

**CONSOLIDATION FOR INFORMATION PURPOSES ONLY
FOR ORIGINAL BY-LAWS CONTACT CITY CLERK**

Authority: Item 5, General Issues Committee
Report 14-012 (FCS1033)
CM: June 11, 2014

Bill No. 153

Item 4, Audit, Finance &
Administration Committee
Report 18-010 (FCS18053(a))
CM: July 13, 2018
Ward: City Wide

Bill No. 196

Item 5, Audit, Finance &
Administration Committee
Report 18-011 (FCS18054(a))
CM: August 17, 2018
Ward: City Wide

Bill No. 228

**THE CITY OF HAMILTON
BY-LAW NO. 14-153 (Consolidated with Amendments 18-196 and 18-228)**

**Being a By-law respecting development charges
on lands within The City of Hamilton**

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

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

AND WHEREAS, as required by section 11 of the Act, this By-law is being enacted within one year of the completion of the said development charge background study, titled "*City of Hamilton 2014 Development Charge Background Study*" prepared by Watson & Associates, dated May 20, 2014;

AND WHEREAS in advance of passing this By-law the Council of the City of Hamilton has given notice of and held a public meeting on June 4, 2014 in accordance with section 12 of the Act regarding its proposals for this development charges By-law;

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

AND WHEREAS, Council intends that development-related 2014 – 2031 capacity will be paid for by development charges;

AND WHEREAS the Council of the City of Hamilton, at its meeting of June 11, 2014, has adopted and approved the said background study and the development charges and policies recommended by the General Manager of the Finance and 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 FCS14033 respecting "*2014 City of Hamilton Development Charge By-law*", thereby updating its capital budget and forecast where appropriate and indicating that it intends that the increase in the need for services to service anticipated development will be met;

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

Definitions

1. In this By-law,
 - (a) "Act" means the *Development Charges Act, 1997*, S.O. 1997, c.27.
 - (b) "Adaptive Reuse" means the alteration of an existing heritage building for compliance of its continuing or resumed use(s) with current building code requirements; or, for compliance of its proposed new use(s) with current building code requirements; or, for ensuring its structural integrity; or for optimizing its continued, resumed or new use(s); while maintaining the cultural heritage value or interests of the subject building; and in compliance with the conditions of any Heritage Permit required for the subject alterations.
 - (c) "affordable housing project" means a development or redevelopment that provides housing and incidental facilities primarily for persons of low and moderate income.
 - (d) "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.

- (e) “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 outside the Urban Area Boundary, but excludes a commercial greenhouse. Agricultural use does not include the development of a single detached dwelling on agricultural land. Development of building or structures inside the Urban Area Boundary for a use that would, except for its location inside the Urban Area Boundary, be an agricultural use under this By-law shall be an industrial development.
- (f) “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.
- (g) “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.
- (h) “Board of Education” means a board as defined in sub-section 1(1) of the *Education Act 1997*, S.O. 1997, c.E.2.
- (i) “By-law” means, unless the context requires otherwise, this City of Hamilton By-law Number 14-153, including with all Schedules hereto, as amended from time to time, and shall, as the context requires, include previous City of Hamilton development charges by-laws (including City of Hamilton By-law 09-143 and including City of Hamilton By-law 11-175, but excluding City of Hamilton By-law 11-174); “herein”, “hereof”, “hereto” and “hereunder” and similar expressions refer to this By-law and not any particular Section of this By-law; “Article”, “Paragraph”, “Schedule” and “Section” mean and refer to the specified Article, Section or Schedule of or to this By-law.
- (j) “Council” means the Council of the City of Hamilton.
- (k) “covered sports field” means a completely enclosed sports field, court, track or surface. A covered sports field may be either free-standing or part of a larger building. A covered sports field may include an area for spectator seating or an audience but does not include ancillary lobby areas, change-rooms, restroom facilities, restaurants or food or beverage concessions, licensed drinking establishments, storage areas, or areas devoted to office or administrative use.
- (l) “development” has the meaning set out in sub-section 41(1) of the *Planning Act*, R.S.O. 1990, c.P.13, and includes redevelopment. For clarity, development may refer to one or more buildings or structures.

- (m) “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.
- (n) “Downtown Hamilton Community Improvement Project Area” or “CIPA” means the area shown on Schedule “D”.
- (o) “Downtown Public Art Reserve” means a public art reserve established and administered by the City of Hamilton that may fund public art in the Downtown Hamilton Community Improvement Project Area.
- (p) “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.
- (q) “existing industrial building” shall have the same meaning as that term is defined under Ontario Regulation 82/98 under the Act, but, for clarity, shall only include buildings for which a final inspection by a City Building Inspector has been conducted and passed, resulting in a finalized Building Permit.
- (r) “farming business” means a business operating on agricultural land with a current Farm Business Registration Number issued pursuant to the *Farm Registration and Farm Organizations Funding Act, 1993*, S.O. 1993, c.21, and assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation.
- (s) “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.
- (t) “grade” means the average level of proposed or finished ground adjoining a building at all exterior walls.
- (u) “gross floor area” means the total area of all floors above grade of a building containing one or more dwelling units, or of a non-residential building or structure, or of a building or structure with both residential and non-residential uses, measured between the outside surfaces of exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit or non-residential building or structure from another dwelling unit or non-residential building or structure or other portion of a building.
- (v) “hangar” means a covered or enclosed building used for housing and repairing aircraft within one thousand (1000) metres of an aerodrome as that term is defined in the *Aeronautics Act*, R.S.C., 1985, c.A-2. For the purposes of this By-law, hangars will be considered an industrial development;

- (w) “industrial development” means a building or structure used, designed or intended for use for, or in connection with,
- (i) manufacturing, producing, processing, storing or distributing something;
 - (ii) research or development in connection with manufacturing, producing or processing, something;
 - (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production or processing takes place; and
 - (iv) office or administrative purposes, if they are, carried out with respect to manufacturing, producing, processing, storage or distributing of something, and, in or attached to the building or structure used for that manufacturing, producing or processing, storage or distribution.
 - (v) Any use inside the Urban Area, that would, except for its location inside the Urban Area Boundary, be considered an agricultural use under this By-law.

