

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND POLICY COMMITTEE MEETING OF OCTOBER 21, 2013
FROM:	MARTIN HAYWARD, MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	2014 DEVELOPMENT CHARGES STUDY: PROPOSED CHANGES TO DEVELOPMENT CHARGES NON-RESIDENTIAL BUILDING CONVERSION AND DEMOLITION POLICIES

RECOMMENDATION

That on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to Development Charge (DC) conversions and demolitions policies for the 2014 Development Charges Study:

1. The City Treasurer **BE DIRECTED** to include provisions in the 2014 Development Charges By-law to provide an amount of conversion credit or demolition credit against DC charges otherwise payable on buildings being converted or demolished for the full DC rate, rather than the “discounted” or “subsidized” DC rate currently used to calculate the credit.

IT BE NOTED THAT the recommended policy changes will reduce the net DC charge otherwise payable for the applicant who converts institutional or industrial buildings to commercial or residential uses.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
--

September 10, 2013	Corporate Services Committee, “Development Charge Complaint 75 Blackfriars Street”
August 26, 2013	Strategic Priorities and Policy Committee, “Strategic Change in Delivery of Development Charge Exemptions and Incentives Policies”
August 20, 2013	Corporate Services Committee, “Development Charge Complaint 75 Blackfriars Street”
May 28, 2013	Planning and Environment Committee, “Application by: John Kudelka 1030 Elias Street”

PURPOSE OF REPORT

The City’s DC By-law has, for a number of years, included provisions that allow a credit or reduction against charges otherwise payable, when the use of the building changes from one category of use to another (categories are Residential, Commercial, Institutional, and Industrial) or when building occurs on a site that formerly contained a building that was demolished in prior years.

This report outlines recommendations and rationale for a change to the City’s conversion and demolition credit policies as they pertain to non-residential buildings effective with the new 2014 Development Charges By-law. It is proposed that applicants seeking to convert or demolish industrial or institutional buildings in the future be provided with a credit calculated using the full DC rate for the existing use rather than a “discounted” or “subsidized” rate being used at present. Wherever the term “credit” is used in this report, it refers to a reduction of charges otherwise payable on a conversion or demolition of existing buildings. It does not have the status of a “credit” under sections 38 to 41 of the Development Charges Act.

There are no financial contributions required by the City from adopting the new policy. It merely recognizes that a contribution for the services to an existing building has previously been paid.

CURRENT DEVELOPMENT CHARGE CONVERSION AND DEMOLITION POLICIES

Development Charges (DCs) are a means of collecting money to pay for new infrastructure and service expansions that are required to support the growing city. In accordance with the provisions of the Development Charges Act, municipalities undertake a background study to:

- determine the amount of future residential and non-residential growth, and where in the city that growth is anticipated to occur;
- model the required infrastructure and services that will be required by the future growth;
- set the growth costs that will be recovered through development charges and those that are the responsibility of the land developer;
- calculate the cost of future growth infrastructure needs recoverable through development charges; and,
- establish development charge rates to pay for the infrastructure identified in the background study. The rates are collected from both new housing and non-residential floor space.

Once the background study has established the required infrastructure, services and DC fees for new development, a Development Charges By-law is prepared and approved by Council.

Currently, the City of London DC By-law provides re-development credits for buildings that are converted from one use to another. Sections 12 to 14 (Appendix A) outline the rules for the **conversion credit**. Generally, DCs calculated for converted buildings net out the DC value of the existing building so that the DCs collected represent the costs associated with the new space resulting from the re-developed building. An example is as follows:

- Assume a 2000 square metre commercial building is being converted into 40 one bedroom apartment units.
- DCs for 2013 are \$173.75/m² for commercial and \$10,054 for one bedroom apartments.
- The charges on conversion taking into account the credit for the existing use, are as follows:
 - $\$402,160 (40 \times \$10,054) - \$347,500 (2000 \text{ m}^2 \times \$173.75) = \$54,660$
- The DCs payable for the converted building of \$54,660 represent the amount collected for the “upcharge” in converting from one use to another.

Similarly, the DC By-law provides **demolition credits** based on the floor area of a previously existing building on a site undergoing re-development. Sections 16 through 20 (Appendix A) outline the rules for the demolition credit. The demolition credit is only available within a certain period after demolition (20 years in specified downtown areas and 10 years elsewhere). An example is as follows:

- Assume a 1000 square metre non-residential building was demolished in 2007.
- A 3000 m² commercial redevelopment on the property occurs in 2012.
- DCs for the new building in 2012 would normally be \$521,250.
- A DC credit for the 1000 m² building demolished (within the last 10 years) may be available to offset the charge, depending on the former use:
 - If the building demolished was last used as a commercial use, the credit would be \$173,750 (1000 m² at commercial rate)
 - If the building demolished was last used for an institutional use – such as a school or a church – the credit would be \$111,970 (1000 m² at institutional rate)
 - If the building demolished was last used for an industrial use, the credit would be \$0 (the current by-law exempts industrial uses and no demolition credit would be provided unless it could be demonstrated that there was DC’s paid on the former industrial use).
- In any case, the charges on rebuilding a commercial use would be reduced by the demolition credit (which would depend on the former use of the building demolished).

