



## Policy Development Committee Agenda

**Date:** Tuesday, May 2, 2023  
**Time:** 6:00 p.m.  
**Location:** Council Chambers  
7 Broadway Street West  
Paris, ON

	<b>Pages</b>
1. Attendance	
2. Approval of Agenda	
That the Policy Development Committee agenda of May 2, 2023 be approved.	
3. Declaration of Pecuniary Interests	
4. Delegations / Petitions / Presentations	
5. Adoption of Minutes from Previous Meetings	
5.1 <u>Policy Development and Strategic Direction Committee Minutes of March 14, 2023</u>	7 - 11
<b>Recommendation:</b>	
That the Policy Development and Strategic Direction Committee minutes of March 14, 2023, be approved.	
6. Business Arising from the Minutes	
7. Consent Items	
7.1 <u>Consent Items to be Approved</u>	
7.2 <u>Consent Items to be Received</u>	
8. Staff Reports	
8.1 <u>RPT-0193-23, Tax Rebate Program for Eligible Charities - C Staley</u>	13 - 16
<b>Recommendation:</b>	
That Staff Report RPT-0193-23, outlining the Tax Rebate Program for Eligible Charities be received as information;	
And that the by-law to renew the Tax Rebate Program be forwarded for Council's consideration.	

**Recommendation:**

That Staff Report RPT-0175-23 "County of Brant Long Term Financial Plan and Development Charges Background Study Update" be received as information;

That staff collaborate with Watson and Associates to undertake the Long Term Financial Plan concurrently with the Development Charges Background Study and By-law;

And that these projects be funded from the 2022 surplus.

**\*\*\*Referred from Council\*\*\***

**Recommendation:**

Whereas the County of Brant initiated a review of policies and regulations relating to private fencing and swimming pool enclosures throughout the County;

And whereas staff undertook a comprehensive review of the County's Fence By-Law 54-03 (which included both private fences and swimming pool enclosures) in Summer/Fall 2022 including community consultation and engagement, environmental scans of surrounding municipalities, and project research resulting in RPT-00225-22 (which included two separate by-laws one for private fences and one for swimming pool enclosures) to Committee on December 13<sup>th</sup>, 2022;

And whereas Council asked staff for additional research to be undertaken on the new draft Swimming Pool Enclosure By-Law;

And whereas staff yielded findings which supported staff's recommendations within RPT-00225-22 through RPT-0107-23 presented to Council on February 14<sup>th</sup>, 2023;

And whereas Council again, referred the new draft Swimming Pool Enclosure By-Law back to Committee to include amendments specific to the regulation of temporary swimming pools;

Therefore be it resolved that Fence By-Law 54-03 be repealed;

And that the new Fence By-Law forming Attachment 3 of RPT-0153-23 be approved;

And that the new Swimming Pool Enclosure By-Law forming Attachment 4 of RPT-0153-23 be approved;

And that both the new Fence By-Law and the Swimming Pool Enclosure By-law come into force and effect upon date of adoption by Council;

And that clear communication be delivered to the County of Brant residents in 2023 through social media and the County Newsletter regarding requirements of the new Swimming Pool Enclosure By-law and a further comprehensive media campaign including both social media and print be included in the 2024 budget as appropriate related to the requirements and permits for swimming pools.

**Recommendation:**

Whereas the Province of Ontario has permitted municipalities to use an Administrative Penalties System to adjudicate certain municipal by-law offences since 2007;

And Whereas the use of Administrative Penalties Systems by municipalities reduces strain on the overburdened Provincial court system, and transfers the appeals process to a less formal and more appropriate system for minor offences involving only monetary penalties;

And Whereas the County of Brant is desirous of developing an Automated Speed Enforcement program, and in 2022, the Province of Ontario permitted municipalities to adjudicate Automated Speed Enforcement violations through an Administrative Penalties System;

Therefore, that the County of Brant implement an Administrative Penalties System in accordance with provisions of applicable Provincial legislation and regulation beginning with Phase 1 as articulated in RPT-198-23, being the transition of the County of Brant Parking By-law from the Provincial Offences Act to an Administrative Penalties System;

That staff be directed to develop the adjudication process for an Automated Speed Enforcement program through an Administrative Penalties System in accordance with Ontario Regulation 355/22 to be implemented during the launch of the County's Automated Speed Enforcement program;

That staff be authorized to bring forward the necessary by-law amendments for Council's consideration, and develop the policies required to implement an Administrative Penalties System as outlined in staff report RPT-198-23;

And that staff be directed to report back on any required additional resources necessary to operate an Administrative Penalties System for the County of Brant.

