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Town of Aurora
Council Report
No. FIN24-035

Subject: Required Bill 185 Amendments to the Development Charges Study and By-law

Prepared by: Jason Gaertner, Manager, Financial Management Services

Department: Finance

Date: June 25, 2024

Recommendation

1. That Report No. FIN24-035 be received; and
2. That no public meetings are required under section 12 of the *Development Charges Act, 1997*; and
3. That the updated development charges calculations be adopted; and
4. That the proposed amending Development Charges By-law be enacted on June 25, 2024.

Executive Summary

On June 6, 2024, Bill 185 “Cutting Red Tape to Build More Homes Act, 2024” received royal assent. The intent of this report is to provide Council with a status update on the process to update the Town’s development charges calculations and bylaw to ensure compliance with all changes to the Development Charges Act, 1997 S.O. 1997 (the “DCA”) as a result of Bill 185, provide an update as to the key changes made as they relate to the Town’s current Development Charges Study and bylaw, and to recommend an amending Development Charges (“DC”) bylaw for its adoption. Some key considerations include:

- The updates to the current DC calculations and by-law are needed to ensure continued compliance with Bill 185 and to minimize potential revenue loss
- The Town’s development charge rates have already been updated to remove the previous mandatory new rate phase-in

- A bylaw making the necessary amendments to the existing DC bylaw requires Council's approval
- As most of Bill 185 amendments are minor in nature, the Town is not required to adhere to Sections 10 to 18 of the DCA
- The adjustment of the development charge frozen rate period to the new 18-month minimum period cannot be addressed as a minor amendment

Background

On June 6, 2024, the province approved multiple changes to the DCA and the accompanying regulations

On April 10, 2024, the province tabled Bill 185 "Cutting Red Tape to Build More Homes Act, 2024". This Act proposed multiple changes to the DCA and Planning Act. The province also announced that affordable residential DC exemptions, introduced in Bill 23, will come into effect on June 1, 2024.

In recognition that the Town would need to update its DC calculations and bylaw as a result of this legislative change, staff engaged Watson & Associates to update the Town's DC calculations and create an amending DC bylaw that have been tabled this evening.

On June 6, 2024, Bill 185 received Royal Assent. The approved changes to the DCA and Ontario Regulation 82/98 under the DCA included:

- The definition of eligible capital costs were updated to include certain growth studies;
- The removal of the mandatory phase-in of charges;
- The process for minor amendments to DC bylaws;
- A reduction of time for the DC rate freeze related to site plan and zoning bylaw amendment planning application;
- Modernizing public notice requirements; and
- Implementation of the Affordable Residential Unit Exemptions

On May 2, 2024 the Province released its [affordable housing bulletin](#) which provides affordable [unit prices \(ownership and rental\)](#) that will be used to determine eligibility for the affordable residential housing exemption.

Analysis

The updates to the current DC calculations and by-law are needed to ensure continued compliance with Bill 185 and to minimize potential revenue loss

Bill 185 made multiple legislative changes that require the Town's action to ensure continued compliance with the DCA and to minimize associated potential revenue loss. Some of these key changes include the reinstatement of growth-related studies as a DC-eligible cost, the elimination of the mandatory phase-in of the new DC bylaw's rates and the reduction to the period over which DC rates must be frozen in relation to site plan and zoning bylaw amendment planning applications.

Bill 23 made growth-related studies ineligible for recovery through development charges. As a result, the Town's recent DC Study update excluded all of its growth-related study requirements. Staff had recently estimated this lost cost recovery to be approximately \$4.1 million over the next 10-year period. Now that Bill 185 has reinstated the eligibility of growth-related studies for cost recovery through development charges, the Town needs to update its development charges to include these costs. Costs of this nature have typically fallen under the General Government Development Charge category. As presented under Attachment 1, a total of \$5,411,800 in growth-related studies, resulting in a net DC eligible amount of \$3,009,912 have been identified for cost recovery through DC rates. An amendment to the DC By-law is required to allow for the inclusion of these costs as part of DC rates.

The attached bylaw amending the Town of Aurora's existing DC by-law No. 6592-24, that is proposed for adoption addresses the majority of the Bill 185 legislative changes. Schedule "B" to this amending bylaw outlines the Town's new resultant DC rates. This proposed amending bylaw can be found in Attachment 2 to this report. A memorandum providing supplementary detail in support of the Town's required DC by-law and rates update can be found under Attachment 1.

The Town's DC rates have already been updated to remove the previous mandatory new rate phase-in

Previously, the DCA required that any new calculated DC rates be phased in at a maximum of 80 per cent, 85 per cent, 90 per cent, 95 per cent, 100 per cent over a five-year period. If this requirement were to run its course, the Town could potentially forego in excess of \$7.3 million in DC revenue. Bill 185 has now eliminated this requirement.