Without limiting the generality of the foregoing, industrial development also includes a building used as a commercial greenhouse which is not an agricultural use as defined herein, a warehouse, and a mini-storage facility.

For the purposes of this By-Law, Industrial development also includes hotels and hangars.

- (x) “local board” means any municipal service board, municipal business corporation, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg 168/03 under the *Municipal Act, 2001*, S.O. 2001, c.25,.
- (y) “lot” means a lot, block or parcel of land which can be legally and separately conveyed pursuant to section 50 of the *Planning Act*, as amended, and includes a development having two (2) or more lots consolidated under a single ownership.
- (z) “mixed use development” means a building or structure used, designed or intended for use for both residential and non-residential uses.
- (aa) “mobile home”, means a building recognized in the Building Code as a “Mobile Home” in accordance with the standard for mobile homes in CANICSA-Z240.2.1 “Structural requirements for Mobile Homes”.

- (bb) “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.
- (cc) “non-industrial development” means any non-residential building or structure which is not an industrial development. Without limiting the generality of the foregoing, non-industrial development includes commercial and retail buildings, a public hospital within the meaning of the *Public Hospitals Act*, R.S.O. 1990, c. P. 40, and R.R.O. 1990, Regulation 964, and motels and other forms of tourist accommodation.
- (dd) “non-residential development” is any development other than a residential development.
- (ee) “place of worship”, means a building, or any part thereof, owned or occupied by a church or religious organization which is or would be classified as exempt from taxation in accordance with paragraph 3 of sub-section 3(1) of the *Assessment Act*, R.S.O. 1990, Chapter A.31.
- (ff) “Planning Act” means the *Planning Act*, R.S.O. 1990, c. P. 13.
- (gg) “Protected Heritage Properties” means properties that are designated under Part IV of the Ontario Heritage Act; or designated under Part V of the Ontario Heritage Act; or subject to a Heritage Easement under Part II of the Ontario Heritage Act; or Subject to a Heritage Easement under Part IV of the Ontario Heritage Act; or subject to a covenant or agreement on title held between the property owner and a conservation authority or level of government in the interest of conserving built heritage.
- (hh) “Regulation” means Ontario Regulation 82/98 under the Act.
- (ii) “residential development” means:
 - (i) a single detached dwelling;
 - (ii) a semi-detached dwelling;
 - (iii) a residential facility;
 - (iv) a mobile home;
 - (vi) a multiple unit dwelling;
 - (vii) an apartment; or
 - (viii) a semi-detached dwelling, multiple unit dwelling and/or apartment in a mixed use development.

- (jj) “residential facility” means a building containing two or more bedrooms which bedrooms do not have self-contained kitchens. Residential facility includes a garden suite within the meaning of section 39.1 of the *Planning Act*. Residential facility does not include a single detached dwelling, a semi-detached dwelling, a farm help house, a multiple unit dwelling or an apartment as defined herein.
- (kk) “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.
- (ll) “services” means services designated in Schedule “C” of this By-law or designated in an agreement under section 44 of the Act.
- (mm) “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.
- (nn) “temporary building or structure” means a non-residential building without a foundation which is constructed, erected or placed on land for a continuous period of time not exceeding one (1) year, or a like addition or alteration to an existing building or an existing structure that has the effect of increasing the usability thereof for a continuous period not exceeding one (1) year.
- (oo) “Urban Area Boundary” shall mean the area within the City of Hamilton that is depicted as the Urban Area Boundary in Schedule “B”.
- (pp) Any defined term in the Act or Regulation that has not been defined in this Section 1 of this By-law, shall have the meaning given to it in the Act or Regulation.
- (qq) Any reference in this By-law to any statute or regulation or any section of any statute or regulation shall, unless otherwise expressly stated, be deemed to be a reference to such statute, regulation or section as amended, restated or re-enacted from time to time and to any successor legislation or regulation.

Schedules

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

- Schedule “A”: Municipal Wide Development Charges
- Schedule “B”: Map of the Urban Area Boundary of the City of Hamilton
- Schedule “C”: Stormwater, Water and Wastewater Development Charges
- Schedule “D”: Downtown Hamilton Community Improvement Project Area (CIPA)
- Schedule “E”: Binbrook Special Area Charge (SAC) Map
- Schedule “F”: Dundas/Waterdown Special Area Charge (SAC) Map
- Schedule “G”: Special Area Charges
- Schedule “H”: Height Restrictions for Downtown Hamilton CIPA Exemption

Lands Affected

3. This By-law applies to all land within the City of Hamilton.

Amount of Charge

4. The development of land in the City of Hamilton is also subject to City of Hamilton By-law 11-174, as amended, and any additional development charges by-laws that may be enacted by the Council of the City of Hamilton during the life of this By-law.
5.
 - (a) Where there is development of land within the Urban Area Boundary, the development charges payable pursuant to this By-law shall be the development charges set out in both Schedule “A” and Schedule “C” to this By-law.
 - (b) Where a building permit is issued for a building or structure located on land outside of the Urban Area Boundary the development charges payable pursuant to this By-law shall be the development charges set out in Schedule “A” and, where a connection of that building or structure to any or all of the water, wastewater, and stormwater services in Schedule “C” is proposed, the applicable charge set out in Schedule “C” shall also be applied to the said development as a development charge.
 - (c) The development charge for Industrial development shall be calculated based on the percentages outlined in Table 1 below, of the full non-residential development charge set out in Schedules “A” and “C” to this By-law:

Table 1 - Industrial Development Charges to be Imposed

Service	Percentage of full charge		
	Effective July 6, 2014 to January 5, 2015	Effective January 6, 2015 to July 5, 2015	Effective July 6, 2015
Water Services	0%	0%	0%
Wastewater Facilities	78.5%	89.2%	100%
Wastewater Linear Services	78.5%	89.2%	100%
Stormwater Drainage and Control Services	78.5%	89.2%	100%
Services Related to a Highway	51.0%	58.1%	65%
Public Works	0%	0%	0%
Police Services	0%	0%	0%
Fire Protection Services	0%	0%	0%
Transit Services	0%	0%	0%
Parkland Development Services	0%	0%	0%
Recreation Facilities	0%	0%	0%
Library Services	0%	0%	0%
Administrative Studies	0%	0%	0%
Paramedic Services	0%	0%	0%
Social and Child Services	0%	0%	0%
Social Housing	0%	0%	0%
Health Services	0%	0%	0%
Long-Term Care	0%	0%	0%
Provincial Offenses Act	0%	0%	0%
Airport Services	0%	0%	0%
Parking Services	0%	0%	0%
Hamilton Conservation Authority	0%	0%	0%