**Recommendation:**

Whereas the County of Brant operates and maintains stormwater drainage in urban and rural areas based on various means of management and funding;

And whereas, the urban drainage systems have been largely funded by taxation and rural systems under the Drainage Act, RSO 1990 have been funded directly by the landowners;

And whereas, the costs of construction and maintenance of all drainage systems are increasing due to environmental standards and climate change;

And whereas municipalities are increasingly implementing a utility model to fund the maintenance and capital elements of their urban stormwater management systems, similar to the model the County currently uses for water supply and wastewater treatment;

That staff be authorized to proceed with the development of a utility model for the County's urban stormwater management system including the financial modelling required to develop a reasonable user fee to remove reliance on the general tax levy as the primary funding source for urban stormwater management infrastructure;

And that staff be directed to undertake public consultation regarding this proposal, and report back to Council in advance of 2024 budget discussions.

- 9. **Communications**
- 10. **Chief Administrative Officer's Update**
- 11. **Other Business**
- 12. **In Camera**

**Recommendation:**

That the Policy Development Committee convene In Camera to discuss RPT-0209-23 - (s.239.2.e) Litigation or Potential litigation, and (s.239.2.f) Advice that is subject to solicitor-client privilege - (Appeal: Property Standards Committee Decision).

- 12.1 RPT-0209-23, s.239.2.e Litigation or Potential litigation & s.239.2.f Advice that is subject to solicitor-client privilege - Appeal - Property Standards Committee Decision- C Glassford

- 13. **Next Meeting and Adjournment**

Tuesday, September 5, 2023 at 6:00 p.m. in the County of Brant Council Chambers.





## Policy Development and Strategic Direction Committee Minutes

**Date:** March 14, 2023  
**Time:** 6:00 p.m.  
**Location:** Council Chambers  
7 Broadway Street West  
Paris, ON

**Present:** Mayor Bailey, Councillors Kyle, MacAlpine, Oakley, Howes, Bell, Peirce, Chambers, Miller, Coleman, and Garneau

**Staff:** Lee, Boyd, Crozier, Newton, Stevenson, Ballantyne, Porter, and Davis

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Councillor Coleman in the Chair.

**1. Attendance**

**2. Approval of Agenda**

Moved by Mayor Bailey  
Seconded by Councillor Peirce

That the Policy Development and Strategic Direction Committee agenda of March 14, 2023, be approved.

**Carried**

**3. Declaration of Pecuniary Interests**

12.1 Purchase of Camera and Battery for OPP Street Crimes Unit – Mayor Bailey  
Declared a conflict.

**4. Delegations / Petitions / Presentations**

4.1 Dr. David McNeil, CEO; Peter Quinlan, Board Chair; Paul Emerson, Past Chair - Brant Community Healthcare System

Dr. David McNeil, CEO, Peter Quinlan, Board Chair, and Paul Emerson, Past Chair of the Brant Community Healthcare System made a presentation outlining the Ministry of Health Planning process for the redevelopment of the Brant Community Healthcare System renovations and additions proposed, anticipated costs of construction, and the implications related to the community in terms of contribution to the costs of construction and equipment. It was noted that the Ministry of Health funds 90% of the construction, the community funds the remaining 10%, which has an initial estimated cost of \$130 million in 2020 dollars. Dr. McNeil reported that increased costs are anticipated, and noted updated population projections. Council

was encouraged to establish a reserve fund for the County's contribution to the redevelopment.

In response to questions, Dr. McNeil noted methods utilized in the transitional plans to maintain hospital operations while progressing on development. Dr. McNeil noted that Infrastructure Ontario has listed the Brant Community Healthcare System as a supported project, and commented on possible phasing of construction, with an approximate 10-year timeline to have the building complete. Discussion was held with regards to the estimated cost to the County of Brant, and long-term financial planning.

Moved by Councillor Chambers  
Seconded by Mayor Bailey

That the County of Brant establish a Reserve Fund for the purpose of funding its local contribution towards the Brant Community Healthcare System's Redevelopment Project;

And that staff be directed to report on funding for this reserve fund to meet the local contribution requirements as part of the Long-Term Financial Plan to be presented to Council in 2023.

**Carried**

## **5. Adoption of Minutes from Previous Meetings**

### **5.1 Policy Development and Strategic Direction Committee Minutes of February 14, 2023**

Moved by Councillor MacAlpine  
Seconded by Councillor Kyle

That the Policy Development and Strategic Direction Committee minutes of February 14, 2023, be approved.

