

Memorandum

To	Kate Giurissevich, Director, Corporate Services/Treasurer
From	Daryl Abbs, Managing Partner
Date	June 11, 2024
Re:	Minor Amendment – D.C. By-law Expiry Date

Fax ☐

Courier ☐

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Email ☒

On August 28, 2019, the Town of Essex's Development Charge (D.C.) By-law 1850 came into force under the *Development Charges Act*. The by-law imposes D.C.s on residential and non-residential uses. This by-law was amended via By-law 2030 and By-law 2043. The Town has retained Watson & Associates Economists Ltd. (Watson) to undertake a D.C. background study and prepare a new D.C. by-law in advance of the expiry date of the current by-law (August 27, 2024).

On April 10, 2024, the Province proposed changes to the *Development Charges Act* under Bill 185: *Cutting Red Tape to Build More Homes Act*. A summary of the changes provided from Bill 185 are outlined below:

- Changes to the definition of eligible capital costs (to include certain studies);
- Removal of the mandatory phase-in of charges;
- Establishing a process for minor amendments to D.C. by-laws (further discussed below);
- A reduction of time for the D.C. rate freeze related to site plan and zoning by-law amendment planning applications; and
- Modernizing public notice requirements.

Section 19 of the *Development Charges Act* requires that a municipality must follow sections 10 through 18 of the Act (with necessary modifications) when amending a D.C. by-law. These sections generally require 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 OLT.



Bill 185 proposes to allow municipalities to undertake minor amendments to D.C. by-laws for the following purposes without adherence to the requirements noted above¹:

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 by-law term limitations provided in the D.C.A.);
2. To impose D.C.s to include the costs of 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 2 and 3 noted above may be undertaken only if the D.C. by-law being amended was passed after November 28, 2022, and before Bill 185 takes effect. Moreover, the amending by-law must be passed within six months of Bill 185 taking effect.

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

Bill 185 received Royal Assent on June 6, 2024. As such, these proposed changes are now in force and the Town may undertake minor amendments to the D.C. by-law as provided above.

The Town is currently undertaking the D.C. background study process and is close to completing the background report for public release. In order to update the analysis to incorporate the legislative changes under Bill 185, it is recommended that the Town undertake a minor amendment to the D.C. by-law to change the expiry date to December 31, 2024. This will allow the Town to update the draft D.C. background study and pass a D.C. by-law before the end of the year. An amending by-law is attached to this memo for Council's consideration.

¹ Notice of by-law passage for these streamlined amendments would still be required.