- (d) Subject to any applicable exemption set out in this By-Law, where there is development of land in Binbrook within the area depicted as "Phase 1" on Schedule "E" to this By-law, or within those areas of Dundas and Waterdown delineated on Schedule "F" to this By-law, respectively, the development charges payable pursuant to this By-law shall be the development charges set out in Schedule "A" and Schedule "C" and the applicable Special Area Charge as shown on Schedule "G" to this By-law.
- (e) In the event of a challenge to the inclusion of the Hamilton Conservation Authority as a Service in Schedule "A" for the development charges imposed by this By-law, this By-law shall be amended to comply with the first final decision on the challenge and Schedules "A" shall be amended as required to implement such decision.

Designation of Services

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

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

Approvals for Development

8. The development of land is subject to a development charge where the development requires the following:
 - (a) the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law under sub-section 50(7) of the *Planning Act*;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 50 of the *Condominium Act*, R.S.O. 1990, c.C. 26 or section 9 of the *Condominium Act 1998*, S.O. 1998, c.19; or
 - (g) the issuance of a permit under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, or successor legislation, in relation to a building or structure.
9. Where two or more of the actions described in Section 8 of this By-law occur at different times, or a second or subsequent building permit is issued resulting in increased, additional or different development, then additional development charges shall be imposed in respect of such increased, additional, or different development permitted by that action.
10. Where a development requires an approval described in Section 8 of this By-law after the issuance of a building permit and no development charges have been paid, then the development charges shall be paid prior to the granting of the approval required under Section 8 of this By-law.
11. Where a development does not require a building permit but does require one or more of the approvals described in Section 8 of this By-law, then, notwithstanding Section 30 of this By-law, development charges shall be payable.
12. Nothing in this By-law prevents Council from requiring, in an agreement under section 51 of the *Planning Act* or as a condition of consent or an agreement respecting same under section 51 of the *Planning Act* or as a condition or an agreement respecting same under section 53 of the *Planning Act*, as amended, or successor legislation, that the owner, at his or her own expense, shall install such local services related to or within a plan of subdivision, as Council may require, in accordance with the City's applicable local services policies in effect at this time.

Calculation of Development Charges

13. A development charge imposed pursuant to this By-law shall, subject to any other applicable provision hereof, be calculated as follows:
 - (a) Subject to (i), (ii) and (iii) below, in the case of residential development or the residential portion of mixed use development, based on the number and type of dwelling units;
 - (i) in the case of a residential facility, based upon the number of bedrooms;
 - (ii) subject to (iii) below, 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, then the following should apply: (A) the applicable “apartment 2 bedroom +” rate shall apply to the dwelling unit and the first five (5) bedrooms; and (B) the applicable residential facility rate shall apply to the sixth bedroom and each additional bedroom.
 - (b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the gross floor area of such development measured in square feet.
14. Subject to the provisions of this By-law, development charges against land are to be calculated and collected in accordance with the services and rates set out in Schedule “A” and Schedule “C” to this By-law.

Exemptions for Intensification of Existing Housing

15. (a) No development charge shall be imposed where the only effect of an action referred to in Section 8 of this By-law is to:
 - (i) permit an enlargement to an existing dwelling unit;
 - (ii) permit the creation of one or two additional dwelling units within an existing single detached dwelling; or
 - (iii) permit one additional dwelling unit in any semi-detached dwelling, a row dwelling or any other existing residential building.
- (b) Notwithstanding (a) above, development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.
- (c) Notwithstanding (a) above, development charges shall be imposed if the additional unit has a gross floor area greater than:

- (i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
 - (ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the said residential building.
- (d) The exemption to development charges in (a) above shall only apply to the first instance of intensification in an existing dwelling.
- (e) Subject to (b), (c) and (d) above, any exemption under (a) above shall apply to the smallest dwelling unit, as determined by applicable rates under this By-law.

Exemptions for Certain Buildings

16. No development charge shall be imposed on any building owned by and used for the purposes of:
- (a) the City of Hamilton;
 - (b) a Board of Education; or,
 - (c) a local board.

Exemption for the Enlargement of Existing Industrial Buildings

17. No development charge shall be imposed on:
- (a) one or more enlargements of an existing industrial building as defined herein, up to a maximum of fifty percent (50%) of the gross floor area of the existing industrial building.
 - (b) one or more industrial buildings on the same lot or parcel of land as one or more existing industrial buildings, up to a maximum of fifty percent (50%) of the combined gross floor area of the existing industrial buildings.
18. Where a proposed enlargement exceeds fifty percent (50%) of the gross floor area of an existing industrial building, development charges are payable on the amount by which the proposed enlargement exceeds fifty percent (50%) of the gross floor area before the enlargement.
19. The cumulative total of the gross floor area previously exempted hereunder shall be included in the determination of the amount of the exemption applicable to any subsequent enlargement.
20. Where:
- (a) a subdivision of a lot or parcel of land subsequent to any enlargement or additional industrial building previously exempted hereunder results in the existing industrial building being on a lot or parcel separate from the development previously, further exemptions, if any, pertaining to the existing

industrial building shall be calculated on the basis of the lot or parcel of land as it exists at the time of said enlargement or additional industrial building.

- (b) lands are merged or otherwise added to a lot or parcel of land after July 16, 2018, the exemption in 17 (b) shall only be available to development on the lot or parcel of land as it existed as of July 16, 2018 and the exemption in subsection 17(b) shall not apply to any development on lands that were merged with or added to a lot or parcel of land after July 16, 2018.