**Carried**

## **6. Business Arising from the Minutes**

None

## **7. Consent Items**

### **7.1 Consent Items to be Approved - None**

### **7.2 Consent Items to be Received – None**

## **8. Staff Reports**

### **8.1 RPT-0119-23, Re-naming Burford Optimist Pavilion**

Moved by Councillor Peirce  
Seconded by Councillor Oakley

That the nomination by the Burford Optimist Club to re-name the Burford Optimist Pavilion be posted for public comment as per the Parks and Recreation Asset Naming Policy procedure.

**Carried**



8.2 RPT-0070-23, Municipal Alcohol Policy Update

In response to questions, Kathy Ballantyne, Director of Parks and Facilities reported on the increased liability insurance requirements and noted that sourcing insurance through the County is an optional service offered. She reported changes to the Municipal Alcohol Policy as driven by legislation.

Moved by Councillor MacAlpine

Seconded by Councillor Oakley

That the Municipal Alcohol Policy as updated be approved.

**Carried**

8.3 RPT-0138-23, Implementation of Standing Committee & Council Process Amendments

Moved by Councillor Chambers

Seconded by Councillor Oakley

That the revised 2023 Council and Committee calendar attached as Attachment 1 to staff report RPT-138-23 be approved, subject to any amendments made by resolution of Council or special meetings at the call of the Mayor and/or Chair, as provided for in the Procedural By-law;

And that the following amendments to Procedural By-law 14-20 be prepared for Council's consideration:

*Addition of Subsection 4.e.: Council shall meet on the second Tuesday of each month to consider Planning Act applications and matters associated with said applications, immediately following the adjournment of the Planning and Development Committee meeting, or at the hour of 6:00 p.m. in the event no meeting of the Planning and Development Committee is scheduled, or unless otherwise ordered by special resolution of Council.*

Amendment to Section 92 to rename the "Policy Development and Strategic Direction Committee" to the "Policy Development Committee".

**Carried**

**9. Notice of Motion**

9.1 Notice of Motion - Proposal for a Staff Report for the Recording of Votes for Public Record - Councillor Oakley

Councillor Oakley reported that he will bring forth a Notice of Motion at the March 28, 2023 meeting of Council, with a proposal that staff produce a report with options to record votes for public record.

**10. Communications - None**

**11. Chief Administrative Officer's Update**

Darryl Lee, Chief Administrative Officer, updated Committee on the following:

- The Strategic Plan public engagement phase has completed. It was noted that the outreach was comparable to that of the initial Strategic Plan. Consideration of findings and build out of the plan will be forthcoming to Council.

- Congratulations was extended to Alison Newton, for her appointment as Chief Administrative Officer. Mr. Lee extended appreciation to Mayor Bailey and Council for permitting him to serve in the role and assist in the transition.

## **12. Other Business**

### **12.1 Purchase of Camera and Battery for OPP Street Crimes Unit**

Mayor Bailey withdrew from voting, having declared a conflict from being involved in the process bringing the request to Council.

Councillor Peirce provided background information with regards to a request brought forward to the Police Services Board (PSB). He reported that Brant and Oxford Counties share services of the OPP Street Crimes Unit. Councillor Peirce reported that Brant's support was sought in the shared purchase of Rapid Deployment Observation Kits, and reviewed their use / deployment. He reported that Police Services Board funds are not typically used to support operational matters, and sought support and financial assistance of Council. He noted that the cost of a camera is approximately \$5,000 and two batteries are approximately \$2,000.

Moved by Councillor Chambers

Seconded by Councillor Oakley

That the County of Brant Council support and fund the purchase of the Rapid Deployment Observation Kit, to include one camera and two battery packs, for the Brant OPP Street Crimes Unit.

**Carried Unanimously**

### **12.2 Changes to Paris Elementary School Boundaries**

Councillor Bell reported on Grand Erie District School Board (GEDSB) forthcoming boundary changes for elementary schools in Paris. He expressed concerns about the decision of GEDSB, communication thereof and a lack of involvement of the County in this planning. Discussion was held with regards to concerns expressed by citizens, children's safety, placement of crossing guards, and afterschool programs. Discussion was held with regards to the role of the School Trustees, processes of the School Boards, level of involvement of the County, and increased communications and collaborative conversations. Involvement at staff level is proposed, then if needed, to Council.

Moved by Councillor Bell

Seconded by Councillor Peirce

That the County of Brant collaborate and be actively engaged with the School Boards and their changes to the school boundaries.

