

Report To:	Regional Chair and Members of Regional Council
From:	Keshwer Patel, Commissioner, Finance and Regional Treasurer
Date:	November 24, 2021
Report No:	FN-35-21
Re:	Final Proposals for the Early Payment of Estimated Future Water, Wastewater and Roads Development Charges (2022 Recovery DC)

RECOMMENDATION

1. THAT Report No. FN-35-21 re: “Final Proposals for the Early Payment of Estimated Future Water, Wastewater and Roads Development Charges (2022 Recovery DC)”, be approved under section 10 of the *Development Charges Act, 1997* (the DCA).
2. THAT Council determine that no further public meetings are required under section 12 of the DCA.
3. THAT Council enact the necessary By-law to repeal By-law No. 37-17 (Halton Recovery DC By-law, 2017), and replace it with the updated Recovery of the Early Payment of Water, Wastewater and Roads Development Charges By-law (Halton Recovery DC By-law 2022) included herein as Attachment #1
4. THAT the Director of Legal Services be directed to prepare the necessary by-law.

REPORT

Executive Summary

- This report is to present the final DC proposals for the Halton Recovery DC By-law 2022, which will repeal By-law No. 37-17.
- The current Recovery DC rate of \$3,679 per single detached equivalent dwelling unit (SDE) will continue in the new by-law with no change.
- The 2022 Recovery DC Background Study was released to the public on September 15, 2021 with the statutory Public Meeting being held on October 13, 2021.

- The Halton Recovery DC By-law 2022 will be effective January 1, 2022.

Background

This report is to present the final proposals for the residential DC for the recovery of early payment for estimated future water, wastewater and roads DCs made by developers who participated in the 2008/2009 Allocation Program. The Halton Recovery DC By-law 2022 will repeal DC By-law No. 37-17, and continue the current Recovery DC related to the early payment of estimated future development charges made by the participating developers. This by-law will be in force until the participating developers' entire early payment amount is recovered from the benefitting developers in the recovery DC area or the by-law expires.

Discussion

The Halton Recovery DC By-law No. 37-17 continues the collection of early payment for the future water, wastewater and roads DCs for residential developers who participated in the 2008/2009 Allocation Program, to recover their investment. The Recovery DC Bylaw was established in 2012 and was updated in 2017 per the DCA that requires and update every 5 years. The 2022 Recovery DC Background Study has been prepared to extend the current Recovery DC Bylaw 37-17 beyond the Allocation Agreement end date of December 31, 2021. This extension was contemplated in the agreements to allow for full recovery.

The current Recovery DC of \$3,679 per SDE will remain unchanged in the Halton Recovery DC By-law 2022. The 2022 Recovery DC By-law is included as Attachment #1.

The 2022 Recovery DC Background Study, including the proposed by-law, was circulated to Council and made available to the public on September 15, 2021. The public meeting, required under the DCA, was held at the Statutory Public Meeting and Hearing Committee on October 13, 2021.

No issues or comments were brought forward during the consultation process.

Next Steps for the 2022 Recovery DC Process

It is anticipated that the new by-law for the recovery of early payment for estimated future water, wastewater and roads DCs will be approved by Council on November 24, 2021 and will come into effect on January 1, 2022. The following are the remaining critical dates in the process.

Process	Date
1. Final Recovery DC Proposal to Council and Passing of the By-law by Council	November 24, 2021
2. Advertise Notice of passage of Recovery DC By-law	Within 20 days of passage
3. Last day for Recovery DC By-law Appeal	40 days after passage
4. By-law effective date	January 1, 2022

FINANCIAL/PROGRAM IMPLICATIONS

The Halton Recovery DC By-law 2022 is to recover the early payment for estimated water, wastewater and roads DCs provided by participating developers in the 2008/2009 Allocation Program and there are no financial implications to the Region.

Respectfully submitted,



Matthew Buist
 Director, Capital and Development
 Financing



Keshwer Patel
 Commissioner, Finance and Regional
 Treasurer

Approved by



Jane MacCaskill
 Chief Administrative Officer

If you have any questions on the content of this report,
 please contact:

Matthew Buist

Tel. # 7873

Attachments: Attachment #1 - 2022 Recovery DC By-law

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. ▲-22

A BY-LAW TO ESTABLISH RESIDENTIAL DEVELOPMENT CHARGES IN RESPECT OF THE RECOVERY OF THE EARLY PAYMENT OF ESTIMATED FUTURE WATER, WASTEWATER AND ROADS DEVELOPMENT CHARGES FOR THE REGIONAL MUNICIPALITY OF HALTON (RECOVERY DC AREA) AND TO REPEAL BY-LAW NO. 37-17.

