

# Memorandum

<b>To</b>	Jason Gaertner, Manager, Financial Management / Deputy Treasurer
<b>From</b>	Byron Tan, Manager, Watson & Associates Economists Ltd.
<b>Date</b>	August 23, 2024
<b>Re:</b>	2024 Development Charges Background Study Update – Amendments as per Bill 185

Fax  Courier  Mail  Email

## 1. Background and Legislation

The Town of Aurora currently imposes Town-wide Development Charges (D.C.) through By-law 6592-24. This by-law, which was passed on March 27, 2024, was enacted to update capital costs and to reflect recent amendments to the *Development Charges Act* (D.C.A.) prior to the introduction of Bill 185.

On April 10, 2024, the Province released proposed changes to the D.C.A. via Bill 185: *Cutting Red Tape to Build More Homes Act, 2024*. The Bill received Royal Assent on June 6, 2024. This Bill reversed many of the key changes that were implemented through Bill 23: *More Homes Built Faster Act* and are summarized as follows:

### Revised Definition of Capital Costs

Bill 185 reversed the capital cost amendments of Bill 23 by reinstating studies as an eligible capital cost.

### Removal of Mandatory Phase-in

Bill 23 required the phase-in of charges imposed in a D.C. by-law over a five-year term for any by-laws passed after January 1, 2022. Bill 185 removed this mandatory phase-in.

For site plan and zoning by-law amendment applications that were made prior to Bill 185 receiving Royal Assent, the charges payable will be the charges that were in place on the day the planning application was made (i.e., including the mandatory phase-in).



## **Process for Minor Amendments to D.C. By-laws**

Section 19 of the D.C.A. requires that a municipality must follow sections 10 through 18 of the D.C.A. (with necessary modifications) when amending D.C. by-laws. Sections 10 through 18 of the D.C.A. generally requires the following:

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

Bill 185 allows municipalities to undertake minor amendments to D.C. by-laws for the following purposes without adherence to the requirements noted above (with the exception of the notice requirements):

1. To repeal a provision of the D.C. by-law specifying the date the by-law expires or to amend the provision to extend the expiry date (subject to the 10-year limitations provided in the D.C.A.);
2. To impose D.C.s for studies, including the D.C. background study; and
3. To remove the provisions related to the mandatory phase-in of D.C.s.

Minor amendments related to items imposing D.C.s for studies and to remove the mandatory phase-in noted above may be undertaken only if the D.C. by-law being amended was passed after November 28, 2022, and before Bill 185 came into effect. Moreover, the amending by-law must be passed within six months of Bill 185 taking effect.

Notice requirements for these minor amending by-laws are similar to the typical notice requirements, with the exception of the requirement to identify the last day for appealing the by-law (as these provisions do not apply).

## **Reduction of D.C. Rate Freeze Timeframe**

Changes to the D.C.A. in 2020 provided for the requirement to freeze D.C.s imposed on developments subject to a site plan and/or a zoning by-law amendment application. The D.C. rate for these developments is “frozen” at the rates that were in effect at the time the site plan and/or zoning by-law amendment application was submitted (subject to applicable interest). Once the application is approved by the municipality, if the date the D.C. is payable is more than two years from the approval date, the D.C. rate freeze would no longer apply. Bill 185 reduced the two-year timeframe to 18 months. Note, this change



is not subject to the minor amendment provisions introduced and must follow the full D.C. by-law amendment process.

### **Modernizing Public Notice Requirements**

The D.C.A. sets out the requirements for municipalities to give notice of public meetings and of by-law passage. These requirements are prescribed in sections 9 and 10 of O. Reg. 82/98 and include giving notice in a newspaper of sufficiently general circulation in the area to which the by-law would apply. The regulatory changes modernize the public notice requirements by allowing municipalities to provide notice on a municipal website if a local newspaper is not available. Note, this change is in effect as of July 1, 2024.

Subsequent to the release of Bill 185, the Town of Aurora passed an amending By-law (6614-24) on June 25, 2024 to include growth studies as part of the D.C. calculations. However, changes related to the rate freeze in Bill 185 were not included as it is not subject to the minor amendment provisions introduced and must follow the full D.C. by-law amendment process. Therefore, the changes with respect to the timing of the rate freeze are being addressed as part of this document.

Moreover, the Town has requested that the definition of Retail, as described in York Region's D.C. By-law, be included as part of this update.

## **2. Amendments to the Town's D.C. By-law**

Further to the recent D.C. changes undertaken by the Town through By-law 6614-24, the following revisions are proposed (the draft amending By-law is included in the Appendix):

- Revise the D.C. rate freeze timeframe from two years to 18-months for Site Plan and Zoning By-law Amendment applications; and
- To include a definition for Retail.

