

**CITY OF HAMILTON
BY-LAW NO. 21-102**

**Being a By-Law to Amend By-Law No. 19-142
“City of Hamilton Development Charges By-law, 2019”**

WHEREAS the City of Hamilton (herein referred to as the “City”) enacted By-law 19-142 pursuant to the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended (herein referred to as the “Act”), which Act authorizes the Council of the City of Hamilton (herein referred to as “Council”) to pass By-laws for the imposition of development charges against land;

WHEREAS Council has determined that certain amendments should be made to the City of Hamilton Development Charges By-law, 2019 (By-law 19-142);

WHEREAS section 19 of the Act provides for amendments to be made to development charges By-laws;

WHEREAS the City, as required by section 10 of the Act, has undertaken and completed a development charge background study;

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 “Development Charges Update Study, City of Hamilton” prepared by Watson & Associates Economists Ltd., dated March 5, 2021;

WHEREAS in advance of passing this By-law, Council has given notice and held a public meeting on April 22, 2021 in accordance with section 12 of the Act regarding its proposal for this development charges By-law; and,

WHEREAS Council, at its meeting of the Audit, Finance and Administration Committee on March 25, 2021, 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.

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

1. Section 1 of By-law 19-142 is hereby amended by adding the following definitions in the appropriate alphabetical order and re-lettering the subsections in accordingly:

"Accessory Dwelling" means a self-contained Dwelling Unit that is subordinate in purpose to another Dwelling Unit upon the same Lot.

"Ancillary Residential Building" means an Accessory Dwelling that is detached from the Dwelling Unit which it is subordinate to and includes a Garden Suite and Laneway House.

"Class of Services" means a grouping of services combined to create a single service for the purposes of this By-law and as provided in section 7 of the Act.

"Hospice" means a building or portion of a mixed-use building designed and intended to provide palliative care and emotional support to the terminally ill in a home or homelike setting so that quality of life is maintained, and family members may be active participants in care.

"Institutional Development" means development of a building or structure intended for use:

- (a) as a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;
- (b) as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
- (c) by any of the following post-secondary institutions for the objects of the institution:
 - (i) a university in Ontario that receives direct, regular, and ongoing operating funding from the Government of Ontario,
 - (ii) a college or university federated or affiliated with a university described in subsection 1(c)(i), or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*;
- (d) as a memorial home, clubhouse, or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
- (e) as a hospice to provide end of life care.

"Interest Rate" means the annual rate of interest calculated as per the City's D.C. Interest Policy (FPAP-DC-002), as may be revised from time to time.

"Non-profit Housing Development" means development of a building or structure intended for use as residential premises by,

- (a) a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing;
- (b) a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or
- (c) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act, or any successor legislation.

"Rental Housing" means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;

"Zoning By-law" means Zoning By-laws Nos. 05-200, 87-57, 3581-86, 90-145-Z, 464, 6593, 3692-92 as amended and any subsequent City zoning by-law as applicable based on development type and development location within the City.

- 2. Sections 10 and 11 of By-law 19-142 are hereby deleted and replaced with the following:

Designation of Services/Class of Services

10. All Development of land within the area to which this By-law applies will increase the need for Services/Class of Services.

11. The Development Charges applicable to a Development as determined pursuant to this By-law shall apply without regard to the Services/Class of Services required or used by an individual Development.

- 3. Section 19 of By-law 19-142 is hereby deleted and replaced with the following:

Exemptions for Intensification of Residential Use

19.

- (a) No Development Charge shall be imposed where the only effect of an action referred to in section 12 of this By-law is to:
 - (i) permit the enlargement to an existing Dwelling Unit;

(ii) permit the creation of Accessory Dwellings to an existing Residential Development, subject to the following restrictions:

Item	Name of Class of Existing Residential Development	Description of Class of Existing Residential Development	Maximum Number of Additional Dwelling Units	Restrictions
1.	Existing Single Detached Dwellings	Existing Residential Developments, each of which contains a single Dwelling Unit, that are not attached to other Buildings.	Two	The total Gross Floor Area of the additional Dwelling Unit or units must be less than or equal to the Gross Floor Area of the Dwelling Unit already in the Building.
2.	Existing Semi-detached Dwelling Units or Townhouse Dwelling Units	Existing Residential Developments, each of which contains a single Dwelling Unit, that have one or two vertical walls, but no other parts, attached to other Buildings.	Two	The total Gross Floor Area of the additional Dwelling Unit or units must be less than or equal to the Gross Floor Area of the Dwelling Unit already in the Building.
3.	Existing Rental Housing	Existing Rental Housing, each of which contains four or more Dwelling Units.	Greater of one and 1% of the existing Dwelling Units in the Building	None

4.	Other existing Residential Developments	An existing Residential Development not in another class of Residential Development described in this table.	One	The total Gross Floor Area of the additional Dwelling Unit or units must be less than or equal to the Gross Floor Area of the smallest Dwelling Unit already in the Building.
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(iii) permit the creation of an Accessory Dwelling in or ancillary to a proposed new Residential Development, subject to the following restrictions:

Item	Name of Class of Proposed New Residential Developments	Description of Class of Proposed New Residential Developments	Restrictions
1.	Proposed new Single Detached Dwellings	Proposed new Building containing one Dwelling Unit that would not be attached to other Buildings and that are permitted to contain a second Dwelling Unit, that being either of the two Dwelling Units, if the units have the same Gross Floor Area, or the smaller of the Dwelling Units.	<p>The proposed new Single Detached Dwelling must only contain two Dwelling Units.</p> <p>The proposed new Single Detached Dwelling must be located on a parcel of land on which no other Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling would be located.</p>

<p>2.</p>	<p>Proposed new Semi-detached Dwellings or Townhouse Dwellings</p>	<p>Proposed new Residential Developments that would have one or two vertical walls, but no other parts, attached to other Buildings and each Dwelling Unit is permitted to contain a second Dwelling Unit, that being either of the two Dwelling Units, if the units have the same Gross Floor Area, or the smaller of the Dwelling Units.</p>	<p>Each Dwelling Unit in the proposed new Semi-detached Dwelling or Townhouse Dwelling must only contain two Dwelling Units.</p> <p>The proposed new Semi-detached Dwelling or Townhouse Dwelling must be located on a parcel of land on which no other Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling would be located.</p>
<p>3.</p>	<p>Proposed new Ancillary Residential Building to a proposed new Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling</p>	<p>Proposed new Ancillary Residential Building to a proposed new Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling and that are permitted to contain a single Dwelling Unit.</p>	<p>The proposed new Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling, to which the proposed new Ancillary Residential Building would be ancillary, must only contain one Dwelling Unit.</p> <p>The Gross Floor Area of the Dwelling Unit in the proposed new Ancillary Residential Building must be equal to or less than the Gross Floor Area of the Single Detached Dwelling, Semi-detached Dwelling or Townhouse Dwelling to which the proposed new Ancillary Residential Building is ancillary.</p>

(b) The exemption in subsection 19(a) shall only apply to the first instance of intensification in an existing or new dwelling.

(c) Subject to the Gross Floor Area restrictions in subsection 19(a) and subject to subsection 19(b), any exemption under subsection 19(a) above shall apply to the smallest Dwelling Unit, as determined by applicable rates under this By-law.

4. Section 25 subsections (d) and (e) of By-law 19-142 are hereby deleted, with the remaining subsections being re-lettered accordingly.
5. Section 27 of By-law 19-142 is hereby deleted and by replaced with the following:

Notwithstanding any other provision of this By-law, the Development Charges payable under this By-law respecting all Development, other than Class A Office Development, within the boundaries of the Downtown CIPA shall be reduced:

- (a) by the percentages;
- (b) for the time periods;
- (c) for the types of applications; and;
- (d) as of the date, identified in the following Table 2 below:

Table 2: Downtown Hamilton CIPA Partial Exemption

	Date of complete application of a Site Plan or a Site-specific Zoning Amendment (in accordance with subsection 41(b) and (c))	Date of building permit issuance (if application of a Site Plan or a Site-specific Zoning Amendment not applicable, made prior to Jan 1, 2020, or if more than two years have passed since approval of said application)
Date	Percentage of reduction (%)	Percentage of reduction (%)
June 13, 2019 to July 5, 2019	70	70
July 6, 2019 to July 5, 2020	60	60
July 6, 2020 to July 5, 2021	50	50
July 6, 2021 to July 5, 2022	40	40

July 6, 2022 to July 5, 2023	40	40
July 6, 2023 to June 12, 2024	40	40

The development charges payable under this By-law respecting all Development, other than Class A Office Development, within the boundaries of the Downtown CIPA shall be reduced after all other credits are applied, under this By-law for only the portion of the Building that is within the height restrictions as shown in Schedule "F." Any Development in excess of the height restrictions as shown in Schedule "F" shall be subject to the full calculated Development Charge

Schedule "F" 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.

(e) for each year this By-law is in effect an additional exemption will apply as follows:

- (i) a dollar for dollar exemption on any remaining Development Charges payable equal to any amount of contribution by the payer of the Development Charges to the Downtown Public Art Reserve in an amount not to exceed ten percent of the Development Charges otherwise payable on the height that is within the height restrictions as shown as Schedule "F"; and
- (ii) the amount of all exemption provided in Subsection 27(b) shall be limited to \$250,000 annually and any single exemption shall be reduced by the amount it would exceed the \$250,000 limit.

6. Section 33 of By-law 19-142 is hereby deleted and replaced with the following:

33.

(a) Subject to the provisions of section 34, Development Charges are payable at the time a building permit is issued with respect to a Development.

