site plan approval has been received by the City prior to May 1, 2006, and no building permit in relation thereto has been issued prior to July 6, 2006, the development charges payable upon issuance of the building permit shall be based on the rates in effect on July 5, 2006, provided that the building permit is issued prior to Jan 6, 2007. Where the said building permit is revoked by the Chief Building Official on or after July 6, 2006, 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 for site plan approval” 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, together with all applicable fees. Where the said building permit is revoked by the Chief Building Official on or after July 6, 2006, any subsequent application for a building permit on the same development will be subject to the rates in effect on the date of permit issuance.
General

35. This By-law may be referred to as the “City of Hamilton GO Transit Development Charges By-law, 2006”.

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

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

Date By-law Effective

37. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2006.

Date By-law Expires

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

By-law Registration

39. 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

40. 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

41. 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 ________ DAY OF JUNE 2006.

__________________________________        ___________________________________
MAYOR                                                               CLERK
### SCHEDULE “A”

**GO TRANSIT DEVELOPMENT CHARGES**

<table>
<thead>
<tr>
<th>Residential Development Type</th>
<th>Charge</th>
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<tr>
<td>Single and Semi-Detached</td>
<td>$186 per unit</td>
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<tr>
<td>Apartments</td>
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</tr>
<tr>
<td>- 2 Bedrooms+</td>
<td>$121 per unit</td>
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<tr>
<td>- Bachelor and 1 Bedroom</td>
<td>$72 per unit</td>
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<tr>
<td>Residential Facility</td>
<td>$55 per bedroom</td>
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<td>Other Multiples</td>
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SCHEDULE “B”

DOWNTOWN COMMUNITY IMPROVEMENT PLAN
(CIP) AREA
**Appendix C to Report FCS06063 DC Bylaw 04-145 Amendments & GO DC Bylaw**

**CITY OF HAMILTON DEVELOPMENT CHARGES**

**RATES EFFECTIVE JULY 6, 2006 - JANUARY 5, 2007.**

### SUMMARY SCHEDULE

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</th>
<th>Apartments 2+ bedrooms (per unit)</th>
<th>Apartments Bachelor &amp; 1 Bedroom (per unit)</th>
<th>Townhouses &amp; Other Multiple Unit Dwellings (per unit)</th>
<th>Residential Facility (per unit)</th>
<th>Non-residential (per SQUARE FOOT)</th>
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<td>12,596</td>
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<td>(see note a) 16.03</td>
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<td>148</td>
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<td>-</td>
</tr>
<tr>
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<tr>
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<td>OTHER AREAS (eg. Hamilton, Ancaster, Stoney Creek, Glenbrook, Flamborough)</td>
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<tr>
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<td>6,181</td>
<td>12,596</td>
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<tr>
<td>GO Transit</td>
<td>186</td>
<td>121</td>
<td>72</td>
<td>148</td>
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<td><strong>TOTAL</strong></td>
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<td>6,560</td>
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<td>16.14</td>
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</table>

The development charges shown above are applicable to developments located in urban areas. Charges applicable to developments outside the urban area shall be determined with regard to the services required or used by an individual development (ie., wastewater, waterworks).

**NOTES:**

a) There are two categories of non-residential charge - "industrial" and "non-industrial" as defined in this by-law.

b) The special area charge is payable in addition to the uniform general charge.

c) The special area charge is payable in addition to the uniform general charge.


e) Applies to lands identified in the Minutes of Settlements (West Flamborough Developments Ltd. et al.). Charge is payable in addition to the uniform and special area development charges.

Charge is assessed as follows:

- Within designated fill line: $39,900 per acre
- Outside of designated fill line: $14,900 per acre

For expansions of "non-industrial" developments already in existence as of July 6, 2004 the following City rates apply:

- 1st 5000 sq ft: exempt
- 5000+ sq ft: 100% of the charge in effect (currently $9.62 per sq ft)

Exemption does not apply to educational and special area charges.
Appendix D
Report FCS06063
DC Bylaw 04-145 Amendments
&
GO DC Bylaw

Stakeholder Comments
City of Hamilton  
Finance and Corporate Services  
71 Main St. W  
Hamilton, ON L8P 4Y5  

attn: Joe Rinaldo  
General Manager  

Re: Hamilton DC By-Law

May 26, 2006

Dear Joe:

Thank you for meeting with members of the HHHBA this afternoon to review the issues related to the proposed Development Charge for the City of Hamilton. I wish to make the following comments:

General

As you are aware, HHHBA is currently in discussion with the City regarding the new proposed changes to the development charges applicable to residential building in the City of Hamilton. We were formally notified on April 27, 2006 of the proposed increases that would see a single family home development charge increase from approximately $13,422 to $18,415—a staggering 37.2% increase. This notice came with a date of implementation of July 6, 2006.

