



# Staff Report to Council - for Direction

**Title:** Bill 185 Updates and Actions

**From:** Jack Van Dorp, Director of Planning and Development

**Date:** July 4, 2024

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## Staff Recommendation:

That an amendment to the Fees and Charges By-law be introduced to include a Resubmission Application Fee for incomplete planning applications where pre-submission consultation has not occurred; and

That an update to the Development Charges By-law be prepared in respect of recoverable costs of studies; and

That this report be circulated to local municipalities for information.

## Report Summary:

This report addresses changes to the Planning Act, Municipal Act and Development Charges Act from Bill 185 which has been passed by the Province and was given Royal Assent on June 6, 2024.

## Background:

The province introduced Bill 185 in April 2024. Staff brought a [Report](#) detailing the proposed legislation and proposed comments on May 2<sup>nd</sup>, which County Council endorsed with minor revisions.

The province passed the bill in early June and it obtained royal assent June 6, 2024. This report covers changes to the bill between the May 2<sup>nd</sup> staff report and its passage in June, as well as and recommendations for actions.

### 1. Changes to Appeal rights

The Bill extended previously enacted limitations on third-party appeal rights to include zoning and plan amendments. However, it was amended from the initial proposal so that:

- A “specified person” (those who can appeal a decision) now includes, NAV Canada, airport operators, aggregate and environmental compliance permit holders with sites within 300 metres and the owners of any such sites.
- The registered owner of lands to which a plan or amendment (that doesn’t require provincial approval) may appeal if, before the plan was adopted, the owner made oral or written submissions to the Council. However, this does not appear to create appeal

rights in respect of the new County Official Plan, because the Minister of Municipal Affairs is the approval authority for the new Plan.

As with the initial proposal, current appeals would be dismissed unless a hearing on the merits was scheduled before April 10, 2024.

Staff are preparing updated notice templates and resources for public meetings to communicate the changes to appeal rights.

## 2. Pre-submission Consultation

Pre-submission consultations can no longer be required for new applications. Staff and proponents generally find these consultations to be beneficial to the timing of the overall process. Staff recommends that, in order to support cost recovery associated with communications and intake for applications that are incomplete, the application resubmission fee where pre-submission consultation has not occurred be increased from the current \$310 to \$770, which is equivalent to the pre-submission consultation fee.

## 3. Fee Refunds

The Bill has removed the requirement for fee refunds if decisions are not made within the prescribed time periods for zoning by-law amendment applications and site plan control applications associated with Planning Act timeframes, using June 6, 2024, as a cutoff date.

During the period where refunds were mandatory 4 Planning Applications required refunds at a total cost of \$9710.

## 4. Development Charges Act Changes

Changes to the Development Charges Act include:

### a. Funding for Growth-Related Studies

Bill 185 reversed the change made in Bill 23 that eliminated growth-related studies as an eligible cost and provides a 6 month period to update DC by-laws without a lengthy by-law preparation or appeal process.

The 2021 DC background study identified study costs of approximately \$1,345,000 of which \$851,900 would be DC recoverable.

Due to the Bill 23 change in the DC Act, study costs were not included in the DC background study or by-law passed by the County in 2023.

Staff recommends that the County update the study and bylaw to include the cost of growth-related studies.

### b. Phase-In Periods for Development Charges

Bill 23 established a 5-year mandatory phase-in period for development charges. Bill 185 has removed this requirement and provides that DC By-laws can be updated within 6 months to remove the phase-in period without a lengthy preparation period or appeal process.

Although the County could amend its by-law to remove the phase-in period, staff note that County Council established a more gradual 10-year Phase-in period for the County's Development Charges By-law. As such, there is no merit to updating the DC By-law to remove the phase-in period to align with the changes the province has made to remove the phase-in of development charges.

### c. Freezes for Development Charge Rates and Interest

Bill 108 (June 6, 2019) required Municipalities to ‘freeze’ for up to 2 years the applicable development charge rate for projects that require a rezoning or a site plan control approval at the rate that applied when the complete application for approval was filed. Municipalities were allowed to charge interest between when the rate was frozen and when it was paid.

Bill 23 (November 2022) added a formula and regulatory process for determining interest.

Bill 185 reduced the time for the mandatory rate freeze from 2 years to 18 months.

Bruce County’s DC By-law stipulates a 2-year rate freeze from the date of application for a zoning amendment or site plan control application. Bill 185 does not provide municipalities the same streamlined opportunity to amend by-laws to revise the rate freeze time period as it does to address studies and phase in periods. Opening the by-law up would require a full update including a new DC background study, public meeting, and appeal period.

Reducing the rate freeze period from 24 months to 18 months could motivate proponents to act faster to avoid an increased rate. An increased rate could relate to:

- a. An annual adjustment to address inflation;
- b. A phased-in increase; or
- c. An increase to reflect changes to the by-law, such as inclusion of studies or other updates.

However, the application of interest to the charge for the period that it is ‘frozen,’ may currently reduce or even eliminate any savings to the developer associated with an annual adjustment.

At this time staff do not anticipate that the benefits of reopening the DC by-law to adjust the rate freeze period to be materially worth the cost. Staff will continue to monitor the legislation and the potential for impacts and will update Council as needed.

#### **Financial/Staffing/Legal/IT Considerations:**

Increasing the re-submission fee would assist in recovering the increased time-related costs of processing incomplete applications where there has been no pre-submission consultation.

Inclusion of study costs within the DC By-law would increase the County’s capacity to support investments in planning for and accommodating growth.

#### **Interdepartmental Consultation:**

This report is a collaborative effort between Planning and Corporate Services

#### **Link to Strategic Goals and Objectives:**

Growth and Innovation - Promote responsible growth

**Link to Departmental Plan Goals and Objectives, if any:**

N/A

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**Departmental Approval:**

Jack Van Dorp, Director of Planning and Development

**Approved for Submission:**

Claire Dodds, Commissioner of Community Development