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Town of Aurora

Committee of the Whole Report

No. FIN24-019

Subject:	**Anticipated Financial Impacts to Development Charge Revenue as a Result of Legislative Changes**
Prepared by:	**Jason Gaertner, Manager Financial Management**
Department:	Finance
Date:	May 7, 2024

Recommendation

1. **That Report No. FIN24-019 be received.**

Executive Summary

This report provides an overview of the Town's anticipated financial impacts as a result of the numerous legislative changes to the Development Charges Act, 1997 (DCA) over the past few years.

- The numerous changes to the Development Charges Act reduce the amount of revenue the Town can collect through Development Charges
- The volume of affordable and purpose built rental residential housing could have the most significant impact on DC revenues
- Lost development charge revenue will need to be replaced with an alternative funding source

Background

Commencing in 2019, the Development Charges Act, 1997, S.O. 1997, c. 27 (DCA) has been subject to numerous changes as a result of several iterative Acts:

- Bill 108: More Homes, More Choice Act, 2019
- Bill 138: Plan to Build Ontario Together Act, 2019
- Bill 197: COVID-19 Economic Recovery Act, 2020

- Bill 213: Better for People, Smarter for Business Act, 2020

After these Bills, the most significant changes to the DCA were implemented under Bill 23, More Homes Built Faster Act, 2022, being an omnibus legislation including changes to nine Acts and the creation of a new one, which received royal assent on November 28, 2022. Bill 23 included the most significant changes to the DCA having a financial impact on the Town. The key changes approved under Bill 23 included:

- Affordable Housing (Owned and Rentals) Exemptions
- Attainable Housing Exemptions
- Non-Profit Housing Exemptions
- Inclusionary Zoning Exemptions
- Additional Residential Unit Exemptions
- Rental Housing Discount (based on number of bedrooms à 15%-25%)
- Removal of Housing as an Eligible Development Charge (DC) Service
- Capital Cost Amendments (restrictions to remove studies and land)
- Mandatory Phase-In of DC (Maximum charge of 80%, 85%, 90%, 95%, 100% for first 5 Years of the by-law)
- Maximum Interest Rate for Installments and DC Freeze
- Development Charge By-law life extended from 5 to 10 years
- Other Administrative Changes

On April 10, 2024, the province proposed further changes to the DCA under Bill 185 (Cutting Red Tape to Build More Homes Act) and to Ontario Regulation 82/98 filed under the DCA. These proposed changes included:

- The definition of eligible capital costs (to include certain studies)
- The removal of the mandatory five-year phase-in of new development charges
- The process for minor amendments to development charge by-laws
- A reduction to the development charge (DC) rate freeze period relating to site plan and zoning by-law amendment planning applications
- Modernizing public notice requirements
- The formal implementation of the Affordable Residential Unit exemptions

These changes are not yet in force and, except for the change relating to the public notice, are intended to come into effect upon Bill 185 receiving royal assent.

Analysis

The numerous changes to the Development Charges Act reduce the amount of revenue the Town can collect through Development Charges

Many of the legislative changes made to the DCA since 2019 will and have already had significant financial impact on the Town. The recently tabled Bill 185 proposes the reversal of two of these changes: the five-year phase of new development charge rates and the eligibility of growth studies to be included in development charges. Table 1 presents a summary of these changes along with the financial impact.

Table 1
Overview of Development Charges Act Changes with a Financial Impact

DCA Change	Anticipated Financial Impact
Requirement for institutional and rental housing that is not non-profit developments to enter into a five-year repayment agreement	The repayment of associated DC payable over five years will delay the Town's collection of much needed growth revenues; and increases administrative burden
The 10 percent discount was removed from all soft services such as parks & recreation and library services	This allows for the cost recovery of 10 percent more of eligible soft services
Requirement for DC rates to be frozen as of the date a zoning bylaw amendment or site plan development application is received	Unable to collect incremental DC revenue from ongoing indexation of DC rates. The Town may partially offset this loss through an interest charge
Exemption for up to three residential units within an existing detached, semi-detached, or rowhouse and their ancillary structures	Unable to collect any associated DCs for exempt units
Exemption for the creation of additional units equal to the greater of one unit or one percent of the existing residential units within a rental building of four or more units	Unable to collect any associated DCs for exempt units