Although the current DC By-law provides conversion credits and demolition credits, the full rate applicable to the type of building is not applied to all forms of conversion or demolition. Due to the City’s historic industrial exemption policy and the provision of a 50% City Services Reserve Fund (CSRF) rate discount for specified institutional uses, our DC By-law does not provide conversion

and demolition credits for re-developed/demolished industrial buildings and only provides 50% of the CSRF rate for the calculation of conversion or demolition credits on institutional buildings (i.e., churches and cemeteries, hospitals, and universities).

Appendices B and C provide graphical illustrations of how the DC By-law's conversion credit policies are applied to industrial and institutional buildings (both current and proposed policy outcomes are illustrated):

- In Appendix B, an 1839 square metre industrial building located at 1030 Elias Street is converted to a commercial use. Under the City's current conversion policies (the first set of bars), there is no credit available for the existing industrial building due to the City's industrial building exemption policies, and the applicant is required to pay full development charges at the commercial DC rate as if the building did not exist.
- In Appendix C, a 1299 square metre church is converted to a commercial use.¹ Under the City's current conversion policies (the first set of bars), the 50% CSRF discount is applied to the church space, rather than the full institutional rate.

As a result, in both cases, the net DC payable is substantially more under current rules than if the full rate for the existing use is applied to reduce the charges otherwise payable.

In recent months, City Staff have received development proposals that have questioned the fairness associated with the current DC By-law conversion policies (the Appendix B and C graphs reflect these proposals). In part, these concerns have prompted Staff to review the conversion and demolition policies in the context of the 2014 Development Charges Background Study process.

PROPOSED CHANGES TO DEVELOPMENT CHARGE CONVERSION AND DEMOLITION CREDIT POLICIES

Appendices D and E provide the draft recommended by-law provisions to be included with the upcoming 2014 Development Charges By-law. The proposed changes are as follows:

- For both conversions and demolitions, full rate credit will be made available to offset charges otherwise payable for area being converted or demolished. Additionally, the removal of wording that placed restrictions on the availability of conversion credits will permit a conversion or demolition credit equal to the full DC rate for non-residential area being converted/demolished for the subject building.
- Technical corrections: Several of the highlighted changes represent clarification in wording or formatting, or removal of by-law provisions that are no longer required.

In addition to the revised by-law sections regarding non-residential conversions and demolitions outlined in Appendices D and E, the 2014 DC By-law will include both the calculated industrial rate and institutional rate, derived from the DC Background Study.² This will permit the use of the applicable full non-residential rate for calculating the value of a DC credit on conversions and demolitions of industrial and institutional buildings. Any discounts or subsidies associated with these uses should be defined in Community Improvement Plans, according to a recently adopted change in how DC exemptions and discounts are provided.

The changes are intended to be incorporated into the 2014 DC by-law, with an effective date of August 3, 2014.

Rationale for Proposed Changes to DC Conversion and Demolition Credit Policies

The above proposed policy changes for DCs payable for non-residential conversions and demolitions are considered desirable for the following reasons:

- Fairness: For buildings previously allowed a DC exemption or discount, or for buildings that existed prior to the introduction of DC levies (1973 for London), costs associated with growth have been paid for by a source of funding. The rationale behind the proposed

¹ The converted church at 75 Blackfriars St used for this example also included 322 m² of new floor space in addition to the space converted. For the purposes of this illustration, the added space has been omitted to provide an example of a simple institutional-to-commercial conversion.

² In previous Development Charge By-laws, the industrial rate has not been included due to the City's DC exemption for new industrial buildings.

more generous re-development credit is that it should not matter who paid for these costs; the fact is that someone has funded the cost. Therefore, the source of the financing for growth costs (i.e., the City taxpayer in the case of previously exempted/discounted buildings) should not disqualify a subsequent applicant for a change in building use from receiving a full DC re-development credit for the existing use.

- Consistency: A consistent rationale is desired for providing DC re-development credits to all forms of building conversion and demolition. Given that DC re-development credits are made available to avoid an owner “paying twice” for DCs on converted or demolished building space, it is reasonable that the “full credit” philosophy be adopted for all buildings, regardless of their former use or the party that funded the original development charge.
- Simplicity: the proposed change will simplify the policy in that credit upon change in use or demolition is based upon rate applicable to the existing or demolished use. It is unaffected by the City’s policy on exemptions, discounts or subsidies related to the change in use, which have already been funded from some other source, and which are subject to change over time.

Effects of Proposed Changes

Should Council endorse the above policy changes and approve their inclusion in the upcoming 2014 Development Charges By-law, both conversions and demolitions of formerly exempted/discounted buildings will be afforded the similar credits that are currently available to commercial and non-discounted institutional building that are converted to other uses. The changed policy will result in the removal of a potential financial disincentive to the re-development and re-use of former industrial and institutional buildings. The ten and twenty year limitations on the “life” of the demolition credit are not proposed to change. This limitation exists to recognize that after a time, the previously used servicing capacity for the development is re-allocated to serve other growth needs. It should also be noted that the City’s demolition credit “window” is at least double that of most municipalities, as shown below.