(b) Despite subsection 33(a), a Development Charge in respect of any part of a Development that consists of a type of Development set out in section 26.1(2) of the Act, is payable in accordance with section 26.1 of the Act, including interest as per the City's D.C. Interest Policy, FPAP-DC-002, as may be revised from time to time, for so long as section 26.1 of the Act remains in force and effect.

7. Section 39 of By-law 19-142 is hereby deleted and replaced with the following:

39. The General Manager of Finance and Corporate Services shall, in each year prior to June 30 thereof, commencing June 30, 2020 for the 2019 year, furnish to Council a statement in respect of the reserve funds required by the Act for the Services/Classes of 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.

8. Section 41 of By-law 19-142 is hereby deleted and replaced with the following:

41.

(a) 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 the first Development Charge rate increase following said building permit application. 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 information and plans required as per the Ontario Building Code.

(b) Notwithstanding subsection 41(a), the total amount of a Development Charge is the amount of the Development Charge that would be determined under the by-law on,

(i) the day an application for an approval of Development in a site plan control area under subsection 41 (4) of the Planning Act was made in respect of the Development that is the subject of the Development Charge; or

(i) if subsection 41(b)(i) does not apply, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made in respect of the Development that is the subject of the Development Charge;

(iii) If a Development was the subject of more than one application referred to in subsections 41(1)(b) (i) or (ii), the later one is deemed to be the applicable application for the purposes of this section.

(c) interest on the total amount of Development Charge determined pursuant to subsection 41(b) shall be charged to the date of building permit issuance as per the City's Development Charge Interest Policy (FPAP-DC-002), as may be revised from time to time.

(d) subsection 41(b) shall not apply if more than two years has passed since the approval of the related application

9. Schedule "A" of By-law 19-142 is hereby deleted and replaced with Schedule "A" attached to this By-law.
10. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 19-142 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.
11. This By-law shall come into force and take effect at 12.01 a.m. on July 6, 2021.
12. Except as amended by this By-law, all provisions of By-law 19-142, as amended, are and shall remain in full force and effect.

PASSED this 9th day of June , 2021.

F. Eisenberger
Mayor

A. Holland
City Clerk

SCHEDULE A, TO BY-LAW 19-142
MUNICIPAL WIDE DEVELOPMENT CHARGES – EFFECTIVE JULY 6, 2021
(2019 \$)

Table A2:

Service/Class of Service	RESIDENTIAL					NON-RESIDENTIAL
	Single-Detached Dwelling & Semi-Detached Dwelling (per dwelling unit)	Townhouses & Other Multiple Unit Dwellings (per dwelling unit)	Apartments & Stacked Townhouses & Mobile Homes 2-Bedrooms+ (per dwelling unit)	Apartments & Stacked Townhouses & Mobile Homes Bachelor & 1-Bedrooms+ (per dwelling unit)	Residential Facility Dwelling & Lodging House & Garden Suite (per bedroom)	(per sq.ft. of Gross Floor Area)
Municipal Wide Services/Classes:						
Services Related to a Highway	10,769	7,708	6,306	4,314	3,479	8.05
Police Services	524	375	307	210	169	0.26
Fire Protection Services	462	331	271	185	149	0.23
Transit Services	1,917	1,372	1,123	768	619	0.98
Public Works	805	576	471	322	260	0.41
Ambulance Services	148	106	87	59	48	0.02
Waste Diversion	730	522	427	292	236	0.13
Parks and Recreation Services	7,528	5,388	4,408	3,016	2,432	0.35
Library Services	1,145	819	671	459	370	1.00
Long Term Care	182	130	107	73	59	0.02
Public Health	3	2	2	1	1	-
Child Care and Early Years	15	11	9	6	5	-
Housing Services	752	538	440	301	243	-
Provincial Offences Act	40	29	23	16	13	0.02
Growth Studies	404	289	237	162	131	0.21
Total Municipal Wide Services/Classes	25,424	18,196	14,889	10,184	8,214	11.67

SCHEDULE A, TO BY-LAW 19-142
 MUNICIPAL WIDE DEVELOPMENT CHARGES
 EFFECTIVE JULY 6, 2021 TO SEPTEMBER 18, 2022
 (2019 \$)

Table A3:

Service/Class of Service	RESIDENTIAL					NON-RESIDENTIAL
	Single-Detached Dwelling & Semi-Detached Dwelling (per dwelling unit)	Townhouses & Other Multiple Unit Dwellings (per dwelling unit)	Apartments & Stacked Townhouses & Mobile Homes 2-Bedrooms+ (per dwelling unit)	Apartments & Stacked Townhouses & Mobile Homes Bachelor & 1-Bedrooms+ (per dwelling unit)	Residential Facility Dwelling & Lodging House & Garden Suite (per bedroom)	(per sq.ft. of Gross Floor Area)
Municipal Wide Services/Classes:						
Municipal Parking	559	400	327	224	181	0.30
Airport Lands	471	337	276	189	152	0.24
Total Municipal Wide Services/Classes	1,030	737	603	413	333	0.54