DCA Change	Anticipated Financial Impact
Exemption for all non-profit residential housing units	Unable to collect any associated DCs for exempt units
Exemption for all affordable owned and rental residential units	Unable to collect any associated DCs for exempt units
Purpose Built Rental Housing Discount	Would forego 15, 20, 25 percent of eligible DC revenues based on the number of proposed bedrooms
For any DC by-laws passed after Jan. 1, 2022, 20 percent of the charges must be phased in over a five-year period at a rate of five percent per year *(Proposed removal under Bill 185)*	Would forego 20, 15, 10 and five percent of eligible DC revenues in years one to four of a new bylaw
Growth studies no longer eligible for cost recovery through development charges *(Proposed reversal under Bill 185)*	Unable to collect DCs in support of growth study requirements

The volume of affordable and purpose built rental residential housing could have the most significant impact on DC revenues

With the recent completion of the Town's updated DC Study, the Town is more able to estimate the financial impacts of the many legislative changes made to the Development Charges Act. As per the 2024 DC Study, a total of 5,899 in additional residential units are projected to be constructed over the next 10 years. Table 2 presents a break-down of these projected units by housing type.

Table 2
Projected new residential units – by type
2024-2034

Development Type	Projected NEW Units
Singles	707
Multiples	1,798
Apartments	3,394
Total	**5,899**

A further 132 in equivalent institutional households are projected over this same period.

As per the DC Study, a total of $282.9 million in gross capital costs, in support of growth, were identified over the next 10 years. Of these, as summarized in Table 3, $168.6 million was deemed eligible for recovery through development charges. This amount excludes $4.1 million in growth studies that are currently no longer eligible for DC recovery under the present DC Act but are expected to be reinstated with the latest Act, Bill 185, Cutting Red Tape to build More Homes Act, 2023.

Table 3
Summary of eligible requirements for DC recovery
2024-2034

Item	Amount
Gross capital requirements	282,925,326
Benefit to Existing Residents	(32,916,320)
Post period benefit	(60,759,600)
Other deductions	(2,482,378)
Other Contributions (alternative revenues)	(18,143,800)
Total eligible development charges	**168,623,228**

Note: Once Bill 185 receives Royal Assent, an additional $4.1 million in studies will become eligible for development charges.

A detailed analysis of the financial impacts from the many legislative changes made to the DCA considers the Town’s projected growth for the next 10 years. This financial analysis revealed that the degree of DC revenue loss will mostly be driven by the volume of affordable, additional residential, and purpose built rental residential units constructed over the review period. In consideration of this finding, two different financial impact scenarios were developed.

- **Scenario 1** – Assumes that of the total projected residential units over the next 10 years, that 20 percent will be purpose-built rentals and 25 percent will be either affordable (19 percent) or additional residential (6 percent) units.
- **Scenario 2** – Assumes that of the total projected residential units over the next 10 years that 20 percent will be purpose-built rentals and 10 percent will be either affordable (4 percent) or additional residential (6 percent) units.

The assumption that 20 percent of total projected residential units will be purpose-built rental and 6 percent additional residential units is based upon recent trends experienced by other Ontario municipalities. The affordable residential unit assumptions are intended to demonstrate how their variability impacts the Town’s anticipated DC revenue losses. Table 4 presents a summary of the anticipated financial impacts under both scenarios. These impacts are presented both before and after indexation. The indexed figures assume an annual index rate of three percent in 2025 and two percent per year thereafter. A more detailed presentation of this analysis is presented under Attachment 1.

As can be seen from Table 4 a total ten-year revenue loss of $11.9 million is anticipated from all changes, excluding those related to affordable housing. This loss increases to $13.3 million with indexation. Affordable housing losses are anticipated to be $21.5 and $4.5 million under scenario 1 and 2, respectively prior to indexation. With indexation, these losses grow to $23.7 and $5.0 million, respectively. The total projected revenue loss is $33.4 and $16.4 million under scenario 1 and 2, respectively. When indexation is considered, the total estimated revenue losses would be $37.0 and $18.3 million for scenario 1 and 2, respectively.