The improved financial outcome of increased credits for the redeveloper is illustrated in Appendices B and C. Recall that the first set of bars on the two graphs in Appendices B and C illustrated the net cost to a redeveloper on a conversion of an institutional and an industrial property based on the City’s current non-residential conversion policies. The second set of bars in the graphs reflect the improved financial impact to a redevelopment proponent from the proposed change in conversion credit policy. The impacts of the proposed changes in policy on replacement of demolished buildings are similar. The net result is lower net DC’s payable upon redevelopment of the property.

Adoption of the new non-residential conversion policies has the potential to encourage the re-development of legacy industrial areas such as the McCormick Study Area, and other vacated buildings. The more generous conversion and demolition credits proposed are not a financial subsidy to be paid by City taxpayers, but rather, recognize the amounts already paid by taxpayers or owners for development being converted.³ As a result, the change in conversion and demolition credit policies will allow development proponents to focus their decision-making more on the functionality of a building or its location, and less on the additional development charges he/she would be required to pay with a former industrial or institutional building.

There is the potential that the change in policies outlined in this report could challenge the City’s protection of viable industrial lands for future industrial uses. Some non-industrial uses prefer to locate in industrial areas due to factors such as parking availability, scale of buildings, potentially reduced rents, etc. While the introduction of non-industrial uses to legacy industrial areas may be desired due to the perceived obsolescence of buildings in these areas, or due to the desire to re-develop the area to non-industrial uses, most industrial areas in the City need to be protected to ensure that the lands remain supportive of existing and future industrial uses. The Zoning By-law is the most appropriate tool for managing potential negative effects of the proposed change in DC re-development credit policies. It is thus important that the Zoning By-law continues to place restrictions on certain uses being permitted in the City’s key industrial areas.

³ For the period 1973-1979, DCs were paid on all forms of industrial building construction by the building owners.

Non-residential Conversion Policies in Other Municipalities

DC conversion credits are common in development charge by-laws throughout Ontario. Table 1 provides information on the rules associated with non-residential conversions for several municipalities.

TABLE 1: COMPARISON OF MUNICIPAL DC BY-LAW NON-RESIDENTIAL TO NON-RESIDENTIAL CONVERSION POLICIES

Municipality	Non-residential to Non-residential Conversions Policies?	Limitations on Conversion Credits
Brantford	Yes	None
Guelph	Yes	None
Hamilton	Yes	None
Kingston	Yes	Building must have been occupied within 5 years of application of conversion building permit
Kitchener	Yes	None
Markham	Yes	None
Milton	Yes	None
Mississauga	No	No conversion credits available for any form of conversion
Oakville	Yes	No conversion credits available for buildings that are exempt from DCs or previously exempt from DCs
Ottawa	Yes	None
Sarnia	Yes	None
Waterloo (City)	Yes	None
Windsor	Yes	DCs not required to be paid if floor area of a building is not changing (no calculation made – essentially an exemption)
Woodstock	Yes	None

As indicated in the table above, most municipalities that offer DC conversion credits do not place limitations on their applicability (Oakville has a similar policy to the current City of London conversion credit policy). However, Kingston does place some restrictions on the time period that a conversion credit can be applied to calculated DCs. These restrictions are likely due to concerns over the re-allocation of servicing capacity for buildings that have been vacant for extended periods of time, thus resulting in development outside of this window being considered “new development” as opposed to re-development. At this time, City Staff do not believe that restrictions related to a vacancy period are necessary for the proposed DC conversion policies.

The comparative survey of municipalities above has indicated that the proposed changes to DC conversion credit policies outlined in this report will make the City consistent with the approach taken to conversions in other communities.

Non-residential Demolition Credit Policies in Other Municipalities

Similar to the table above, Staff have performed a comparative analysis of demolition credit policies in other municipalities.

TABLE 2: COMPARISON OF MUNICIPAL DC BY-LAW DEMOLITION CREDIT POLICIES

Municipality	Demolition Credit Policies?	Limitations on Demolition Credits
Brantford	Yes	None
Guelph	Yes	Demolition occurred a maximum of 4 years from re-development
Hamilton	Yes	Demolition occurred a maximum of 5 years from re-development and no demolition credit provided for buildings exempted from paying development charges
Kingston	Yes	Demolition occurred a maximum of 5 years from re-development
Kitchener	Yes	Applicant required to provide proof of a demolition permit.

Markham	Yes	Demolition occurred a maximum of 4 years from re-development; Full credit for DCs if demolished building floor area matches the new building and partial DC credit if new building is greater in size than demolished building
Milton	Yes	Demolition occurred a maximum of 5 years from re-development and no demolition credit provided for buildings exempted from paying development charges
Mississauga	Yes	Demolition must have occurred since October 21, 1991
Oakville	Yes	No demolition credits available for buildings that are exempt from DCs or previously exempt from DCs
Ottawa	Yes	Replacement building must use same services as demolished building; no demolition credit provided for buildings exempted from paying development charges
Sarnia	Yes	Demolition occurred a maximum of 5 years from re-development
Waterloo (City)	Yes	Demolition permit issued a maximum of 6 years from re-development
Windsor	Yes	Demolition occurred a maximum of 5 years from re-development
Woodstock	Yes	Demolition permit issued a maximum of 5 years from re-development

Most municipalities surveyed specify a time period during which the demolition credit can be used. The “window of opportunity” is measured from when a demolition took place to the date of the construction of a new building, and is generally 4-6 years in duration. Temporal limits for demolition credits recognizes that eventually, unused servicing capacity is absorbed into the system and forms the basis for measuring growth needs. In London’s case, this service capacity must then be replaced for new development occurring after the ten (or twenty) year window. It should also be noted that several municipalities have similar demolition credit policies to the existing City of London policy that does not provide demolition credits for buildings that did not pay a development charge due to an exemption. Our recommendation is to move away from that limitation since the infrastructure was funded from some source, although not directly by the proponent.