Upon Bill 185 approval on June 6, 2024, the Town restated its prevailing DC rates to remove all phase-in discounts. An amendment to the DC by-law is not needed in this instance.

As most of Bill 185 amendments are minor in nature, the Town is not required to adhere to Sections 10 to 18 of the DCA

Section 19 of the DCA normally requires that a municipality follow sections 10 through 18 when amending DC bylaws. Sections 10 through 18 of the DCA generally require the following:

- Completion of a DC background study, including the requirement to post the background study 60 days prior to passage of the DC by-law;
- Passage of a DC by-law within one year of the completion of the DC background study; and
- A public meeting, including notice requirements; and
- The ability to appeal the bylaw to the Ontario Land Tribunal

Bill 185 now allows municipalities to undertake minor amendments to their DC by-laws for the following purposes without adherence to the above noted sections 10 through 18 requirements:

1. To repeal a provision of the DC by-law specifying the date the bylaw expires or to amend the provision to extend the expiry date up to the maximum allowed 10 years;
2. To impose DCs for eligible studies, including the DC background study; and
3. To remove any provisions related to the mandatory phase-in of development charge rates

Minor amendments related to items 2 and 3 may be undertaken only if the DC by-law being amended was passed after November 28, 2022, and before Bill 185 took effect. A public notification is still required of the amended bylaw's approval. These provisions will only be available for a period of six months after Bill 185 became effective.

Since the Town's current DC by-law was approved after November 28, 2022 and before Bill 185 took effect and considering the proposed amendments align with items 2 and 3 of the above list, the Town is able to undertake a minor amendment in this instance.

The adjustment of the DC frozen rate period to the new 18-month minimum period cannot be addressed as a minor amendment

The current DCA requires developments that are subject to a site plan and/or a zoning bylaw amendment application have their DC rates frozen as of the date of their related application's submission. Previously, the DCA required that frozen rates be in effect for a period of 24 months (2 years) commencing on the date that the related application is approved. If a building permit is not issued within this frozen rate period, the prevailing DC rates at that time would be applicable. Bill 185 reduced the minimum frozen rate period from 24 to 18 months. To align with this legislative change, the Town will need to update its DC by-law.

This bylaw amendment does not meet the defined criteria for a minor amendment; meaning the Town would need to adhere to the above noted sections 10 through 18 requirements. Therefore, this required amendment would need to be addressed through a separate process.

Advisory Committee Review

None

Legal Considerations

As per the DCA, 1997, the Town must have an active DC by-law in place that is compliant with the DCA to enable the Town's legal capability to collect DC.

Financial Implications

The DCA has been subject to significant and regular change since 2020. Most of these changes had a negative impact on the Town's DC revenues. Bill 185 eliminates two significant sources of the Town's anticipated DC revenue losses over the next 10 years. These being the mandatory DC rate phase-in and the ineligibility of growth-related studies for DC recovery. Table 1 presents a summary of the Town's anticipated DC revenue loss over the next 10 years under the previous DCA which will now be avoided because of Bill 185. The proposed DC Study update and amending bylaw are needed to fully align the Town with all Bill 185 prescribed legislative changes.

Table 1
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

For the Town to minimize these revenue losses, it is important that all Bill 185 changes be implemented as soon as reasonably possible.

Communications Considerations

This report will be made available on the Town's website for the public. In addition, as per Schedule 2 (s. 13 and O. Reg 82/98 s.10 (5)), the Town will provide notice to the public within 20 days of the passing of the Town's revised DC by-law in a local newspaper.

Notice will also be given by personal service, fax or mail to:

- everyone who has given the municipal clerk a written request for notice and - provided a return address
- the clerk of the upper tier municipality involved
- the secretary of every school board with jurisdiction within the area to which the bylaw applies

Finally, notification will be made via the Town's website and other social media channels.

Climate Change Considerations

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

Link to Strategic Plan

Setting a DCA compliant DC 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. Optimizing the charge within the permissions of the legislation demonstrates the Strategic Plan principles of Leadership in Corporate Management.

Alternative(s) to the Recommendation

Council may direct staff to make other amendments to the bylaw as long as it remains compliant with the current DCA and its accompanying regulation. However, delays in the implementation of this bylaw amendment may result in further revenue loss and a risk of bylaw appeal for non-compliance with the DCA.

Conclusions

Staff recommend that the proposed updated DC Study be endorsed, and the accompanying proposed amending bylaw be adopted to take effect on June 25, 2024.

Attachments

Attachment 1 – Bill 185 Amendment Memorandum

Attachment 2 – DC By-law amending bylaw

Previous Reports

FIN24-011, 2024 Development Charges Study and By-law Final Approval, March 5, 2024

FIN24-019, Anticipated Financial Impacts to Development Charge Revenue as a Result of Legislative Changes, May 7, 2024

Pre-submission Review

Agenda Management Team review on May 16, 2024

Approvals

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

Approved by Doug Nadorozny, Chief Administrative Officer