WHEREAS subsection 2(1) of the **Act** provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the by-law applies;

AND WHEREAS **Council** has before it the **Study**;

AND WHEREAS the **Study** and the proposed development charges by-law were made available to the public, **Council** gave notice to the public and held a meeting open to the public, through its Regional Statutory Public Meeting & Hearing Committee, pursuant to section 12 of the **Act** on October 13, 2021, and **Council**, through its Regional Statutory Public Meeting & Hearing Committee, considered the **Study**, received written submissions and heard comments and representations concerning the **Study** from all persons who applied to be heard;

AND WHEREAS at a meeting open to the public held on November 24, 2021, **Council** approved Report No. FN-35-21 and adopted the recommendations in the Report thereby determining that no further public meetings were required under section 12 of the **Act**.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

Definitions

1. THAT in this By-law:
 - (a) “**2008/2009 Allocation Program**” means the allocation program pursuant to the 2008/2009 Financial and Implementation Plan contained in Regional Report No. CS-49-09/PW-20-09/LPS80-09 as modified by Regional Report No. CS-78-09/LPS112-09;
 - (b) “**accessory dwelling**” means a dwelling unit that is naturally or normally incidental to or subordinate in purpose and is exclusively devoted to a single detached dwelling or a semi-detached dwelling;

- (c) “**Act**” means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended or successor legislation;
- (d) “**apartment dwelling**” means a building containing more than one dwelling unit where the units are connected by an interior corridor. Despite the foregoing, an apartment dwelling includes, but is not limited to, stacked townhouse dwellings and/or back-to-back townhouse dwellings, that are developed on a block approved for development at a minimum density of sixty (60) units per net hectare pursuant to plans and drawings approved under section 41 of the *Planning Act*;
- (e) “**back-to-back townhouse dwelling**” means a building containing four or more dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards;
- (f) “**bedroom**” means a habitable room of at least seven square metres (7 m²), including a den, study, loft, or other similar area, but does not include a living room, dining room, kitchen or other space;
- (g) “**building**” means a permanent enclosed structure occupying an area greater than ten square metres (10 m²);
- (h) “**charitable dwelling**” means a part of a residential building or a part of the residential portion of a mixed-use building maintained and operated by a corporation approved under the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended or successor legislation as a home or joint home, or institution or nursing home for persons requiring residential, specialized or group care and includes a children’s residence under the *Child and Family Services Act*, R.S.O. 1990, c. C.11, as amended or successor legislation, and a home for special care under the *Homes for Special Care Act*, R.S.O. 1990, c. H.12, as amended or successor legislation;
- (i) “**correctional group home**” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a twenty-four (24) hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or its agency, or by public subscription or donation, or by any combination thereof, and licensed, approved or supervised by the Ministry of Correctional Services as a detention or correctional facility under any general or special act as amended or successor legislation. A correctional group home may contain an office provided that the office is used only for the operation of the correctional group home in which it is located;
- (j) “**Council**” means the Council of the Region;

- (k) “**development**” means the construction, erection or placing of one or more buildings on land or the making of an addition or alteration to a building that has the effect of increasing the size or usability and/or changing the use thereof and development shall include redevelopment;
- (l) “**dwelling unit**” means either (i) a room or suite of rooms used, designed or intended for residential use by one or more persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, or (ii) in the case of a special care/special need dwelling, either (1) a room or suite of rooms used, designed or intended for use by one person with or without exclusive sanitary and/or culinary facilities, or (2) a room or suite of rooms used, designed or intended for use by more than one person with no more than two persons sharing a bedroom and with sanitary facilities directly connected and accessible to each room, or (3) every seven square metres (7 m²) of area within a room or suite of rooms used, designed or intended for use by more than one person as a bedroom;
- (m) “**Early Payment**” means the early payment of estimated future water, wastewater and roads development charges under the Phase 1 and Phase 2 Agreements;
- (n) “**Future Allocation Programs**” means water and wastewater allocation programs and roads programs pursuant to financial and implementation plans approved or amended by Council from time to time;
- (o) “**grade**” means the average level of proposed finished ground adjoining a building at all exterior walls;
- (p) “**group home**” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit which may or may not be supervised on a twenty-four (24) hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or its agency, or by public subscription or donation, or by any combination thereof and licensed, approved or supervised by the Province of Ontario for the accommodation of persons under any general or special act as amended or successor legislation;
- (q) “**high density apartment**” means an apartment dwelling of a minimum of four (4) storeys or containing more than one hundred thirty (130) dwelling units per net hectare pursuant to plans and drawings approved under Section 41 of the *Planning Act*;
- (r) “**local municipality**” means The Corporation of the City of Burlington, the Town of Oakville, the Town of Milton or the Town of Halton Hills;