Other Exemptions from Development Charges

- 21. Notwithstanding any other provision of this By-law, the following types of development are exempted from development charges under this By-law, in the manner and to the extent set out below. Unless otherwise specified herein, the said exemption is equivalent to one hundred percent (100%) of the development charges otherwise payable under this By-law;
 - (a) a parking garage or structure exclusively devoted to parking, including an outdoor parking lot located at grade;
 - (b) an agricultural use;
 - (c) a place of worship;
 - (d) a covered sports field;
 - (e) a temporary building or structure, subject to Section 29; and
 - (f) an affordable housing project that: (A) either has been approved to receive funding from the Government of Canada or the Province of Ontario (including their Crown corporations) under an affordable housing program or has been approved by the City of Hamilton or the CityHousing Hamilton Corporation through an affordable housing program; and (B) such affordable housing project is not eligible for funding for development charge liabilities from the Government of Canada or the Province of Ontario (including their Crown corporations).

Downtown Hamilton Community Improvement Project Area (CIPA) Exemption

- 22. All development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule "D" attached to this By-law shall:
 - (a) be exempted from the following percentages of the development charges otherwise payable, after all other credits and exemptions are considered, under the By-law for only the portion of the building that is within the height restrictions as shown in Schedule "H" attached to this By-law based on the later of the date on which development charges are payable or the date all applicable development charges were actually paid:

Date	Percentage of exemption (%)	Percentage of development charge payable (%)
July 6, 2014 to July 5, 2015	90	10
July 6, 2015 to July 5, 2016	85	15
July 6, 2016 to July 5, 2017	80	20
July 6, 2017 to July 5, 2018	75	25
July 6, 2018 to July 6, 2019	70	30

Schedule “H” attached to this By-law shall not be amended by any decision by the Local Planning Appeal Tribunal relating to the City’s Zoning By-law Amendment 18-114; or by any amendments, including site specific or area specific, to the City’s Zoning By-law 05-200 either through Local Planning Appeal Tribunal decisions or by Council.

For clarity, any development in excess of the height restrictions as shown in Schedule “H” shall be subject to the full calculated development charge and only be reduced if there are any credits or exemptions remaining after applying any and all other credits or exemptions to the portion of the building that is within the height restrictions as shown in Schedule “H” attached to this By-law.

- (b) receive an additional dollar for dollar exemption on any remaining development charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve, except and provided that no exemption under this Section 22(b) may exceed ten percent (10%) of the development charges otherwise payable.

Partial Exemptions

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

- (a) for any non-industrial development other than an expansion, development charges shall be imposed as follows:
 - (i) fifty percent (50%) of the applicable development charge on the first five thousand (5000) square feet;
 - (ii) seventy-five percent (75%) of the applicable development charge on applicable development between five thousand and one and ten thousand (5001 – 10,000) square feet;
 - (iii) one hundred percent (100%) of the applicable development charge on the amount of development exceeding ten thousand (10,000) square feet.

Where development has been exempted pursuant to this Sub-section, the exemption set out in Sub-section (b) below does not apply to any subsequent expansion on such development.

- (b) subject to (a) above, the initial five thousand (5,000) square feet of gross floor area of an expansion of a non-industrial development provided that:
 - (i) the development which is subject to such expansion is existing as of the effective date of this By-Law;
 - (ii) an expansion may be attached or unattached to the existing development provided that, where unattached, it must be situated on the same site as the existing development; and,
 - (iii) where, subsequent to an unattached expansion exempted hereunder, the lot is further subdivided such that the original existing development and the unattached expansion thereof are no longer situated on the same lot, further exemptions pursuant to this Section, if any, shall only be calculated on the basis of the building and the lot as they existed on the date of the first exemption recognized after the effective date of this By-law, as set out in Section 40 herein.
- (c) development of a Brownfield property that has been approved by the City for an ERASE Redevelopment Grant, or any successor thereof. The amount of the exemption hereunder is equivalent to the cost of environmental remediation on, in or under the property as approved by the City under the ERASE Redevelopment Grant program and required to be paid by the owner, up to but not exceeding the amount of the development charges otherwise payable under this By-law;
- (d) a development by a university, other post-secondary school offering a degree or diploma recognized by the Province of Ontario or a not-for-profit private elementary or secondary school operated in compliance with section 16 of the *Education Act*, as amended, where such development is used for the academic or teaching purposes of the university or school, is exempt from development charges under this By-law save and except for the transit component of development charges as set out in Schedule "B" and such transit component of development charges shall be charged.
- (e) development of a public hospital, within the meaning of the *Public Hospitals Act*, R.S.O. 1990, Chapter P.40 and R.R.O. 1990, Regulation 964 is exempt from fifty percent (50%) of the development charges otherwise payable under this By-law.
- (f) development of student residences by a university, college of applied arts and technology or other accredited post-secondary institution is exempt from fifty percent (50%) of the development charge otherwise payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except Paragraph 24(d) and Section 28, the credit applicable to any redevelopment involving an increase in the number of student residences contained within an existing building envelope shall be based on one hundred percent (100%) of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 37 of this By-law.

- (g) redevelopment of an existing residential development for the purpose of creating residential facilities within the existing building envelope is exempt from fifty percent (50%) of the development charge otherwise payable pursuant to this By-law.
- (h) redevelopment of an existing residential facility for the purpose of creating more residential facility units within the existing building envelope shall be exempt from fifty percent (50%) of the development charge payable pursuant to this By-law. Notwithstanding anything else contained in this By-law, save and except Paragraph 24(d) and Section 28, the credit applicable to any such redevelopment shall be based on one hundred percent (100%) of the residential facility rate in effect at the time of receipt by the Chief Building Official of a complete building permit application for the said redevelopment within the meaning of Section 37 of this By-law.
- (i) the Adaptive Reuse of Protected Heritage Properties is exempted from Development Charges within the existing building envelope.
- (j) for new industrial developments that are less than 10,000 square feet, the industrial rate charged will be set at 75% of the effective non-residential industrial rate as set out in clause 5(c) above.