**Carried**

## **13. In Camera**

In discussion it was agreed that Committee resolutions to move In Camera would clearly identify the reason and generally state that senior staff are included. The CAO determines which staff are to be included in the In Camera sessions.

Moved by Councillor Howes  
Seconded by Councillor Oakley

That the Policy Development and Strategic Direction Committee and appropriate staff convene In Camera to discuss RPT-0135-23, s.239.2.c – a proposed or pending acquisition or disposition of land by the municipality or local board (Woodslee Ave).

**Carried**

Committee convened In Camera at 7:00 p.m. to discuss RPT-0135-23, s.239.2.c – a proposed or pending acquisition or disposition of land by the municipality or local board (Woodslee Ave). This portion of the meeting is recorded in the Confidential – In Camera minutes of March 14, 2023. Committee reconvened in Open Session at 7:07 p.m. on a motion of Councillors MacAlpine and Kyle.

**14. Next Meeting and Adjournment**

Committee adjourned at 7:07 p.m.

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Secretary





## Policy Development Committee Report

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**To:** To the Chair and Members of the Policy Development Committee  
**From:** Christine M. Staley, Manager of Taxation and Revenues  
**Date:** May 2, 2023  
**Report #:** RPT-0193-23  
**Subject:** Tax Rebate Program for Eligible Charities  
**Purpose:** For Approval

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### Recommendation

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That Staff Report RPT-0193-23, outlining the Tax Rebate Program for Eligible Charities be received as information;

And that the by-law to renew the Tax Rebate Program be forwarded for Council's consideration.

### Strategic Plan Priority

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Strategic Priority 6 - Stable and Responsive Governance

### Impacts and Mitigation

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#### Social Impacts

The Tax Rebate Program for Eligible Charities is Provincially mandated as a means of providing charitable organizations some relief from property taxes.

#### Environmental Impacts

No environmental impacts are anticipated as a result of this staff recommendation.

#### Economic Impacts

The Tax Rebate Program for Eligible Charities, as presented, resulted in rebates of \$1,685 in 2022. As the program is largely based on Provincial minimum levels of relief, any changes to the program will have an impact on tax revenue.

### Report

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#### Background

Section 361 of The Municipal Act requires the municipality to have a Tax Rebate Program for Eligible Charities for the purpose of giving them a minimum of a 40% reduction in property taxes. This rebate applies to eligible charities (under the Income Tax Act (Canada)), paying taxes on a commercial or industrial class property. The cost of the rebate is shared between the municipality and the school board proportionately.

County of Brant By-law 112-17 to Establish a Tax Rebate Program for Eligible Charities, was adopted July 26, 2017 and is now legislatively due for review and/or renewal.

**Analysis**

The Municipal Act outlines the minimum rebate program requirements. The current Tax Rebate Program provides a rebate of 40% of property taxes for registered charities applying for commercial or industrial class properties.

Municipalities have several “optional” circumstances that they may select to apply the rebate program to. The current by-law provides for the following:

- 100% rebate for taxes payable on properties owned or operated by a historical society (currently 1 property – 34-36 Main Street South, St. George).

Other optional circumstances which Council may request a further report on include the following:

- The program may provide a rebate of greater than 40% rebate – up to 100%;
- The program may provide rebates to similar organizations (other non-profit groups); and/or
- The program may provide rebates for other property classes.

If Council is interested, these options have the potential to greatly expand the rebate program and will require further analysis of the economic impact and development of appropriate controls and parameters before a revised recommendation and by-law could be presented.

**Summary and Recommendations**

Staff is not recommending any change to the Tax Rebate for Eligible Charities program at this time and has prepared the attached draft by-law for Council’s consideration.

**Attachments**

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1. Draft by-law to Establish a Tax Rebate Program for Eligible Charities

**Reviewed By**

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1. Heather Mifflin, Director of Finance, Treasurer
2. Heather Boyd, General Manager of Corporate Services

**Copied To**

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1. Alison Newton, Chief Administrative Officer

**By-law and/or Agreement**

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By-law Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No

**BY-LAW NUMBER XXX-23**

- of -

**THE CORPORATION OF THE COUNTY OF BRANT**

To Establish a Tax Rebate Program for Eligible Charities

**WHEREAS** the Corporation of the County of Brant (the “Municipality”) is required to have a tax rebate program for eligible charities pursuant to s.361 of the Municipal Act, 2001, S.O. 2001, c.25, as amended (hereinafter referred to as the “Act”);