In all cases, there is a limitation that the credits provided for re-development cannot result in the applicant receiving a refund beyond the DCs required to be paid for the building being constructed through re-development.

Several municipalities also permit DC demolition credits for a given development block to be carried forward should the credits exceed the amount of DCs required to be paid with the construction of a building on a re-development site. These carried forward credits can be availed of by the development proponent in the event of subsequent construction at the re-development site (i.e., subsequent phases of construction can benefit from surplus demolition credits). The policy being recommended does provide for a similar availability of credits, subject to the 10 year demolition credit “window.”

Comments from Stakeholders

The recommended changes to DC conversion and demolition conversion policies were discussed with the Development Charges External Stakeholder Committee to gather feedback. Comments were received from the Urban League, and are as follows:

We note this is an interesting program proposal that promotes re-use, but not remediation and re-development of brownfields (at least from the examples cited in the discussion – rock climbing and Spikes volleyball). We agree that there must be clear criteria for this program. We proposed that the building must have been actively used for industrial for 10 years AND vacant for at least two years in order to qualify.

Staff supports the position that where DC exemptions are provided on original construction, there should be some method of ensuring a minimum ‘return on investment’ for the taxpayer’s contribution towards the original DC exemption or discount. As a result, Staff will examine how to address this issue as part of the terms of the exemption grant under the Community Improvement Program (CIP) (e.g., clawback of DC exemption grant secured through a Letter of Credit in the

event that the granted development be converted/demolished a number of years under minimum targets, or payment of DC exemption grant in installments over several years). However, once a building is vacated, Staff believe that a prompt redevelopment serves the interests of maximizing use of existing infrastructure, and should not entail barriers to redevelopment – that is, DC credits should be granted for all conversions and demolitions without a vacancy period. As mentioned above, Staff also recognize the importance of the Zoning By-law placing restrictions of certain forms of non-industrial uses in many industrial areas as a means of avoiding undesirable industrial building conversions.

CONCLUSION

Changes to DC non-residential conversion and demolition credit policies in the upcoming 2014 Development Charges By-law are recommended to provide enhanced credits on conversion or demolition for industrial and institutional buildings that are re-developed to other uses. The change in policy does not require financial contributions from the City taxpayer.

The new policy approach provides greater fairness and consistency for conversions of industrial and institutional buildings by permitting applicants to benefit from DC conversion credits in a similar manner to the conversion of commercial and residential buildings. The changes will assist in further promoting reuse and re-development of existing and demolished buildings.

If adopted by Council, the proposed policy changes will be incorporated into the 2014 Development Charges By-law and will apply to conversions and demolitions following the By-law’s passage.

PREPARED BY:	SUBMITTED BY:
PAUL YEOMAN MANAGER I, DEVELOPMENT FINANCE FINANCE AND CORPORATE SERVICES	PETER CHRISTIAANS, CA DIRECTOR, DEVELOPMENT FINANCE FINANCE AND CORPORATE SERVICES
RECOMMENDED BY:	
MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER	

October 11, 2013

c.c. George Kotsifas, Managing Director, Development and Compliance Services and Chief Building Official; Peter Kokkoros, Deputy Chief Building Official; Jim Barber, Managing Director, Corporate Services and City Solicitor; Gregg Barrett, Manager, Policy Planning and Programs; Kapil Lakhotia, President and CEO, London Economic Development Corporation; Mark Henderson, Director, Business Liaison

Appendix A: Excerpts from Current Development Charges By-law: DC Conversion and Demolition Credit Policies

Appendix B: Example of Existing and Proposed Policy Applied to an Industrial Building Converted to a Commercial Use

Appendix C: Example of Existing and Proposed Policy Applied to an Institutional Building Converted to a Commercial Use

Appendix D: Draft 2014 DC By-law Non-residential Conversion Provisions

Appendix E: Draft 2014 DC By-law Demolition Credit Provisions

**APPENDIX A: EXCERPTS FROM CURRENT DEVELOPMENT CHARGES
BY-LAW: DC CONVERSION AND DEMOLITION CREDIT POLICIES**

12. Residential Building Converted to Non-Residential Use

Where, in conjunction with a change from residential use to non-residential use, an existing building or structure is enlarged or wholly or partially converted, the development charge which is payable shall be calculated using the following formula:

$$A - B = C$$

Where:

- A = the development charge that would be payable for the non-residential use at the current rate in respect of the area involved in the enlargement or conversion;
- B = the development charge that would be payable at the current rate in respect of the lawfully existing dwelling units eliminated by the enlargement, conversion or replacement;
- C = the development charge payable in respect to the area involved in the enlargement or conversion, a negative difference being converted to zero.

