SUBJECT: Tax Capping Policies for Commercial, Industrial & Multi-Residential Properties (FCS06037) (City Wide)

RECOMMENDATION:

a) That Council approve the use in 2006 of $1 million from the Hamilton Future Fund (as per FCS02107 – Creation of a Permanent Hamilton Future Fund: Final Report) as contribution towards claw-back reductions on Commercial, Industrial and Multi-Residential properties;

b) That Council approve that the tax capping percentage be increased to 10%, the maximum allowed under Section 329.1 of the Municipal Act, 2001;

c) That Council approve that any property in the Commercial, Industrial or Multi-Residential Tax Class that is within plus or minus $250 of its’ Current Value Assessment of taxes (CVA), be moved to its’ full CVA of taxes, as allowed under Section 329.1 of the Municipal Act, 2001; and

d) That the attached By-laws as set out in Appendix “A” (To Change Percentage of Tax Capping) and Appendix “B” (To Limit Property Tax Capping) to report FCS06037, be enacted for the 2006 tax year.

Joseph L. Rinaldo
General Manager
Finance and Corporate Services
EXECUTIVE SUMMARY:

Commercial, Industrial, and Multi-Residential properties are subject to capping protection under the Municipal Act, 2001. In 2005, the Province of Ontario through Section 379 of the Municipal Act, 2001, allowed municipalities to select a capping percentage in the range of 5% to 10%. Depending on the percentage chosen, municipalities are restricted to levy no more than that percentage for any assessment-related tax increases over the previous year’s taxes, on any specific property. Section 379 also allows for the municipality to approve moving any property that is within $250 of its’ current value assessment of taxes, to the CVA of taxes.

Funding for the credits, provided to these properties, may be derived from within each class but only to the limit of credits within each, or by Municipal subsidy, or any combination of those two funding sources. Historically, the City of Hamilton has funded a portion of the requirement and in 2005 this funding reached a figure of $5 million. The balance of the funding was provided by taxpayers, within those tax classes where their taxes were going down as a result of assessment changes, to the value of their property. In addition, in 2005, the capping protection percentage was increased from 5% to 7.5%, and any property that was within $250 of its’ CVA tax amount, was moved to its’ full tax. This further assisted in allowing those with a decrease, keeping a greater percentage of their decrease.

For 2006, staff recommends using $1 million from the Hamilton Future Fund which is in addition to the $3 million through the general tax levy, approved through the budget process. Staff also recommends that the capping protection percentage be increased to 10%, and that any property that is within $250 of its CVA of taxes, be moved to its’ full tax.

BACKGROUND:

With the implementation of CVA in 1998, the Provincial government instituted capping protection for Commercial, Industrial, and Multi-Residential properties that experienced increases in taxes over 1997. This protection limited increases to 10% in 1998 and 5% every year since then. Municipalities were also required to either fund the reductions fully from the general tax base or to recover the funding by “clawing-back” from those properties that experienced decreases due to CVA in those tax classes. In 2005, the Province amended the legislation allowing Municipalities to pick a capping percentage of no lower than 5% and no higher than 10%. Any amount higher than 5% must be approved by Council through a By-law. The Province also allows a Municipality, by a By-law, to move any property plus or minus $250 of its' CVA of taxes, to its’ full CVA of taxes. Attached as Appendix “A” to report FCS06037 (To Change Percentage of Tax Capping), is the By-law to be approved and enacted by Council for the recommended 2006 changes.
By approving these changes, the reliance of funding this tax shortfall through the use of the general tax levy, is reduced. This will also allow those taxpayers in these tax classes that have a reduction to their taxes, as a result of the new 2006 assessments, to keep a greater percentage of their reduction. The total capping credits that the Municipality must return to the protected tax classes for 2006 is $5.5 million. By funding $3 million from the general tax levy and $1 million from the Hamilton Future Fund, there is a balance of $1.5 million to be funded by clawing back a portion of the tax decreases that properties in the Commercial, Industrial and Multi-Residential Tax Classes would be due as a result of the new 2006 Current Value Assessments. The total amount available to claw-back from these tax classes is $7.8 million. The claw-back percentages required to fund the needed $1.5 million are:

<table>
<thead>
<tr>
<th>Tax Class</th>
<th>Percentage</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>18.5%</td>
<td>(Taxpayers retain 81.5% of their reduction)</td>
</tr>
<tr>
<td>Industrial</td>
<td>18.5%</td>
<td>(Taxpayers retain 81.5% of their reduction)</td>
</tr>
<tr>
<td>Multi-Residential</td>
<td>18.5%</td>
<td>(Taxpayers retain 81.5% of their reduction)</td>
</tr>
</tbody>
</table>

Section 330 of the Municipal Act, 2001 provides for the passing of a By-law to set the percentages of claw-backs. Attached as Appendix “B” to Report FCS06037 (To Limit Property Tax Capping), is the By-law to be approved and enacted by Council for the 2006 claw-back percentages.

**ANALYSIS/RATIONALE:**

Section 329 and 330 of the Municipal Act, 2001 legislates that Council approve By-laws with respect to changing the Percentage of Tax Capping and to set the percentages to Limit Property Tax Capping. Through the budget process, the recommendations contained in this report were approved in principle. In order to meet the legislated requirements of the Municipal Act, 2001, the attached By-laws in Appendices “A” and “B” to report FCS06037 must now be approved and enacted.