**AND WHEREAS** the Council of the County of Brant adopted a recommendation to provide a property tax rebate of 100% for properties owned by a historical society in the County of Brant;

**AND WHEREAS** the Council of the County of Brant deems it appropriate to enact this By-law for the purpose of establishing a tax rebate program;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

1. **THAT** in this By-law:

“eligible charity” means a registered charity as defined in s.248(1) of the Income Tax Act (Canada) that has a registration number issued by the Canada Revenue Agency;

“eligible property” means property that is in one of the commercial property classes or in one of the industrial property classes within the meaning of s.308(1) of the Act;

“qualified application” means an application for a property tax rebate that demonstrates to the satisfaction of the Treasurer, the entitlement of the applicant charity receive a rebate in accordance with this By-law,

“Treasurer” means the Treasurer, or a person delegated the treasurer’s powers and duties under s.285 (5) of the Act;

2. **THAT** an eligible charity that pays taxes on eligible property that it occupies may make an application to the municipality where the eligible property is located for a rebate of the property taxes or amounts on account of the taxes in respect of the eligible property.
3. **THAT** the application shall be in a form required by the Treasurer of the municipality.
4. **THAT** the application for a taxation year shall be made after January 1 of the taxation year and no later than the last day of February of the year following the taxation year;
5. **THAT** a charity that is otherwise eligible for a rebate on eligible property under this By-law is not entitled to any rebate if the eligible property has received a property tax reduction pursuant to s.362 of the Act.
6. **THAT** upon receipt of a qualified application for a taxation year the municipality shall:
  - a) Pay the rebate amount within one hundred twenty (120) provided the final bills for the application year have been calculated;
  - b) If the final bills have not been calculated, then the rebate will be paid within one hundred and twenty (120) days after they are calculated.

7. **THAT** the amount of the rebate shall be:

- a) 40% of the taxes, estimated taxes or amounts on account of taxes payable by the eligible charity on the eligible property that it occupies; or
- b) Such other percentage as may have been prescribed by the Minister of Finance; or
- c) If the eligible charity is required to pay an amount under s.367 or s.368 of the Act, the amount of the rebate shall be the total of the amounts the charity is required to pay under those sections; or
- d) 100% of the taxes or estimated taxes payable on properties owned/operated by historical societies, as follows:

2920-016-030-21400

34-36 Main Street South, St. George

8. **THAT** By-law Number 112-17 be and is hereby repealed.

**READ** a first and second time, this 23<sup>rd</sup> day of May, 2023.

**READ** a third time and finally passed in Council, this 23<sup>rd</sup> day of May, 2023.

**THE CORPORATION OF THE COUNTY OF BRANT**

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David Bailey, Mayor

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Alysha Dyjach, Clerk





## Policy Development Committee Report

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**To:** To the Chair and Members of the Policy Development Committee  
**From:** Heather Boyd, General Manager of Corporate Services  
**Date:** May 2, 2023  
**Report #:** RPT-0175-23  
**Subject:** County of Brant Long Term Financial Plan and Development Charges Background Study Update  
**Purpose:** For Approval

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### Recommendation

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That Staff Report RPT-0175-23 "County of Brant Long Term Financial Plan and Development Charges Background Study Update" be received as information;

That staff collaborate with Watson and Associates to undertake the Long Term Financial Plan concurrently with the Development Charges Background Study and By-law;

And that these projects be funded from the 2022 surplus.

### Strategic Plan Priority

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Strategic Priority 3 - Economic Resilience

### Impacts and Mitigation

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#### Social Impacts

There are no Social Impacts anticipated as a result of this report.

#### Environmental Impacts

There are no Environmental Impacts anticipated as a result of this report.

#### Economic Impacts

The Long Term Financial Plan will serve as a valuable tool in assessing the County's current financial health, future prospects and evaluate new initiatives. The estimated cost of this plan is \$50,000, which staff proposes to fund from the 2022 Surplus. The Development Charges Background Study and By-law will cost an estimated \$100,000, funded through Development Charges.

### Report

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#### Background

As referenced in the County's Strategic Plan, a Long Term Financial Plan has been identified by Council and staff as a priority project for 2022, to assist with funding allocations, budgeting and financial policy decisions. Staff has prepared a terms of reference, workplan and timeline for this project.