- (s) “**lot**” means a lot, block or parcel of land capable of being legally and separately conveyed;
- (t) “**mixed-use**” means the use, design or intended use of the same land or building for a combination of non-residential development and residential development;
- (u) “**multiple dwelling**” means a building containing more than one dwelling unit or one or more dwelling units above the first storey of a building containing a non-residential use but a multiple dwelling does not include an accessory dwelling, a single detached dwelling, a semi-detached dwelling, an apartment dwelling, or a special care/special need dwelling;
- (v) “**Natural Heritage System**” means that part of the Region shown as Natural Heritage System on Schedule “A” to this By-law and areas identified as Natural Heritage System on Schedule “A” to this By-law reflect the Region’s Natural Heritage System. The Natural Heritage System is shown on Schedule “A” to this By-law for illustrative purposes only and does not impact the categorization of the land to which the Natural Heritage System overlay is shown as Recovery DC Area (2012-2021) for the purposes of this By-law;
- (w) “**net hectare**” means the total land area of a lot after conveyance or dedication of public road allowances, park and school sites and other lands for public use;
- (x) “**non-residential development**” means land, buildings or portions thereof used, designed or intended for a non-residential use;
- (y) “**non-residential use**” means the use of land, buildings or portions thereof for any purpose other than for a residential use;
- (z) “**nursing home**” means a residential building or the residential portion of a mixed-use building licensed as a nursing home by the Province of Ontario;
- (aa) “**owner**” means the owner of land or a person who has made application for an approval for the development of land;
- (bb) “**Phase 1 Agreements**” means agreements, as amended, between the Region and a number of residential developers made pursuant to Report No. CS-49-09/PW-20-09/LPS80-09 as modified by Report No. CS-78-09/LPS112-09 in respect of Phase 1 of the Region’s 2008/2009 Allocation Program under which the developers, among other things, made Early Payments in return for a flow through of development charges towards the reimbursement of such Early Payments;

- (cc) “**Phase 2 Agreements**” means agreements, as amended, between the Region and a number of residential developers made pursuant to Report No. CS-49-09/PW-20-09/LPS80-09 as modified by Report No. CS-78-09/LPS112-09 in respect of Phase 2 of the Region’s 2008/2009 Allocation Program in which the developers made, among other things, Early Payments in return for a flow through of development charges towards the reimbursement of such Early Payments;
- (dd) “**Planning Act**” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or successor legislation;
- (ee) “**Recovery Charge**” means the amount of the development charge under this By-law toward the reimbursement of the Early Payments;
- (ff) “**redevelopment**” means the construction, erection or placing of one or more buildings on land where all or part of a building on such land has previously been demolished, or changing the use of all or part of a building from a non-residential use to a residential use, or changing all or part of a building from one type of residential use to another type of residential use;
- (gg) “**Region**” refers to the geographic area of the Regional Municipality of Halton or the corporation of The Regional Municipality of Halton, as the context requires;
- (hh) “**residential development**” means land, buildings or portions thereof used, designed or intended for residential use and includes but not limited to a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, a garden suite, a special care/special need dwelling, an accessory dwelling and the residential portion of a mixed-use building;
- (ii) “**residential use**” means the use of land, buildings or portions thereof as living accommodation for one or more persons;
- (jj) “**retirement home or lodge**” means a residential building or the residential portion of a mixed-use building which provides accommodation primarily for retired persons or couples where each private bedroom or living accommodation has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;
- (kk) “**semi-detached dwelling**” means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