13. Non-Residential Building Converted To Residential Use

Where, in conjunction with a change to residential use from a non-residential use, an existing building or structure is enlarged or wholly or partially converted, the development charge which is payable shall be calculated using the following formula, and so long as a development charge was paid in respect of the non-residential use under this or any predecessor by-law or the building or structure existed prior to April 6, 1973:

$$A - B = C$$

Where:

- A = the development charge that would be payable at the current rate in respect of the dwelling units comprising the gross floor area existing after the enlargement or conversion;
- B = the development charge that would be payable at the current rate in respect of the lawfully existing non-residential gross floor area involved in the enlargement, conversion or replacement, except where the non-residential gross floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph.
- C = the development charge payable in respect of the successor residential units, a negative number being converted to zero.

14. Conversion From One Form Of Non-residential Use To Another Form Of Non Residential Use

Where, in conjunction with a change from one form of lawfully existing non-residential use to another form of non-residential use, a lawfully existing building or structure is wholly or partially converted, the area for which a development charge is payable shall be calculated using the following formula, so long as a development charge was paid in respect of the lawfully existing use prior to conversion under this or any predecessor by-law or the building or structure existed prior to April 6, 1973:

$$A - B = C$$

Where:

- A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the use to which the space converted;
- B = the development charge that would be payable at the current rate in respect of the lawfully existing former space being converted, except where the non-residential floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and,
- C = the development charge payable in respect of the converted space, a negative number being converted to zero.

15. Exemptions With Respect To Agricultural Use

This bylaw shall not apply to impose upon construction, or create a credit related to demolition or removal of any building, the purpose of which is to support an agricultural use.

16. Replacement Of Demolished Or Destroyed Non-Residential Premises or Dwelling Unit(s) with Dwelling Units

- (1) In this section and section 17, "specified period" means the period of time that is up to ten (10) years prior to the application for a building permit for a replacement building, except in the Downtown and Old East Areas identified in Schedules 1 and 2, in which case, the "specified period" means the period of time that is up to twenty (20) years prior to the application for a building permit for replacement dwelling units and except in the case of the Brownfield site located at 750 Elizabeth Street in the City of London in which case, the "specified period" means the period of time that is up to fourteen (14) years prior to the application for a building permit for a replacement dwelling units.
- (2) Where a lawfully existing non-residential premises or dwelling unit, is destroyed by a force majeure or accidental fire, or is lawfully demolished or removed, the development charge payable in respect of a replacement dwelling unit that is to be constructed, erected or placed on the site of the former non-residential premises or dwelling unit shall be calculated using the following formula, so long as the former non-residential premises or dwelling unit was destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

- A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the replacement dwelling unit(s);
- B = the development charge that would be payable at the current rate in respect of the non-residential premises or former dwelling unit(s) (by using the applicable rate for the particular type of unit destroyed, demolished or removed) if that non-residential premises or dwelling unit(s) were currently being constructed, erected or placed for the first time, Where the non-residential floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the

current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and

C = the development charge payable in respect of the successor building or dwelling unit, a negative number being converted to zero.

17. Replacement of Demolished or Destroyed Non-Residential Premises or Dwelling Unit(s) with Non- Residential Premises

Where non-residential premises ("former premises") or dwelling units are destroyed by a force majeure or accidental fire, or are lawfully demolished or removed, the development charge payable in respect of replacement non-residential premises that are constructed, erected or placed on the site of the former premises shall be calculated using the following formula so long as the former premises were destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the gross floor area of the replacement non-residential premises;

B = the development charge that would be payable at the current rate in respect of the former non-residential premises (by using the applicable rate for the particular type of non-residential premises or dwelling units destroyed, demolished or removed), as the case may be, as if those premises or dwelling units were currently being constructed, erected or placed for the first time, except where the non-residential floor area being replaced is, prior to the replacement, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and

C = the development charge payable in respect of the successor premises, a negative number being converted to zero.

18. This section purposely omitted (consolidated under s. 16 & 17).

19. Building Replacement Prior to Demolition

Where a building or structure ("former premises") is replaced by another building or structure on the same site prior to demolition of the former premises, the owner of the building or structure who has paid a development charge on the construction of the replacement building may submit a request to the Director of Building Controls for a refund from the reserve funds for all or part of the development charge paid under this by-law, or its predecessor by-law. The refund shall be granted so long as:

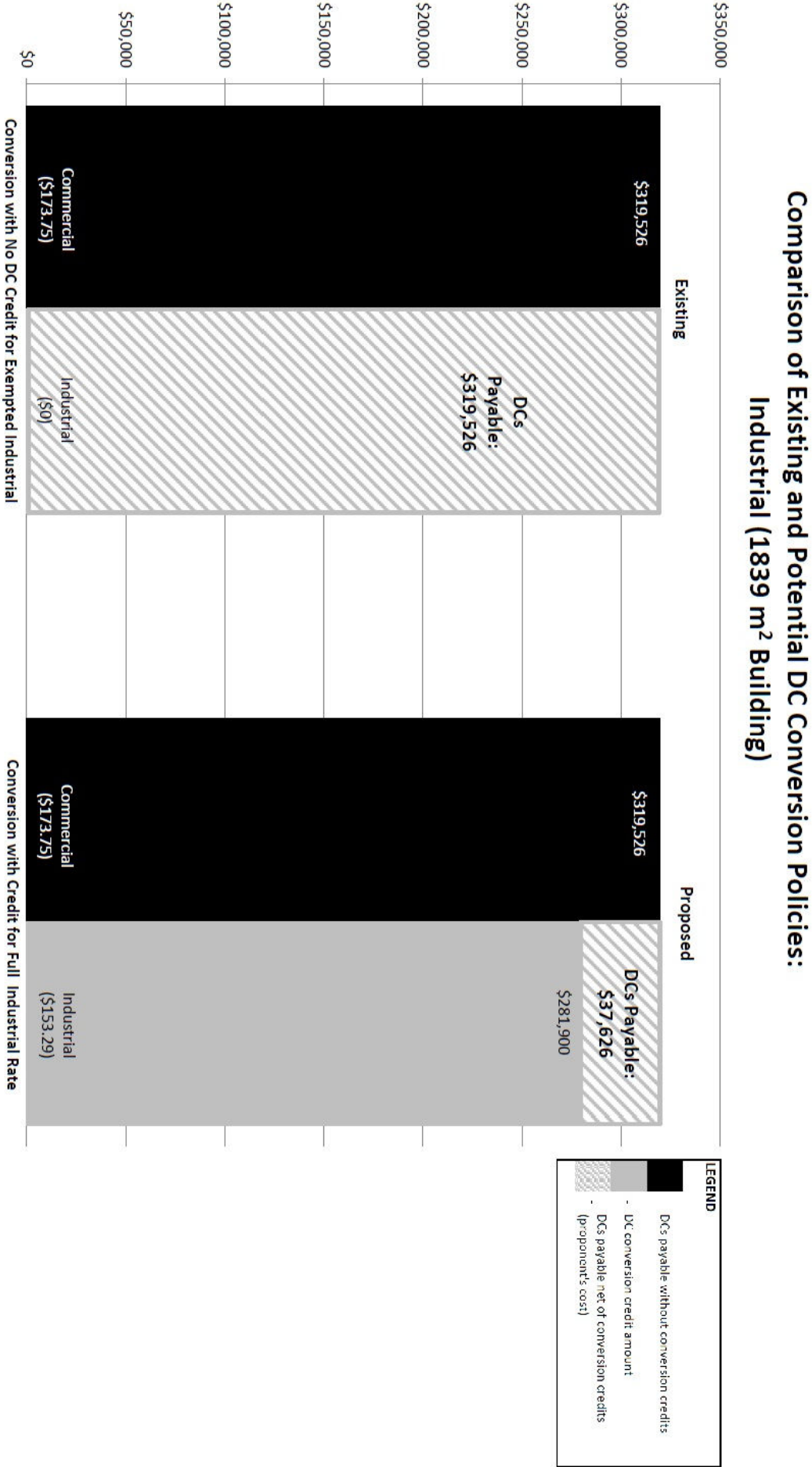
- (a) the former premises is lawfully demolished or removed from the land within twenty-four (24) months of the date the interior final inspection process has been closed by the Director of Building Controls for the replacement building or structure; and
- (b) the replacement building uses the existing municipal services which serviced the former premises.

The refund shall be calculated by determining the development charge that would be payable at the current rate in respect of the former premises (by using the applicable current rate for the particular type of non-residential premises or dwelling units demolished) as if those former premises were currently being constructed, erected or placed for the first time, except where the non-residential floor area being demolished, was prior to the demolition, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating the refund shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was under a building permit issued built between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph.