Rules with Respect to Redevelopment - Demolitions

24. In the case of the demolition of all or part of a building:
- (a) in the case of a demolition permit issued after the effective date of this By-law, a credit shall be allowed against the development charges otherwise payable pursuant to this By-law, provided that a building permit has been issued for the redevelopment within five (5) years, from the date the demolition permit has been issued as may be extended by the General Manager of Finance and Corporate Services either for developments located outside the Urban Area Boundary or for developments where it has been determined by the General Manager of Planning & Economic Development that significant development delays were not the responsibility of the developer, or may be otherwise extended by Council;
 - (b) the credit shall be calculated based on the portion of a building used for a residential purpose that has been demolished by multiplying the number and type of dwelling units demolished, or in the case of a building used for a non-residential purpose that has been demolished by multiplying the non-residential square feet demolished by the relevant development charges in effect on the date when the development charges are payable pursuant to this By-law;
 - (c) for greater certainty, and without limiting the generality of the foregoing, no credit shall be allowed where the demolished building or part thereof would have been exempt pursuant to this By-law; and
 - (d) the amount of any credit pursuant to this Section shall not exceed, in total, the amount of the development charges otherwise payable pursuant to this By-law with respect to the redevelopment.

Rules with Respect to Redevelopment - Conversions

25. Where an existing non-residential building or structure is converted in whole or in part to a residential use, the residential development charge payable for the residential units created shall be reduced by an amount equal to the non-residential rate per square foot established under this By-law and set out in Schedule "A" and Schedule "C", applied against the gross floor area so converted to residential use.
26. Where an existing residential building is converted in whole or in part to non-residential uses, the non-residential development charge payable for the gross floor area so converted shall be reduced by an amount equal to the residential development charge established under this By-law and set out in Schedule "A" and Schedule "C" applied for the type of residential unit(s) so converted. If a unit is only partially converted the reduction shall be in proportion to the extent of the conversion.
27. Development charges payable for the conversion of uses in a mixed use building or structure shall be determined in accordance with Sections 25 and 26.
28. The amount of any credit shall not exceed in total the amount of the development charges otherwise payable under this By-law.

Temporary Buildings or Structures

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

Collection of Development Charges

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

Prepayment or Deferral Agreements

31. (a) Save as otherwise specified in this By-law, and for non-residential development, a residential facility or an apartment development only, the General Manager of Finance and Corporate Services may authorize in writing, in accordance with section 27 of the Act, an agreement with a person to permit, on such terms as

the General Manager of Finance and Corporate Service may require, including the payment of interest by such person, and for a term no longer than five (5) years, the payment of the development charge before or after it is otherwise payable under this By-law.

- (b) Notwithstanding (a) above, Council may authorize an agreement with a public hospital within the meaning of the *Public Hospitals Act*, R.S.O. 1990, Chapter P.40 and R.R.O. 1990, Regulation 964 to permit, on such conditions as Council may require, including the payment of interest, and for a term no longer than ten (10) years, the payment of the development charge after it is otherwise payable under this By-law.
- (c) Notwithstanding (a) above, Council may authorize an agreement with an entity described in Section 23(d) above to permit, on such conditions as Council may require, including the payment of interest, and for a term no longer than thirty (30) years, the payment of the development charge after it is otherwise payable under this By-law.

Credit for Services-in-lieu Agreement

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

Front-Ending Agreements

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

Administration of By-law

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

Indexing

- 35. The development charges set out in Schedule "A" and Schedule "C" of this By-law shall be adjusted annually without amendment to this By-law by the percentage change during the preceding year, as recorded in the Statistics Canada's Construction Cost Index (non-residential building) (CANSIM table 327-0043) for the City of Toronto, as may be amended or replaced from time to time. This adjustment shall take place as follows:
 - (a) the initial adjustment shall be one year from the effective date of this By-law, and
 - (b) thereafter, adjustment shall be made each year on the anniversary of the effective date of this By-law.

Reserve Fund Report

36. The General Manager of Finance and Corporate Services shall, in each year prior to June 30 thereof, commencing June 30, 2015 for the 2014 year, furnish to Council a statement in respect of the reserve funds required by the Act for the services to which this By-law relates, for the prior year, containing the information set out in Section 43 of the Act and Section 12 of the Regulation.

Transition

37. The development charge rates payable are the rates in effect on the date a complete building permit application is received and accepted by the City's Chief Building Official, provided that the permit is issued within 6 months of the effective date of a development charge rate increase. Where the said building permit is lawfully revoked by the Chief Building Official on or after the date of the said development charge rate increase, any subsequent application for a building permit on the lands or site will be subject to the development charge rate in effect on the date of building permit issuance. For the purposes of this Section, a "complete application" shall mean an application with all required information and plans provided, all application fees paid and all prior charges and taxes relating to the subject land paid and discharged.
38. Where a complete application for site plan approval pursuant to City of Hamilton By-law 03-294, as amended, or any successor thereto, has been received by the City prior to May 1, 2014, and no building permit in relation thereto has been issued prior to July 06, 2014, the development charge payable upon the issuance of the building permit or permits issued in relation to said approved site plan shall be the applicable development charge as of July 5, 2014, provided that:
- (a) any building permit required in relation to the said approval has been issued prior to January 6, 2015; and
 - (b) construction has commenced thereafter within six (6) months of the date of issuance of the said building permit or permits, such construction to be deemed to have commenced when all footings and foundations have been completed.

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

Refund Without Interest

39. Except as expressly required otherwise in the Act, the Regulation or this By-law, any refund by the City of Hamilton shall be without interest.

General

40. This By-law may be referred to as the "*City of Hamilton Development Charges By-law, 2014.*"

Date By-law Effective

41. This By-law shall come into force and take effect at 12:01 a.m. on July 06, 2014.

Date By-law Expires

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

By-law Registration

43. 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

44. 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

45. If, for any reason, any provision, Section, Sub-section, 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.

Repeal

46. By-law 09-143 and By-law 11-175, is hereby repealed effective as of the date and time of this By-law coming into effect.

PASSED THIS 25th day of June, 2014.