- (ll) “**single detached dwelling**” means a completely detached building containing only one (1) dwelling unit;
- (mm) “**special care/special need dwelling**” means a residential building or portion thereof:
- (i) containing two or more dwelling units which units have a common entrance from street level;
 - (ii) where the occupants have the right to use in common with other occupants halls, stairs, yards, common rooms and accessory buildings;
 - (iii) that is designed to accommodate persons with specific needs, including but not limited to, independent permanent living arrangements; and
 - (iv) where support services, such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels;
- and includes, but is not limited to, retirement homes or lodges, charitable dwellings, nursing homes, group homes (including correctional group homes) and hospices;
- (nn) “**stacked townhouse dwelling**” means a building containing two or more dwelling units where each dwelling unit is separated horizontally from another dwelling unit by a common wall;
- (oo) “**storey**” means that portion of a building between the surface of a floor and the floor, ceiling or roof immediately above it with the first storey being that with the floor closest to grade and having its ceiling more than six feet (6 ft.) (one and eighty three hundredths metres 1.83 m.) above grade; and
- (pp) “**Study**” means the report entitled “▲” dated ▲, and any amendments thereafter or addenda thereto.

Rules

2. THAT for the purpose of complying with section 6 of the Act:
- (a) the area to which this By-law applies shall be the area described in section 4 of this By-law;
 - (b) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if development charges are payable under this By-law in any

particular case and for determining the amount of the charges shall be as set forth in sections 8 through 15, inclusive, of this By-law;

- (c) there are no exemptions, relief, credits and adjustments in this By-law;
- (d) there is no indexing of charges; and
- (e) there shall be no phasing-in.

Schedules

3. THAT the following Schedules to this By-law form an integral part of this By-law:

Schedule "A"	Map of the Recovery DC Area and
Schedule "B"	Residential Recovery Development Charge.

Lands Affected

- 4. THAT this By-law applies to the lands in the geographic area of the Region identified as Recovery DC Area on Schedule "A" where such lands require a servicing allocation under a Future Allocation Program.
- 5. THAT the boundaries on Schedule "A" to this By-law are fixed when they are formed by a combination of such well-defined features such as roads, railways, electrical transmission lines, municipal and property boundaries, original township lot or concession lines, streams and topographic features.
- 6. THAT where:
 - (a) the boundaries on Schedule "A" to this By-law are not fixed in accordance with the Section 5 of this By-law, the boundary shall be determined by the Region's Director of Planning Services and Chief Planning Officer; and
 - (b) a parcel of land is within two or more areas shown on Schedule "A" to this By-law, the development charges applicable to the area in which each part of the parcel is located shall be applied.

Other Development Charges

- 7. THAT the development of land in the Region may be subject to one or more development charges by-laws of the Region and the development charges under this By-law are in addition to any other development charges that may be applicable to such development.

Recovery of Early Payments

8. THAT development charges under this By-law shall be imposed for recoveries toward the reimbursement of Early Payments.

Approvals for Development

9. THAT development charges under this By-law shall be imposed against all lands or buildings within the area to which this By-law applies if the development of such lands or buildings requires any of the following:
 - (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 9 of the *Condominium Act*, 1998, S.O. 1998, c. 19, as amended or successor legislation; 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.
10. THAT notwithstanding section 9 of this By-law, if
 - (a) two or more of the actions described in section 9 of this By-law occur at different times, or
 - (b) a second or subsequent building permit is issuedresulting in increased, additional or different development under this By-law, additional development charges shall be imposed and shall be paid in respect of such increased, additional or different development permitted by such action or permit.
11. THAT where a development requires an approval described in section 9 of this By-law after the issuance of a building permit and no development charges have been paid, then development charges under this By-law shall be paid prior to the granting of the approval required under section 9 of this By-law.

Calculation of Development Charges under this By-law

12. THAT in the case of residential development, including a dwelling unit accessory to a non-residential development, or the residential portion of a mixed-use development the residential development charges under this By-law with respect to the development of any land or buildings shall be calculated based upon the number and type of dwelling units where such units require a servicing allocation under a Future Allocation Program.

Amount of Charge

13. THAT, subject to section 7 of this By-law, development charges shall be imposed on all residential development, including a dwelling unit accessory to a non-residential development and the residential component of a mixed-use building, according to the number and type of dwelling units on lands within that part of the Region depicted on Schedule "A" to this By-law as Recovery DC Area where such lands require a servicing allocation under a Future Allocation Program and the development charges payable shall be the charges shown on Schedule "B" to this By-law.