**ALTERNATIVES FOR CONSIDERATION:**

The tax capping percentage amount could be lowered which would require a higher general levy contribution, and or a higher claw-back percentage, in order to fund the increased shortfall. The general levy contribution and/or the Hamilton Future Fund contribution could be decreased and the claw-back percentages increased, to cover any funding shortfall.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial - $1 million from the Hamilton Future Fund, is being used to mitigate claw-back requirements for capped properties.

Staffing - None.

Legal - None.
POLICIES AFFECTING PROPOSAL:


RELEVANT CONSULTATION:

2006 Budget Process, Municipal Property Assessment Corporation and the Legal Services Department as to By-law content.

CITY STRATEGIC COMMITMENT:

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

Community Well-Being is enhanced. ☐ Yes ☑ No

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes ☐ No

Commercial and Industrial Taxes are kept down which strengthens the City's position as a good place to do business.

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
CITY OF HAMILTON

BY-LAW NO. 06-

To Change Percentage of Tax Capping

WHEREAS Section 329.1 of the Municipal Act 2001, provides for a cap which determines the maximum taxes for which particular classes of real property are liable during the fiscal year 2006.

AND WHEREAS Section 329.1 of that Act further empowers the City to enact a By-law to establish a percentage if greater than 5% by which tax increases shall be limited in respect of properties in any property class.

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

1. Tax Cap Increase Percentage

1.1 For the purposes of Section 329 of the Municipal Act 2001, the City of Hamilton for 2006 chooses to increase the maximum assessment related tax increases allowed on the Commercial, Industrial and Multi-residential tax classes to 10%.

1.2 For the purposes of Section 329 of the Municipal Act 2001, the City of Hamilton for 2006 further chooses to move any property in the Commercial, Industrial or Multi-residential taxes classes to full current value assessment taxes if they are within $250 of their full current value assessment taxes.

1.3 Section 1.1 shall apply to all properties in the property class whose taxes for municipal and school purposes for 2006, as determined under Subsection 329 (4) of the Municipal Act, currently pay below their current value assessment taxes for municipal and school purposes for 2006, as adjusted in accordance with the regulations in respect of changes in taxes for municipal purposes and changes in taxes for school purposes.
1.4 Section 1.2 shall apply to all properties in the property class whose taxes for municipal and school purposes for 2006, as determined under Subsection 329 (4) of the Municipal Act, currently pay below or in excess of their current value assessment taxes for municipal and school purposes for 2006, as adjusted in accordance with the regulations in respect of changes in taxes for municipal purposes and changes in taxes for school purposes.

1.5 The purpose of this section is to clarify the respective rights and obligations of the City and all persons liable for tax during the fiscal year 2006.

1.4 This section shall be deemed to have come into effect on January 1, 2006.

PASSED and ENACTED this day of , 2006.

________________________________________  __________________________________________
MAYOR                                    CLERK
CITY OF HAMILTON

BY-LAW NO. 06-

To Limit Property Tax Capping

WHEREAS Section 329 of the Municipal Act 2001, provides for a cap which determines the maximum taxes for which particular classes of real property are liable during the fiscal year 2006.

AND WHEREAS Section 330 of that Act further empowers the City to enact a By-law to establish a percentage by which tax decreases shall be limited in respect of properties in any property class.

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

1. Recovery for 2006

1.1 For the purposes of Section 330 of the Municipal Act 2001, in order to recover all or part of the revenues foregone as a result of the application of Section 329 of the Act to properties within the property classes specified in Schedule “A” to this By-law, the percentage by which tax decreases for 2006 in respect of properties subject to Part IX of the Act shall be, and be deemed to have been, limited shall be as set out in the column headed “2006 Decrease” in that Schedule.

1.2 Section 1.1 shall apply to all properties in the property class whose taxes for municipal and school purposes for 2006, as determined under Subsection 329 (4) of the Municipal Act, exceed their taxes for municipal and school purposes for 2005 as adjusted in accordance with the regulations in respect of changes in taxes for municipal purposes and changes in taxes for school purposes.

1.3 The purpose of this section is to clarify the respective rights and obligations of the City and all persons liable for tax during the fiscal year 2006.

1.4 This section shall be deemed to have come into effect on January 1, 2006.
2. **Saving**

2.1 In the event that a provision of this By-law is held to be void or unenforceable by a final judgment of a court of competent jurisdiction, the remaining provisions of this By-law shall remain in effect unamended.

2.2 In the event that one or more of the percentages specified in Schedule “A” is found by a court of competent jurisdiction to exceed the percentage decrease that the City may establish under Sections 329 and 330 of the Municipal Act 2001, then Schedule “A” shall be deemed to have always provided that the percentage decrease shall be the maximum percentage allowable under those sections, as determined by that Court.

2.3 Where Section 2.2 applies, any excess tax collected by the City in respect of a property shall be applied to the taxes payable in respect of that same property in the next following fiscal year.

**Schedule “A”**

<table>
<thead>
<tr>
<th>Property Class</th>
<th>2006 Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>18.5 per cent</td>
</tr>
<tr>
<td>Industrial</td>
<td>18.5 per cent</td>
</tr>
<tr>
<td>Multi-Residential</td>
<td>18.5 per cent</td>
</tr>
</tbody>
</table>

PASSED and ENACTED this day of , 2006.

_________________________________________  _______________________________________
MAYOR                                                                 CLERK