Our concerns regarding the increase from an industry and market perspective are significant.

A situation where a development charge is constantly being opened and increased creates an environment of complete chaos. For example, this current increase of approximately $4,000 has a potential impact on the value of an acre of land of as much as $60,000. This means that an acre of land purchased March 2006 can be negatively affected by as much as $60,000/acre within months.

In the recent past, we have seen the cumulative impact of government policies (such as the Greenbelt Plan, Places to Grow legislation, Provincial Policy Statements, Conservation Authority Generic Regulations) and the associated increase in fees and charges, erode the marginal advances builders have made in providing affordable housing for Hamilton residents. This latest proposal to increase the DC rate in Hamilton will have similar impact.

The last increase for development charges was July 2004. At that time, Glenbrook's development charge was approximately $7,000 and Stoney Creek Mountain was approximately $10,000. The development charge was increased to $12,500 across the board in July 2004. Now only 2 years later, the proposed increase to $18,415 would see a 2 year increase of between $8,415 and $11,400 (84% and 163% respectively).
These increases are impossible for our industry to deal with as they come with great frequency and are far too much for the market or industry to absorb. City staff has also warned that this is not the end of the increases as they fully expect to reopen the development charges next July once again.

We have always maintained that the development industry should pay for its fair share, and we do not back away from that commitment. However, the new home purchaser and the development industry should not be penalized for the municipality's fiscal problems.

Towards this end we request that the City implement an independent 3rd party peer review of the background information for numbers projected in the DC By-Law together with an audit of the DC accounts. We propose that the cost of this peer review and audit be paid for from the funds for DC studies within the existing By-Law.

**Woodward Avenue WWTP**

1. We agreed to disagree on the flows attributed to the existing service population and to future growth. It is our position that difference in the average loading for the existing service population at 863 L/cap-d and the anticipated decrease to 700 L/cap-d should be reflected in the costs being attributed to new growth.

2. We wish to advise you that we are **strongly opposed** to the City's position that new growth should pay for the full cost of the improvements to meet the final RAP (Stage 2) objectives.

Notwithstanding the explanation provided by staff that the additional flows require the additional improvements, it is our position that since the final RAP objectives are so much more stringent than the existing criteria and the initial RAP objectives, there is a definite benefit to the existing community by the reduction in the loading and the concentration for TSS, NH₃-N and TP in the effluent leaving the Woodward WWTP.

It is also our understanding that RAP Stage 2 objectives were not fully endorsed by City Council (due to cost implications) and therefore it is our position that requiring new growth to pay for the full cost of achieving RAP Stage 2 objectives is unjustifiable.

The City has agreed to provide us the anticipated costs for treating the effluent to final RAP objectives, and we **reserve the right to have further discussions on this issue**.

3. We are in agreement with the revised proposal that for the cost attributed to new growth, a greater number should be attributed to post-period benefit. The City has proposed that approx. $79 million be attributed to the current charge and approx. $134 million to post-period benefit. Whereas we are not in agreement with the amounts, we are in agreement with the % split between current and post-period benefits.
Inflow/infiltration Cost benefits

4. It is our opinion that the amount that is budgeted for I/I studies should be 100% benefit to existing. It is our position that these studies are being conducted to identify an existing problem. We agreed to disagree on sharing the cost on a 50-50 basis.

Trunk Sanitary Sewer costs

5. The current to post-period benefits for the new sanitary trunk sewer were also discussed. Since this is based on the timing of future growth areas on the Mountain, we reserve the right to discuss this issue again if the DC By-Law is re-opened to assess the impact of GRIDS.

SWM pond land acquisition costs

6. It is our opinion that the budgeted costs per acre for land acquisition of swm ponds are too high in the DC By-Law as presented. We suggest the following values for land be used:

- for Ancaster and Waterdown $250,000/acre
- for Hamilton and Stoney Creek $210,000/acre
- Glenbrook and Binbrook $175,000/acre

It was also agreed that in lower Stoney Creek where land adjacent to Lake Ontario needs to be purchased from sources outside a plan of subdivision, a higher cost per acre is valid.

Transition policy

7. The current transition policy does not provide for sufficient notice for new home purchasers to absorb the approx. $4,000.00 increase in Development Charges. This impacts on the viability of contracts already entered into by several of our builder members on new homes that will not be ready for a building permit application by July 6, 2006 due to delays in the processing of applications. There are projects that are draft approved and awaiting registration that cannot have permits applied for through no fault of the developer.

We feel that the timing of this increase is counter-productive to the 1% GST rebate that is effective July 1, 2006. Consider the impact of these increases at a time when the new homebuyer anticipates new home savings due to a July 1, 2006 reduction in the Federal GST as announced by the Harper government during the recent Federal budget release.
All new home purchase and sale agreements provide for builders to be able to pass on any development charge increases to the new homebuyer at any time. We now have to notify new homebuyers that the municipal government has wiped out any potential savings and in fact, has caused a significant increase in costs to them. Purchasers will have to pay the increases on their new home purchase as an adjustment on closing.

