



February 2, 2026

From:
West End Home Builders' Association 1112 Rymal Road East
Hamilton, Ontario L8W 3N7

To:
Ashraf Hanna, Director, Growth Management & Chief Development Engineer
City of Hamilton, 71 Main Street West

WE HBA Letter: Draft Foundation Drainage Policy Comments

On behalf of the West End Home Builders' Association (WE HBA), thank you for the opportunity to provide comments on the City's Draft Foundation Drainage Policy and for engaging with our members throughout its development. WE HBA is the collective voice of the land development, new housing, and professional renovation industries across Hamilton, Burlington, and Grimsby. Our more than 300 member companies represent every discipline involved in building complete communities. We appreciate the collaborative approach the City has taken to date and value the chance to share feedback from those directly responsible for designing and delivering housing in our communities.

When the fully watertight foundation approach i.e. "bathtubbed" was first introduced for select multi-tier developments in the downtown core, we understood the intent to mitigate inflow and infiltration into the sanitary and combined sewer systems and preserve sewer capacity. However, over time, the application of these requirements has expanded well beyond that original context to include mid-rise apartments and low-rise developments such as single family and townhomes.

Based on our members' experience, extending "bathtub" foundation drainage requirements to these forms of housing can be overly prudent and financially prohibitive, particularly in the absence of data demonstrating improved performance compared to traditional, well-established drainage methods such as weeping tile and sump pump systems.

At a high level, the draft policy represents a shift in risk and responsibility for foundation drainage management from municipal infrastructure to private property owners. The policy largely mirrors a now paused City of Toronto approach that tightens grading, basement, and servicing design requirements. In marginal groundwater conditions, this may drive slab-on-grade construction or impose higher footing elevations, with implications for housing form and affordability. It is worth noting that Toronto is in the process of making significant adjustments as the policy implementation has stagnated certain forms and purpose type developments. The City of Hamilton has an opportunity to learn from Toronto's experience.

The proposed policy introduces additional technical reporting, approvals, and potential peer review requirements, which adds complexity, cost, and uncertainty to project delivery. From a design and implementation perspective, our members have identified several areas where additional clarity would significantly improve consistency and reduce risk:

1. Applicability to at-grade foundation drainage discharges - The draft policy is not explicit about whether foundation drains that daylight to softscape (such as rear or side yard swales) and then drain via overland flow to a catch basin are considered “on-site management” or an effective discharge to the municipal storm system. Clear direction on this point is critical for subdivision design, where overland flow routes routinely interact with storm infrastructure.
2. Groundwater versus infiltrated stormwater - Distinguishing “only infiltrated stormwater” from groundwater is often non-trivial and may require long-term monitoring and hydrogeological analysis. This adds significant pre-design complexity and cost, particularly for low-rise developments where traditional systems have performed reliably for decades.
3. Linkage to the City’s Consolidated Linear Infrastructure ECA (CLI ECA) - While reliance on the CLI ECA and the Sewer Use By-law is appropriate, the CLI ECA is still under discussion with MECP. This creates uncertainty for projects currently in design. Designers must understand how foundation drainage flows are treated under the CLI ECA, and without clear guidance, the CLI effectively becomes a gatekeeping document with evolving assumptions.
4. Peer review and Qualified Professional (QP) scope - The policy states that the City “reserves the right” to require peer review but does not define triggers, scope, timelines, or responsibility for costs. This creates challenges for budgeting and scheduling. Similarly, clarification is needed on QP acceptance criteria, including whether a single qualified professional can address both hydrogeological and servicing aspects where appropriate.
5. Extent of downstream sewer capacity checks - The policy requires confirmation that sewer capacity is adequate but does not define how far downstream analysis must extend. Depending on interpretation, this could range from the immediate downstream segment to a major system constraint, with significant cost implications. A defined standard would improve predictability and consistency.
6. Discretionary exemption process - Section 5.0 references an exemption process relying on an unspecified leadership position with broad discretion. From a builder’s perspective, uncertainty around who makes these decisions, the criteria



applied, transparency, and appealability introduces material risk, particularly in complex groundwater conditions.

To support successful implementation while achieving the City's objectives, WE HBA respectfully recommends the following:

1. Clarify policy applicability to at-grade discharges, including whether daylighting to softscape followed by overland flow to a storm inlet is considered compliant "on-site management."
2. Define minimum design criteria for "on-site management," including standard details or guidance for at-grade discharge systems, infiltration expectations, acceptable receiving surfaces, and allowable flows that may eventually enter a storm inlet.
3. Clarify Qualified Professional (QP) requirements and acceptance criteria, including whether professional licensure plus relevant experience is sufficient and whether one QP may address multiple disciplines where appropriate.
4. Provide guidance on the CLI ECA, including making the final ECA or a designer-oriented summary available and illustrating how foundation drainage flows are treated within that framework.
5. Define the limits of downstream sewer capacity assessment, such as to the first downstream trunk sewer or known system constraint.
6. Establish a clear peer review framework, including triggers, scope, timelines, and whether costs are City- or applicant-funded.
7. Improve transparency around exemption authority, including identifying the decision-making role, outlining high-level criteria, and providing indicative timelines and any appeal or reconsideration process.
8. Include transition provisions for applications already in progress or designed under existing assumptions, to avoid costly late-stage redesign.
9. Develop companion technical guidelines and standard details to support consistent design, review, and implementation.

As drafted, the policy creates a pathway for "bathtub" foundation designs to become routine for low-rise development. If adopted without refinement, our members anticipate foundation construction costs increasing by two to three times; and longer construction timelines, further impacting housing delivery.



From a practical standpoint, these systems also carry significant long-term risk. Waterproof membrane failures—an expected outcome over time—are invasive and costly to repair in living spaces, often requiring removal of finished materials. In many cases, homeowners ultimately revert to traditional systems that have proven reliable for decades. Upfront costs can exceed \$75,000 per townhouse unit, excluding additional concrete requirements, representing a substantial investment in relatively new technology with limited long-term performance data and potentially impact TARION warranty coverage and consumer protections.

Importantly, this approach does not appear to reduce the size or extent of storm sewer systems required in site design, effectively layering new costs without a commensurate reduction in infrastructure demand or risk. The cumulative result is increased construction cost, liability exposure, and housing prices. Further, there is a lack of evidence of improved outcomes for residents or the environment. This outcome also conflicts with provincial and federal objectives to improve affordability and accelerate housing supply.

Note that we have attached a report by Mike Diez de Aux, Geotechnical Engineer with Grounded Engineering Services. Mr. Diez de Aux prepared the report in response to the City of Toronto's policy which as previously mentioned is very similar to the policy the City of Hamilton is proposing. After considering the attached report, the City of Toronto has now taken a different approach and is reevaluating their foundation drainage requirements. In addition, we have attached a copy of the City of Hamilton's Draft Foundation Drainage Policy that includes redlined comments by Mr. Diez de Aux.

We appreciate the ongoing dialogue between City staff and our members and respectfully suggest establishing a working group to collaboratively explore practical, risk-based alternatives. Our shared goal is to ensure development standards remain environmentally responsible, technically sound, and economically sustainable, while supporting the City's housing and infrastructure objectives.

Thank you for your consideration. We look forward to continuing a constructive and collaborative discussion.

Sincerely,

Mike Collins-Williams, MCIP, RPP
Chief Executive Officer
West End Home Builders' Association