Timing of Calculation and Payment

14. (1) THAT the development charges under this By-law shall be calculated at the time in accordance with the provisions of Section 26.2 of the Development Charges Act, as may be applicable.
- (2) THAT subject to subsection (3), the development charges under this By-law shall be payable upon a building permit being issued for the proposed development in accordance with Subsection 26 of the Development Charges Act, or if said development is of the type identified in Subsection 26.1 of the Development Charges Act in annual instalments in accordance with Subsection 26.1 of the Development Charges Act.
- (3) THAT with respect to an approval of a plan of subdivision under section 51 of the *Planning Act* or a consent under section 53 of the *Planning Act*, development charges shall be payable at the time of execution of the subdivision agreement or an agreement entered into as a condition of a consent.
- (4) THAT development charges payable under this By-law shall be calculated in the case of residential development, including a dwelling unit accessory to a non-residential development, or the residential portion of a mixed-use development, based upon the proposed number and type of dwelling units.
- (5) THAT, if at the time of issuance of a building permit or permits for any residential development for which payments have been made pursuant to subsection (1), the total number and/or type of dwelling units for which

building permits have been and are being issued is greater than that used for the calculation and payment referred to in subsection (1), an additional payment shall be required and shall be calculated by multiplying the applicable development charges shown in Schedule "B" to this By-law, as may be appropriate, by the difference between the number and type of dwelling units for which building permits have been and are being issued and the number and type of dwelling units for which payments have been made pursuant to subsection (1) and this subsection.

- (6) THAT subject to subsection (8), if following the issuance of all building permits for all development in a subdivision and for all development in a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsections (2) or (3), the total number and/or type of dwelling units for which building permits have been issued is less than that used for the calculation and payment referred to in subsection (1), a refund shall become payable by the Region to the person who originally made the payment referred to in subsections (2) or (3), which refund shall be calculated by multiplying the amounts of the development charges in effect at the time such payments were made by the difference between the number and type of dwelling units for which payments were made and the number and type of dwelling units for which building permits were issued.
- (7) THAT subsections (5) and (6) shall apply with necessary modifications to a development for which development charges have been paid pursuant to a condition of consent or pursuant to an agreement respecting same.
- (8) THAT any refunds payable by the Region pursuant to section 14(6) shall be calculated and paid without interest.
- (9) THAT despite subsection (2), in the case of a high-density apartment that is not of the type development identifies in subsection 26.1 of the Development Charges Act, the development charges under this By-law shall be payable on the date a building permit is issued in relation to the high density apartment on lands to which the development charges under this By-law apply.
- (10) THAT notwithstanding subsections (1) to (9), inclusive, the Region may require and, where so required, an owner shall enter into an agreement, including the provision of security for the owner's obligations under the agreement, pursuant to section 27 of the Act. The terms of such agreement shall then prevail over the provisions of this section dealing with the timing of payments but may not amend or alter any other provisions or sections of this By-law.

Payment by Money

15. THAT payment of development charges under this By-law shall be by certified cheque or bank draft.

Interest

16. THAT the Region shall pay interest on a refund under subsections 18(3) and 25(2) and section 36 of the Act at a rate equal to the Bank of Canada rate on the date this By-law comes into force.

Registrations

17. THAT a certified copy of this By-law and a copy or notice of any agreement authorized by this By-law may be registered in the Land Registry Office (No. 20) as against title to any land to which this By-law or any such agreement applies in accordance with the provisions of this by-law or Sections 42 and 56 of the Act or any predecessor thereto.

Date By-law Effective

18. THAT this By-law comes into force and effect on January 1, 2022 ▲.

Repeals

19. THAT By-law No. 37-17 (being a by-law to establish residential development charges in respect of the recovery of the early payment of estimated future water, wastewater and roads development charges for the Regional Municipality Halton Recovery Area 2012-2021), as amended is hereby repealed on the date this By-law comes into force and effect.