Any savings that would have benefited a new home purchaser due the decrease in GST is nullified by the increase in the Development Charge.

In the interest of fairness we suggest that a transition policy include two dates for the implementation of the increase:

- 50% of the DC increase effective on July 6, 2006 and
- the remaining 50% on January 6, 2007.

We propose that the other transition rules regarding the receipt of a completed building permit application and the issuance of a building permit be carried over for both effective dates and the transition rules for site plan applications remain as proposed except that the quantum be phased in as above.

This transition policy will allow those projects currently in the system to be treated fairly, and allow the market time to adjust to the new fee increase.

If you need additional information or clarification regarding the above, please do not hesitate to contact me.

Yours truly,

Peter Serrani
President
Hamilton Halton Home Builders' Association
Comments on the draft Development Charges bylaw - 2006 amendments

from Don McLean, citizen member

June 2, 2006

1. **Overall:** Development imposes costs on municipal taxpayers. Provincial law prevents cities from recovering many of those costs. Reasonable city exemptions for brownfields, hospitals, affordable housing, downtown etc mean taxpayers pick up even more of the costs of development. In this situation, it is particularly unreasonable to agree to further discounts, exemptions, transition policies, etc that are a direct taxpayer subsidy for new development.

Before any council decision is taken on DC policies, staff need to provide the estimated annual financial impact of each proposed policy. We need to clearly understand the implications of each exemption, discount, transition policy, etc, including the non-controversial ones, etc. Every dollar not collected from DCs must be paid from another source – almost invariably the property taxpayer.

Recall also that the DC amount calculated by staff and consultants is automatically less than the actual costs of development because of various provincial rules that deny the municipality the right to recover the full costs of development. These rules include:

- preventing the city from recovering any costs for waste management (one of our biggest costs)
- preventing the city from recovering costs for a new city hall
- no credit for existing overcapacity (such as water pumping)
- no credit for service standard improvements
- an automatic 10% discount on all "soft" services
- less than a third of the city's GO transit costs can be recovered
- provincially funded expenditures (public money) not recoverable

2. **Residential DC Rates:** As noted on page 5, the changes to the DC bylaw are mainly to take account of "cost increases and previously unidentified projects" not incorporated in the bylaw two years ago. For single-family residential the changes amount to 25% (and sat at 31% until recent staff amendments). This means that the city taxpayer has been shortchanged by a very large amount over the last two years, so it is very important to amend the charges. At $3482 per home plus $186 GO transit, and about 2000 homes per year, the total loss to the taxpayer (the extra subsidy paid to cover the cost of development) could exceed $14 million. Consequently, the decision to phase in the changes rather than immediately impose them is not supportable. Indeed, there should be an effort (if such were permitted under provincial DC legislation) to recover the difference that has not been paid over the last two years – not further extend the discounting so that the losses to taxpayers are further increased.

3. **Industrial DC Rates:** The amended DC calculations allow Hamilton to collect $16.02 a square foot for non-residential properties. The comparative figure for the current bylaw is $10.97. That's a 46% increase in the calculation of real costs to the municipality – and again an amount that we haven't been collecting for the past two years for any non-residential property. In fact, for industrial properties we have been collecting $1.60 per square foot (or about 10% of what we should have been collecting).

Staff are proposing that we raise this rate to $2.58 but that is still only 16% of the amount we are able to collect and an even lower percentage of the real costs we are paying to service industrial lands. Staff repeatedly have informed councillors that Hamilton has a dramatic shortage of shovel-ready industrial lands, and that is because we don't have the money to service sufficient lands.

The 2004 draft staff report included the following statement (subsequently removed from the final report): "The consultant has stated that DC exemptions are not an effective incentive tool to attract development but DCs can be an inhibitor (i.e. areas with the highest DCs have the most industrial growth – this suggests that DCs are not a main factor in location decisions). The Industrial Business
Recently, the city received provincial government funding of $20 million to allow work to proceed on the servicing of the North Glanbrook Industrial Business Park. But note that those funds are PUBLIC dollars, not ones that came from the industries who may take advantage of that servicing.

Consequently it is not supportable to continue to drastically discount industrial DC charges. The city is biting off its nose to spite its face – failing to obtain the funding necessary to actually increase industrial assessment by continuing to subsidize new development, and then even preventing that new development from occurring because we can’t afford to provide the serviced lands for it to locate upon. This is bad public policy that does not serve the taxpayers.

4. **Commercial DC Rates:** Like the industrial DCs, the amended calculations allow the city to collect $16.02 per square foot for commercial development. In 2004 three decisions were taken to subsidize commercial development – one that eliminated DC charges for expansions under 5000 square feet; a second that discounted new developments under 10,000 square feet; and a third that phased in the DC charges. All three subsidies are proposed again even though Hamilton is drowning in excess commercial space. This is not supportable, and once again robs the existing property taxpayer.