R. Bratina
Mayor

R. Caterini
City Clerk

SCHEDULE A TO BY-LAW 14-153
Municipal Wide Development Charges – Effective July 6, 2014 to January 5, 2015

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Services Related to a Highway	6,556	4,699	4,046	2,700	2,054	8.31	89.45
Public Works	244	175	151	101	77	0.17	1.83
Police Services	308	221	190	127	97	0.21	2.26
Fire Protection Services	272	195	168	112	85	0.19	2.05
Transit Services	399	286	246	164	125	0.31	3.34
Parkland Development	1,084	777	669	447	340	0.10	1.08
Recreation Facilities	1,665	1,194	1,028	686	522	0.15	1.61
Library Services	471	337	291	194	147	0.04	0.43
Administrative Studies	583	418	360	240	183	0.44	4.74
Ambulance Services	29	21	18	12	9	0.02	0.22
Long Term Care	189	135	116	78	59	0.04	0.43
Health Services	21	15	13	9	7	-	-
Social & Child Services	22	16	14	9	7	-	-
Social Housing	427	306	264	176	134	-	-
Airport Services	191	137	118	79	60	0.15	1.61
Parking Services	268	192	166	110	84	0.20	2.15
Provincial Offenses Act	18	13	11	8	6	0.01	0.11
Hamilton Conservation Authority	18	13	11	7	6	0.02	0.22
Total Municipal Wide Charges	12,765	9,150	7,880	5,259	4,002	10.36	111.51

SCHEDULE A TO BY-LAW 14-153
Municipal Wide Development Charges – Effective January 6, 2015 to July 5, 2015

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Services Related to a Highway	7,357	5,299	4,514	3,083	2,352	8.31	89.45
Public Works	274	197	168	115	88	0.17	1.83
Police Services	346	249	212	145	111	0.21	2.26
Fire Protection Services	306	220	187	128	98	0.19	2.05
Transit Services	448	323	275	188	143	0.31	3.34
Parkland Development	1,217	877	747	510	389	0.10	1.08
Recreation Facilities	1,869	1,346	1,147	783	597	0.15	1.61
Library Services	528	380	324	221	169	0.04	0.43
Administrative Studies	655	471	402	274	209	0.44	4.74
Ambulance Services	32	23	20	14	10	0.02	0.22
Long Term Care	212	153	130	89	68	0.04	0.43
Health Services	23	17	14	10	7	-	-
Social & Child Services	25	18	15	11	8	-	-
Social Housing	480	345	294	201	153	-	-
Airport Services	215	155	132	90	69	0.15	1.61
Parking Services	301	217	185	126	96	0.20	2.15
Provincial Offenses Act	21	15	13	9	7	0.01	0.11
Hamilton Conservation Authority	20	14	12	8	6	0.02	0.22
Total Municipal Wide Charges	14,329	10,319	8,791	6,005	4,580	10.36	111.51

SCHEDULE A TO BY-LAW 14-153
Municipal Wide Development Charges – Effective July 6, 2015 (Subject to Indexing)

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Services Related to a Highway	8,161	5,898	4,983	3,467	2,648	8.31	89.45
Public Works	304	220	186	129	99	0.17	1.83
Police Services	384	278	234	163	125	0.21	2.26
Fire Protection Services	339	245	207	144	110	0.19	2.05
Transit Services	497	359	303	211	161	0.31	3.34
Parkland Development	1,350	976	824	573	438	0.10	1.08
Recreation Facilities	2,073	1,498	1,266	881	673	0.15	1.61
Library Services	586	424	358	249	190	0.04	0.43
Administrative Studies	726	525	443	308	236	0.44	4.74
Ambulance Services	36	26	22	15	12	0.02	0.22
Long Term Care	235	170	143	100	76	0.04	0.43
Health Services	26	19	16	11	8	-	-
Social & Child Services	28	20	17	12	9	-	-
Social Housing	532	384	325	226	173	-	-
Airport Services	238	172	145	101	77	0.15	1.61
Parking Services	334	241	204	142	108	0.20	2.15
Provincial Offenses Act	23	17	14	10	7	0.01	0.11
Hamilton Conservation Authority	22	16	13	9	7	0.02	0.22
Total Municipal Wide Charges	15,894	11,488	9,703	6,751	5,157	10.36	111.51

SCHEDULE B TO BY-LAW 14-153
Urban Area Boundary Map



SCHEDULE C TO BY-LAW 14-153
 Stormwater, Water, and Wastewater Development Charges – Effective July 6, 2014 to January 5, 2015

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Water service	3,374	2,419	2,084	1,391	1,058	2.37	25.51
Wastewater Facilities	2,999	2,149	1,852	1,236	940	2.10	22.60
Wastewater Linear Services	3,777	2,707	2,332	1,556	1,184	2.65	28.52
Stormwater Drainage and Control Services	5,180	3,713	3,198	2,134	1,625	1.29	13.89
Total Urban Services	15,330	10,988	9,466	6,317	4,807	8.41	90.52