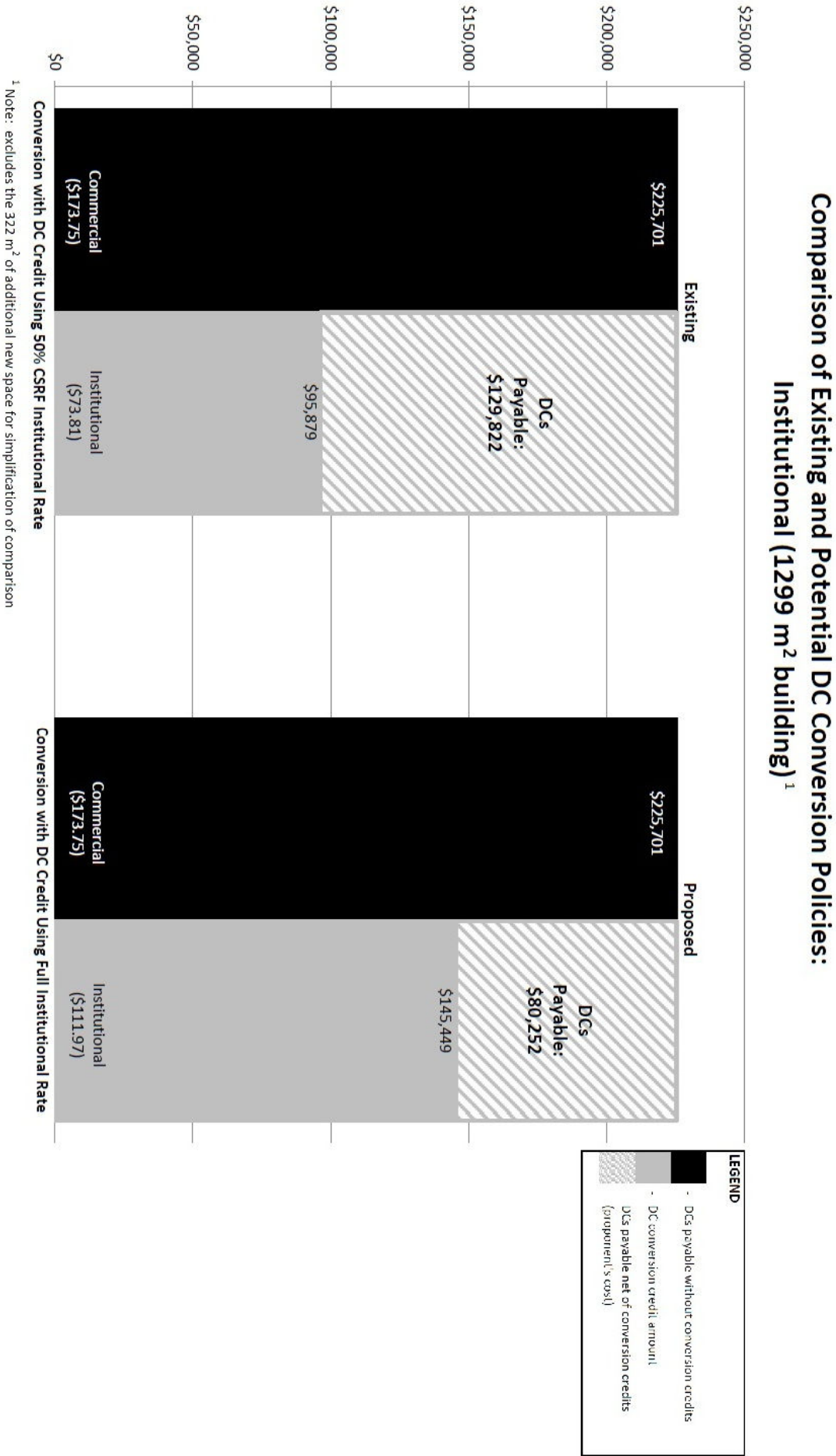
20. Demolition or Removal of Temporary Buildings

Where a building or structure is demolished or removed in its entirety from the land on which it is located within twenty four months (24) from the date of issuance of the building permit for the construction, erection or placing of the building or structure at such location, the owner of the building or structure may submit a request to the Director of Building Controls for refund from the reserve funds, of the amount paid at the issuance of the building permit toward all or part of the development charge payable under section 4 of this by-law or a predecessor of that section.

APPENDIX B: EXAMPLE OF EXISTING AND PROPOSED POLICY APPLIED TO AN INDUSTRIAL BUILDING CONVERTED TO A COMMERCIAL USE



APPENDIX C: EXAMPLE OF EXISTING AND PROPOSED POLICY APPLIED TO AN INSTITUTIONAL BUILDING CONVERTED TO A COMMERCIAL USE



APPENDIX D: DRAFT 2014 DC BY-LAW NON-RESIDENTIAL CONVERSION PROVISIONS

13. Non-Residential Building Converted To Residential Use

Where, in conjunction with a change to residential use from a non-residential use, an existing building or structure is enlarged or wholly or partially converted, the development charge which is payable shall be calculated using the following formula, ~~and so long as a development charge was paid in respect of the non-residential use under this or any predecessor by law or the building or structure existed prior to April 6, 1973:~~

$$A - B = C$$

Where:

- A = the development charge that would be payable at the current rate in respect of the dwelling units comprising the gross floor area existing after the enlargement or conversion;
- B = the development charge that would be payable at the current rate in respect of the **previous** lawfully existing non-residential gross floor area involved in the enlargement, conversion or replacement, ~~except where the non-residential gross floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and,~~
- C = the development charge payable in respect of the successor residential units, a negative number being converted to zero.

14. Conversion From One Form Of Non-residential Use To Another Form Of Non-Residential Use

Where, in conjunction with a change from one form of lawfully existing non-residential use to another form of non-residential use, a lawfully existing building or structure is wholly or partially converted, the area for which a development charge is payable shall be calculated using the following formula, ~~so long as a development charge was paid in respect of the lawfully existing use prior to conversion under this or any predecessor by law or the building or structure existed prior to April 6, 1973:~~

$$A - B = C$$

Where:

- A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the use to which the space converted;
- B = the development charge that would be payable at the current rate in respect of the **previous** lawfully existing former space being converted, ~~except where the non-residential floor are being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and,~~
- C = the development charge payable in respect of the converted space, a negative number being converted to zero.