The phasing in recommendation is particularly bizarre because it results in a 22% DECREASE in the DCs for commercial properties. This is being recommended despite calculations that show that rates over the last two years have been nearly 50% lower than they should have been. So at the same time that the charges should rise from $10.97 to $16.02 per square foot, the proposal is to lower them (from the $12.32 chargeable on July 6 under the 2004 bylaw to $9.61. This is completely unsupportable and is an affront to the property taxpayers of Hamilton.

5. **Units with more than 5 bedrooms:** The proposed amendment is a step in the right direction, and apparently about as much as can be done with DCs, but it should be noted that it does not solve this problem because it does not apply to renovations of existing homes that in the Westdale neighbourhood often result in student residences of more than 5 units in a former single-family home.

6. **GO Transit DCs:** This is also a step in the right direction, but one that should have taken place in 2004 or earlier, and which has consequently resulted in substantial losses to the existing property taxpayer. It is also noted that the imposed charge, while apparently the maximum allowable, falls far short of the actual GO Transit development costs being borne by the city. Thus it amounts to another subsidy for development paid for by existing taxpayers.

7. **Transition Policies:** There are three proposed transition policies. The first which is a permanent change, sets the change on the day of a building permit application (rather than its issuance by the city) and appears to be a reasonable change. Neither of the other two are supportable.

When the price of gasoline jumped last summer in the wake of Katrina and Rita, I don’t recall there being a transition policy that allowed motorists who had already planned to go on a holiday (or just to keep driving to work) so that they only had to pay the increase for six months so they could plan for the change.

The homebuilders association, however, argues that it should get advance notice of the increase in DCs. I don’t recall such a policy being followed in 2004. I would suggest they already have received more than six months notice that an increase was coming. I received a notice about the reconvening of the DC
committee on December 20, 2005 and it was made clear that this was for the purpose of changing the DC rate because of increased costs.

The first transition policy provides a six month exemption from any increase if either a residential on non-residential application was completed by May 1, 2006. This date is more than five months after notice of the reconvening of the DC stakeholders committee took place – five months during which to rush forward applications. But the transition policy then adds another seven months during which no increase is applied. Given that the increase is already late in being applied by the city, adding another year’s ‘warning’ is clearly unreasonable.

The second transition policy adds another six month exemption from the increased fees. It is also not reasonable for reasons noted above.

8. **Recent changes to the proposed amendments:** The current proposed increases are considerably reduced from those initially calculated by staff and the consultant. They have declined about 20% primarily as a result of arguments made by the Hamilton Halton Homebuilders Association. The decrease results almost entirely from three substantive changes.

The first, and largest ($403 per SDU), relates to the Woodward STP and reflects a shift of most of these costs to the category of “post-period benefits”. In the original calculation, 40% of the DC was allocated to the “post-period”. That has now been changed to 63%. I understand that the change relies on a calculation that 63% of the city’s population growth will occur in the post-period between 2023 and 2035. The 2035 population figure used is 718,000. GRIDS assumes 660,000 in 2031, illustrating that these numbers are not credible.

The second recent change relates to the upper mountain trunk watermain. In the original calculations $28 million had been allocated to DCs. That has now been halved, with the remaining 50% going to the “post-period” benefit category. While there may be costs to oversizing a pipe in anticipation of growth beyond 17 years from now, it’s difficult to imagine how that size increase could double the price of the installation. So the 50-50 division doesn’t seem reasonable. An explanation has been provided by staff based on population growth between 2024 and 2031 being equal to the growth between now and 2024. This appears to be based on GRIDS projections which have not been used in other parts of this DC amendment process, but which will be the basis for future changes. If we are going to use new projections, it should not be done selectively. Consequently this change is problematic and needs to be reconsidered.

The third change amends the price of land for stormwater management facilities. Staff have explained that any additional costs will be covered by the development sector so this change does not appear to be unreasonable.

9. **Fair DC charges:** Once again the proposed DC charges are generally applied equally to all development irrespective of its location in the city, and consequently irrespective of the actual costs of servicing that location. Such a policy discriminates against and strongly discourages infill and intensification, and instead subsidizes the type of development that imposes the greatest servicing costs on the municipality and its taxpayers. We are told that there is a “demand” for certain low density forms of development, but it is clear that part of that “demand” arises from the fact that those forms of development are heavily subsidized in relation to more efficient developments.

Because there is a recognition that the costs of redevelopment and intensification are lower, the DC policy continues the exemption of a portion of the lower city. While it is appropriate that this area pays less than greenfield developments, the policy of an exemption, rather than a variable rate structure, penalizes the existing taxpayer.