As per the legislation, section 19 of the D.C.A. applies. Therefore a D.C. background study is required for this amendment. Note that as this change is reflective of a policy change only, this memo shall be utilized as the D.C. background study required for the public process. This memo will be posted on the Town's website to meet the requirements of ensuring the study is available to the public at least 60 days prior to the by-law passage. A public meeting will also be held before the by-law are passed. Council will consider the passage of the amending D.C. by-law at least 60 days after this background study is posted to the Town's website.



### 2.1.1 Requirements of Section 19 of the D.C.A.

As noted above, Section 19 of the D.C.A. provides for the requirements to amend a D.C. by-law. Section 19 notes that “Sections 10 to 18 apply, with necessary modifications, to an amendment to a development charge by-law other than an amendment by, or pursuant to an order of, the Ontario Land Tribunal”. As such, the following commentary is provided:

- **Section 10:** Requires a D.C. Background Study which identifies the growth forecast, capital costs, deductions, allocation between residential and non-residential benefit, and the associated D.C. calculations, level of service calculations, examination of the long-term operating and capital costs required, and preparation of an asset management plan. In addition, the study must be posted to the Town’s website at least 60 days prior to the passing of the amending D.C. by-laws.
  - None of these items from the 2024 D.C. background study are being changed by this amendment. This memo will be considered the D.C. background study and form the basis for the amending by-laws. This memo will be posted on the Town’s website 60 day prior to by-law passage.
- **Section 11:** Requires that a D.C. by-law may only be passed within one-year of the study.
  - The amendments are anticipated to occur within one year of this study.
- **Section 12:** Requires a public meeting to be undertaken.
  - A public meeting will be held regarding this amendment.
- **Sections 13 to 18:** Outlines the process for appeals
  - This amendment will be subject to appeal to the Ontario Land Tribunal.

Based on the above, the requirements of Section 19 of the D.C.A. will be met.

## 3. Recommendations

It is recommended that Council:

“Approve the memo dated August 23, 2024 Re: 2024 Development Charges Background Study Update – Amendments as per Bill 185”;

“Determine that no further public meeting is required”; and

“Approve the amending D.C. by-law as set out in Appendix A”.



# Appendix A

## Draft Amending By-law

# The Corporation of the Town of Aurora

## By-law Number XXXX-24

### Being a By-law to amend By-law Number 6592-24 to establish development charges for the Town of Aurora.

**Where** subsection 2 (1) of the *Development Charges Act, 1997*, S.O. 1997, c.27 (“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** section 19 of the Act was also amended to provide for amendments to be made to a development charges by-law;

**And whereas** on March 26, 2024, the Council of The Corporation of the Town of Aurora enacted By-law Number 6592-24, as amended on June 25, 2024, to establish development charges for the Town of Aurora;

**And whereas** a development charges background update study has been completed and made available on August 23, 2024 in accordance with the Act;

**And whereas** the Council of The Corporation of the Town of Aurora has given notice and held a public meeting on the 1<sup>st</sup> day of October, 2024 in accordance with the Act and the regulations thereto;

**Now therefore** the Council of The Corporation of the Town of Aurora hereby enacts as follows:

1. By-law 6592-24 is hereby amended as follows:

a. Include a definition for “Retail” in section 1.1

“Retail” means lands, buildings or structures used or designed or intended for use for the sale or rental or offer for sale or rental of goods or services to the general public for consumption or use and shall include, but not be limited to, a banquet hall, a funeral home, but shall exclude office.

b. Section 3.17 is hereby repealed, and substituted with the following:

3.17 (a) Where the development of land results from the approval of a site plan or zoning by-law amendment received between January 1, 2020 and June 5, 2024, and the approval of the application occurred within two years of building permit issuance, the development charges under subsections 3.6 and 3.7 shall be calculated on the rates set out in Schedule "B" on the date of the planning application is deemed complete, including interest. Where both planning applications apply development charges under subsections 3.6 and 3.7, the calculations shall be based on the date of the later planning application as set out in Schedule "B", including interest (calculated in accordance with the Town's Interest Rate Policy). Otherwise, the current rates under Schedule "B" will apply excluding interest.

3.17 (b) Where the development of land results from the approval of a site plan or zoning by-law amendment received on or after June 6, 2024, and the approval of the application occurred within 18 months of building permit issuance, the development charges under subsections 3.6 and 3.7 shall be calculated on the rates set out in Schedule "B" on the date of the planning application is deemed complete, including interest. Where both planning applications apply development charges under subsections 3.6 and 3.7, the calculations shall be based on the date of the later planning application as set out in Schedule "B", including interest (calculated in accordance with the Town's Interest Rate Policy). Otherwise, the current rates under Schedule "B" will apply excluding interest.

**Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:**

1. This By-law shall come into force and effect on the date of final passage hereof.

**Enacted by Town of Aurora Council this 22<sup>nd</sup> day of October, 2024.**

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**Tom Mrakas, Mayor**

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**Michael de Rond, Town Clerk**