Table 4
Consolidated anticipated 10-year financial impact
($000's)

	Total	
	2024 Dollars	**Indexed**
Estimated development charge revenue		
Revenue excluding growth studies*	168,623	187,175
Additional revenue if studies are included	4,127	4,566
Total revenue	**172,750**	**191,741**
Financial impact by Category		
Additional residential units	(7,426)	(8,259)
Purpose built rental discounts	(4,521)	(4,995)
Financial impact before affordable units	**(11,947)**	**(13,254)**
Estimated development charge revenue before affordable units	**160,803**	**178,487**
Scenario 1		
Affordable unit revenue losses	(21,495)	(23,745)
Total revised estimated revenues	**139,308**	**154,742**
Scenario 2		
Affordable unit revenue losses	(4,517)	(4,990)
Total revised estimated revenues	**156,286**	**173,497**

* As per present DC Study

It is important to note that the affordable residential unit exemptions which were introduced as part of Bill 23 have not become effective as of the writing of this report. Instead, these exemptions were to be proclaimed at a future date as further direction was required from the province in this regard. It has recently been proclaimed that these exemptions will become effective on June 1, 2024. Municipalities still await further direction via an Affordable Residential Units Bulletin, not yet released.

The losses presented under Table 4 do not include impacts of the present five-year phase-in requirement for new DC rates or the ineligibility of growth studies to be funded by development charges. It is assumed that Bill 185, which proposes the removal of both these requirements, will be approved by provincial parliament. If Bill 185 is not approved, the above noted revenue losses would grow by a further $11.4 million unindexed and $12.0 million indexed under both scenarios. Table 5 presents a summary of these potential revenue losses.

Table 5
Financial impact of mandatory five-year phase-in and ineligibility of growth studies ($000's)

	Total	
	2024 Dollars	Indexed
5-Year Mandatory Phase-in of New DC Rates	(7,267)	(7,465)
Growth Study Exclusions from DC Study	(4,127)	(4,566)
Total revenue	**(11,394)**	**(12,031)**

Lost development charge revenue will need to be replaced with an alternative funding source

The Town must develop a strategy to replace lost development charge revenue to pay for growth capital requirements. This strategy may include the delay or cancellation of nonessential planned work and identify alternative funding sources such as the tax levy, water & wastewater water user fees, or grant revenues. Unfortunately, all these alternative funding sources are already under considerable pressure to fund other non-growth capital projects.

Advisory Committee Review

None

Legal Considerations

The bills referenced throughout this report have all received Royal Assent and the changes to the DCA are in effect. Bill 185 is in second reading as of the date of the writing of this report.

Financial Implications

The financial impacts to the Town resulting from the numerous changes to the Development Charge Act are significant. It is anticipated that these losses will range between $37.0 an $18.3 million when indexation is considered over the next 10 years; the development of a strategy to mitigate/replace these lost funds is a necessity.

Staff recommend that firstly a review of the planned DC eligible growth be undertaken to determine if any of this planned work can be deferred and that the Town establish a strategy to begin replacing lost development charge revenue. This strategy should be multi-dimensional exploring all alternative revenue possibilities including grants, the tax levy, as well as water and wastewater user fees.

Should the province offer additional funding sources in support of making municipalities whole, or modify the DCA further, the Town would adjust this proposed funding strategy accordingly.

Communications Considerations

The town will inform the public about the information contained in this report by posting it to the Town's website.

Climate Change Considerations

There are no directly arising climate change considerations from this report.

Link to Strategic Plan

A Development Charge By-law is the primary tool with which Ontario municipalities can finance the cost of expanding infrastructure and service amenities to accommodate growth demands in their communities. Undertaking an examination of the impacts of recent legislative changes on this critical funding source demonstrates the Strategic Plan principles of Leadership in Corporate Management.

Alternative(s) to the Recommendation

None

Conclusions

Over the past five years, the Development Charges Act has been subject to numerous legislative changes, of which many of these changes are anticipated to have a significant financial impact on the Town. As these impacts will significantly impact funding availability for necessary planned growth, an alternative funding strategy is needed to enable this planned work to proceed.

Attachments

Attachment 1 - Anticipated Financial Impacts to Development Charge Revenue as a Result of Legislative changes

Previous Reports

FIN20-005, Administrative Changes to the Calculation and Collection of Development Charges under Bill 108 and Bill 138, April 14, 2020

FIN20-021, Update on Proposed Legislative Changes to the Development Charges Act and Planning Act, September 8, 2020

PDS22-138, Bill 23 Proposed Omnibus Legislation Summary, November 22, 2022

Pre-submission Review

Agenda Management Team review on April 18, 2024

Approvals

Approved by Rachel Wainwright-van Kessel, CPA, CMA, Director, Finance

Approved by Doug Nadorozny, Chief Administrative Officer