APPENDIX E: DRAFT 2014 DC BY-LAW DEMOLITION CREDIT PROVISIONS

15. Exemptions With Respect To Agricultural Use

~~This bylaw shall not apply to impose upon construction, or create a credit related to demolition or removal of any building, the purpose of which is to support an agricultural use. [Note: This section to be removed as it is redundant with the DC exemption for agricultural buildings.]~~

16. Replacement Of Demolished Or Destroyed Non-Residential Premises or Dwelling Unit(s) with Dwelling units

- (1) In this section and section 17, "specified period" means the period of time that is up to ten (10) years prior to the application for a building permit for a replacement building, except in the Downtown and Old East Areas identified in Schedules 1 and 2, in which case, the "specified period" means the period of time that is up to twenty (20) years prior to the application for a building permit for replacement dwelling units ~~and except in the case of the Brownfield site located at 750 Elizabeth Street in the City of London in which case, the "specified period" means the period of time that is up to fourteen (14) years prior to the application for a building permit for a replacement dwelling units.~~
- (2) Where a lawfully existing non-residential premises or dwelling unit, is destroyed by a force majeure or accidental fire, or is lawfully demolished or removed, the development charge payable in respect of a replacement dwelling unit that is to be constructed, erected or placed on the site of the former non-residential premises or dwelling unit shall be calculated using the following formula, so long as the former non-residential premises or dwelling unit was destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

- A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the replacement dwelling unit(s);
- B = the development charge that would be payable at the current rate in respect of the non-residential premises or former dwelling unit(s) (by using the applicable rate for the particular type of unit destroyed, demolished or removed) if that non-residential premises or dwelling unit(s) were currently being constructed, ~~erected or placed for the first time, Where the non-residential floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and~~
- C = the development charge payable in respect of the successor building or dwelling unit, a negative number being converted to zero.

17. Replacement Of Demolished or Destroyed Non-Residential Premises or Dwelling Unit(s) with Non- Residential Premises

Where non-residential premises ("former premises") or dwelling units are destroyed by a force majeure or accidental fire, or are lawfully demolished or removed, the development charge payable in respect of replacement non-residential premises that are constructed, erected or placed on the site of the former premises shall be calculated using the following formula so long as the former premises were destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the gross floor area of the replacement non-residential premises;

B = the development charge that would be payable at the current rate in respect of the former non-residential premises or former dwelling units (by using the applicable rate for the particular type of non-residential premises or dwelling units destroyed, demolished or removed), as the case may be, as if those premises or dwelling units were currently being constructed, erected or placed for the first time, ~~except where the non-residential floor area being replaced is, prior to the replacement, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and~~

C = the development charge payable in respect of the successor premises, a negative number being converted to zero.

18. ~~This section purposely omitted (consolidated under s.16-17).~~

[Note: This section to be removed from the new By-law as it speaks to the previous 2004 DC By-law.]

18. Phased Building Replacement – prohibition against duplicate use of demolition credit

For greater clarity, the calculation of re-development credits provided in sections 16 and 17 of this by-law (item B in the formulas in those sections) can only be applied once to the construction of replacement buildings on the site of a former lawfully demolished or replaced unit or non-residential premises. For the purposes of sections 16 and 17 above, when for the first building that replaces a demolished building, the value B exceeds A, the excess can be referred to as “surplus redevelopment credit”. In the event of subsequent building construction on the same site of a former lawfully demolished or replaced unit or non-residential premises, only the value of any surplus re-development credits may be used as item B in the formula derived from the calculation of development charges under sections 16 or 17 of this by-law. This may be repeated only until the entire value of the surplus demolition credit has been used up. This limits the total demolition credit applied to all charges to the value of the demolition credit on the original building demolished. All of the above is also subject to the restriction that any replacement buildings on the site be built within the “specified period” as defined in section 16.

19. Building Replacement Prior to Demolition

Where a building or structure ("former premises") is replaced by another building or structure on the same site prior to demolition of the former premises, the owner of the building or structure who has paid a development charge on the construction of the replacement building may submit a request to the **Chief Building Official** ~~Director of Building Controls~~ for a refund from the reserve funds for all or part of the development charge paid under this by-law, or its predecessor by-law. The refund shall be granted so long as:

- (a) the former premises is lawfully demolished or removed from the land within twenty-four (24) months of the date the interior final inspection

process has been closed by the **Chief Building Official** ~~Director of Building Controls~~ for the replacement building or structure; and

- (b) the replacement building uses the existing municipal services which serviced the former premises.

The refund shall be calculated by determining the development charge that would be payable at the current rate in respect of the former premises (by using the applicable current rate for the particular type of non-residential premises or dwelling units demolished) as if those former premises were currently being constructed, erected or placed for the first time, ~~except where the non-residential floor area being demolished, was prior to the demolition, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating the refund shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to Director of Building Controls that the industrial building was under a building permit issued built between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph.~~

20. Demolition or Removal of Temporary Buildings

Where a building or structure is demolished or removed in its entirety from the land on which it is located within twenty-four months (24) from the date of issuance of the building permit for the construction, erection or placing of the building or structure at such location, the owner of the building or structure may submit a request to the **Chief Building Official** ~~Director of Building Controls~~ for refund from the reserve funds, of the amount paid at the issuance of the building permit toward all or part of the development charge ~~payable~~ **paid** under ~~section 4 of this by-law or a predecessor of that section~~ **this by-law**.