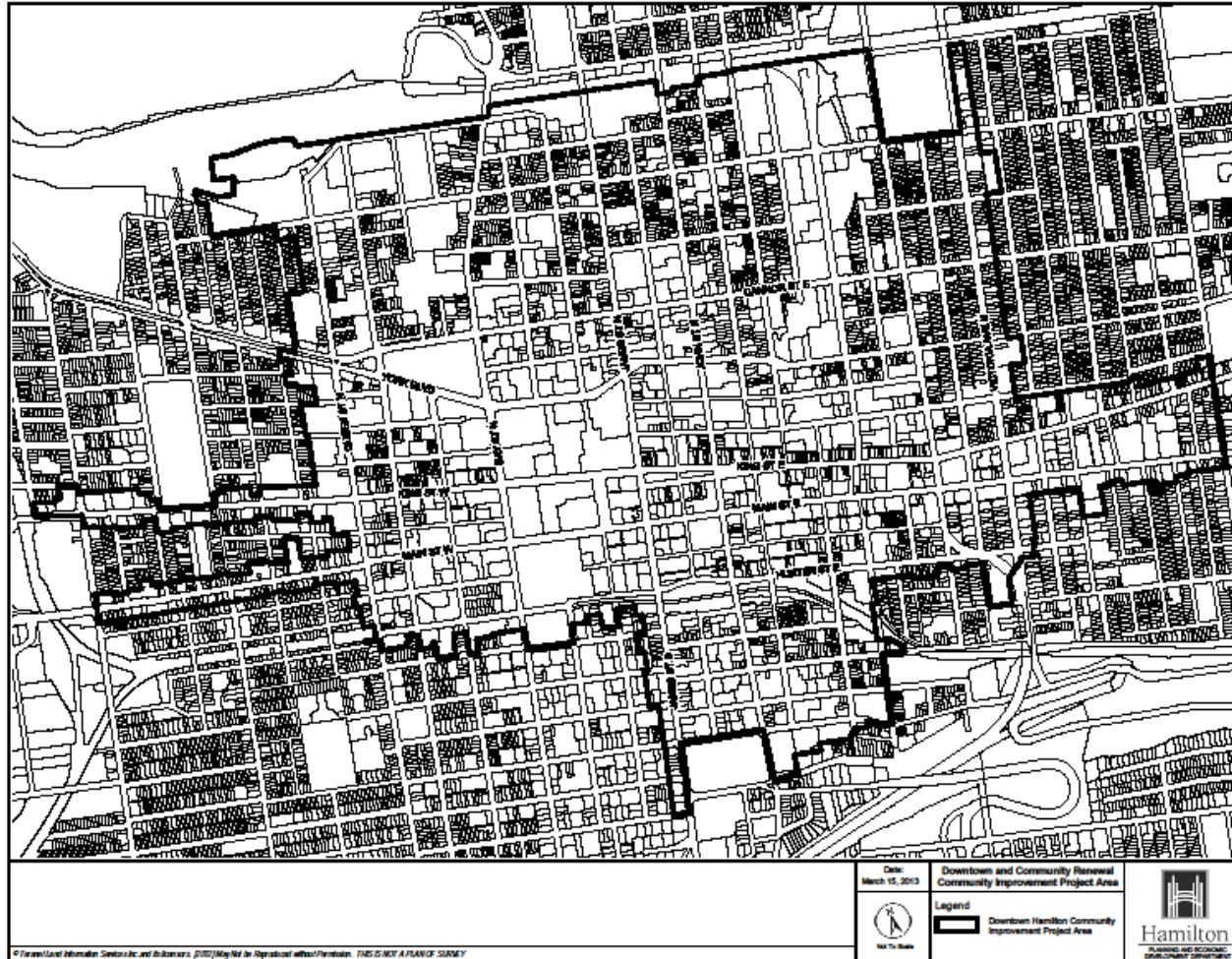
SCHEDULE C TO BY-LAW 14-153
 Stormwater, Water, and Wastewater Development Charges – Effective January 6, 2015 to July 5, 2015

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Water service	3,788	2,728	2,325	1,588	1,211	2.37	25.51
Wastewater Facilities	3,367	2,424	2,066	1,411	1,076	2.10	22.60
Wastewater Linear Services	4,240	3,053	2,602	1,777	1,355	2.65	28.52
Stormwater Drainage and Control Services	5,815	4,188	3,568	2,437	1,858	1.29	13.89
Total Urban Services	17,210	12,393	10,561	7,213	5,500	8.41	90.52

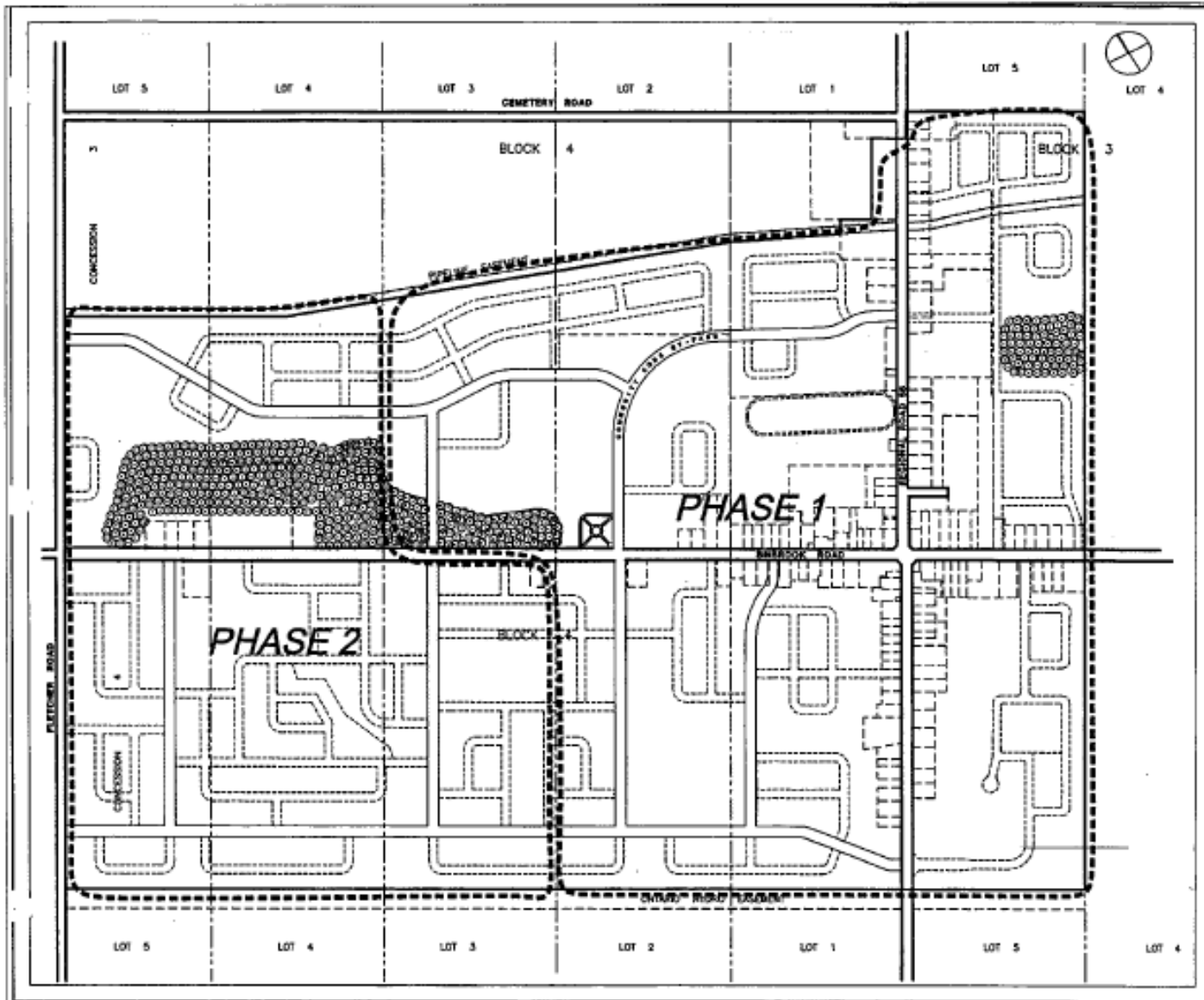
SCHEDULE C TO BY-LAW 14-153
 Stormwater, Water, and Wastewater Development Charges – Effective July 6, 2015 (Subject to Indexing)