Headings for Reference Only

20. THAT 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

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

Short Title

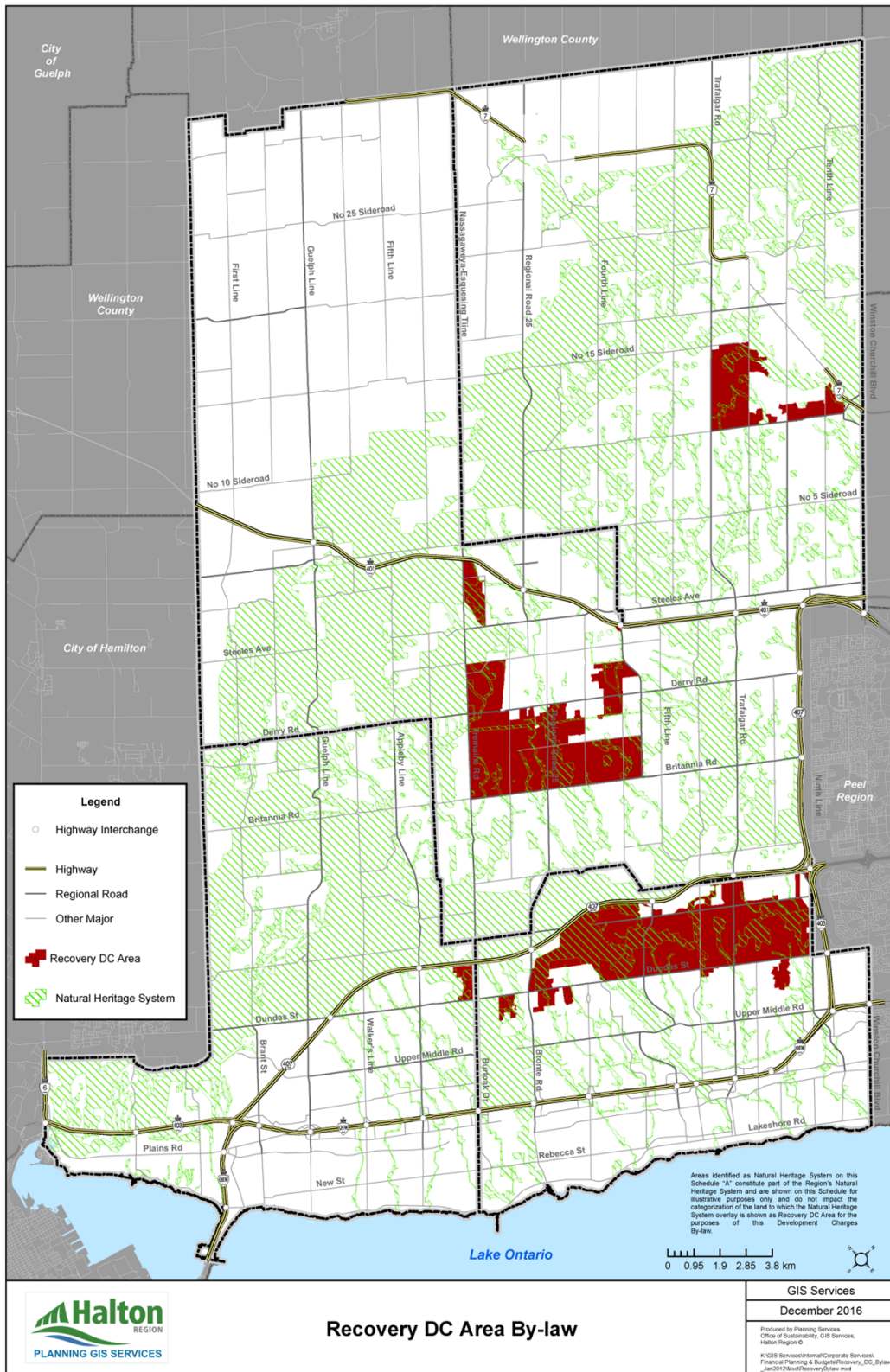
22. THAT the short title of this By-law is the "Halton Recovery DC By-law 2022".

READ and PASSED this ▲ day of ▲, 2021.

REGIONAL CHAIR

REGIONAL CLERK

SCHEDULE "A" TO BY-LAW NO. ▲-22



SCHEDULE "B"
TO BY-LAW NO. ▲-22
RESIDENTIAL RECOVERY DEVELOPMENT CHARGE

PER DWELLING UNIT	\$DC
Single & Semi-Detached Dwelling	\$ 3,679
Multiple Dwelling	
Multiple Dwelling (3 or More Bedrooms)	\$ 2,845
Multiple Dwelling (Less Than 3 Bedrooms)	\$ 2,157
Apartment Dwelling	
Apartment Dwelling (2 or More Bedrooms)	\$ 1,977
Apartment Dwelling (Less Than 2 Bedrooms)	\$ 1,502
Special Care/Special Need and Accessory Dwelling	\$ 1,135