Service	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Water service	4,202	3,037	2,566	1,785	1,363	2.37	25.51
Wastewater Facilities	3,734	2,699	2,280	1,586	1,212	2.10	22.60
Wastewater Linear Services	4,703	3,399	2,872	1,998	1,526	2.65	28.52
Stormwater Drainage and Control Services	6,450	4,662	3,938	2,740	2,093	1.29	13.89
Total Urban Services	19,089	13,797	11,656	8,109	6,194	8.41	90.52

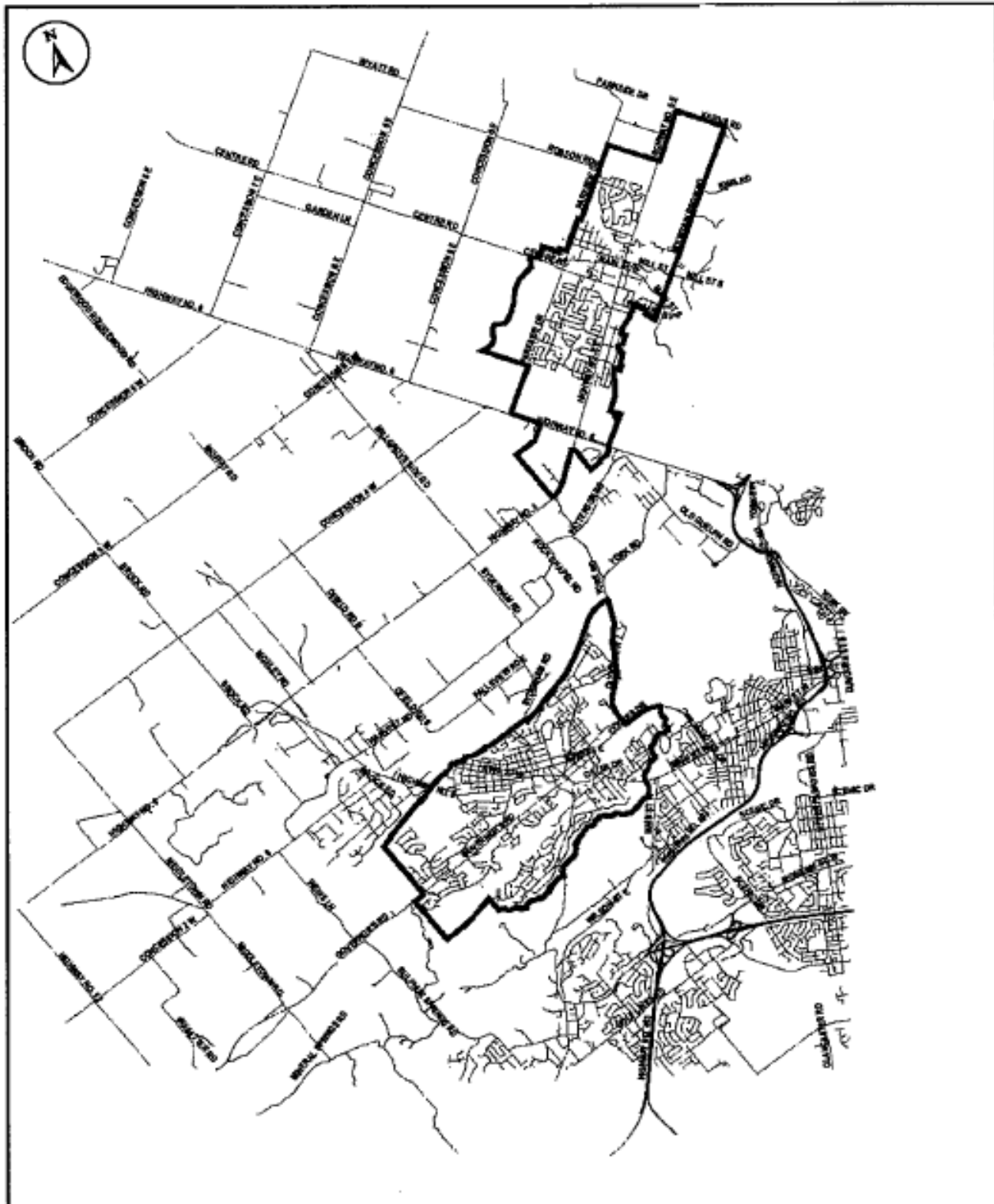
SCHEDULE D TO BY-LAW 14-153
Downtown Hamilton Community Improvement Project Area



SCHEDULE E TO BY-LAW 14-153
Binbrook Special Area Charge Map



SCHEDULE F TO BY-LAW 14-153
Dundas/Waterdown Special Area Charge Map



SCHEDULE G TO BY-LAW 14-153
Special Area Charges – Effective July 6, 2014

Special Area Charge	Single-Detached Dwelling & Semi-Detached Dwelling	Townhouses & Other Multiple Unit Dwellings	Apartments 2-Bedrooms +	Apartments Bachelor & 1-Bedroom	Residential Facility Dwelling	Non-Residential	
	(per Unit)	(per Unit)	(per Unit)	(per Unit)	(per Bedroom)	(per Sq. Ft.)	(per Sq. m.)
Binbrook Special Area Charge	3,211	2,320	1,961	1,364	1,042	N/A	N/A
Dundas/Waterdown Special Area Charge	1,588	1,147	970	674	515	1.09	11.73

SCHEDULE H TO BY-LAW 14-153 Height Restrictions for Downtown Hamilton CIPA Exemption