## Analysis

The County of Brant Long Term Financial Plan is intended to address several needs:

1. Demonstrate the current financial status of the County of Brant and the sustainability of its assets, programs and services. Identify any threats from funding gaps or significant investments.
2. Develop a Financial Model that can be used to assess the viability of new major spending initiatives, and to consider these within the content of affordability and impact to taxpayers.
3. Establish a program for continued development, update and expansion of the Long Term Financial Plan, to ensure flexibility of the organization to pivot strategies as needed to respond to changes in social, environmental and/or economic circumstances.
4. Review the County's existing financial policies, recommending changes where appropriate and identifying policy gaps.

## *Inputs*

The Long Term Financial Plan is the compilation of a number of studies, data and trends. Information inputs into the strategy require coordination with all departments and include the following:



## *Outputs*

The key deliverable of the Long-Term Financial Plan is a funding model that can be applied to analyze the impact of future projects, expenditures and initiatives on the financial health of the municipality.

This model will serve as the basis for direction and deliberation with regards to the following outputs of the Financial Plan:

- Annual Budget Direction
- Five Year Capital Forecast
- Review of Funding for Future Projects and Initiatives

The County has several financial control policies, plans and procedures in place, and the Financial Strategy and its model will be used to review and update these as well as to develop any new policies or address gaps, including but not limited to:

- Debt Management Policy
- Internal Controls / Reporting
- Subsidization Policy
- Fees and Charges By-law
- Investment Policy
- Reserve and Reserve Funds Policy

The County would also be seeking commentary in the Long Term Financial Plan on how best to maintain and service the Plan going forward. This may include recommendations on organizational structure, resources and/or reporting strategies.

## *Project Strategy*

The County of Brant Finance Division is currently involved in a number of financial planning studies, plans and reviews which are scheduled for completion in 2023 / early 2024, which will eventually feed into the Long Term Financial Plan including:

- Asset Management Plan (both core and non-core assets);
- Water/Wastewater Financial Review and Rate Study; and
- Development Charges Background Study and By-law.

In reviewing these projects and the Long-Term Financial Plan, staff recognized that there would be overlap between datasets and projections / assumptions to be made for the Long-Term Financial Plan and the Development Charges Study. A discussion was held with the County's Development Charges consultant (Watson & Associates) regarding the possibility of bringing forward both projects for presentation to Council by the end of 2023, so that they could be available to inform Council's decisions on the 2024 budget.

One of the key benefits of hiring an outside firm to conduct the Long-Term Financial Plan would be that it would provide a different perspective on funding models, opportunities and strategies, drawing upon the consultant's extensive experience working with municipalities across Ontario. Staff would work closely with the consultant to bring the County of Brant experience to the project.

## *Project Timelines*

In discussion with the consultant, it is proposed that a preliminary report would be presented to Council in December 2023 / early January 2024. This report would then form the basis for 2024 budget deliberations, which staff will be recommending commence in January of 2024. Following the presentation to Council, there would be further stakeholder consultation and public engagement before the final Development Charges Background Study and By-law would be presented for Council's approval. A significant portion of the Finance Department's capacity will be singularly focused on serving the four main financial plans scheduled for this year.

These timelines will require a commitment from Finance Staff and the entire County of Brant Management Team to work cooperatively to get project details, financial estimates and funding sources to the consultant in an accelerated timeframe, but once collected, these inputs would serve the Long Term Financial Plan, Development Charges, 2024 Capital Budget and 5-Year Forecast documents.

*Project Funding*

As year-end accounting is currently underway, it is estimated that there will be a small surplus, sufficient to cover the estimated cost of the Long Term Financial Plan. It is staff’s recommendation that reinvesting this surplus into the financial health of the County is the best use of these funds.

It is estimated that if the Long Term Financial Plan were to be completed in house or if another external consultant were to be retained, there would likely be additional costs and/or delays, as well as the potential for conflicting data and projections.

Summary and Recommendations

Attached to this report is the draft Terms of Reference for the Long Term Financial Plan. It is staff’s recommendation that pending any changes to the Terms of Reference requested by Committee and/or Council, staff work with Watson & Associates to conduct both the Long Term Financial Plan and the Development Charges Background Study and By-law.

**Attachments**

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- 1. Long Term Financial Plan Terms of Reference

**Reviewed By**

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- 1. Alison Newton, Chief Administrative Officer
- 2. Heather Mifflin, Director of Finance, Treasurer

**Copied To**

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- 1. CAO

**By-law and/or Agreement**

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By-law Required	No
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No



## **Long Term Financial Plan – Terms of Reference**

### **Section 1 – Background and Introduction**

#### **1.1 Direction from Council**

The County of Brant Strategic Plan Identified a Strategic Priority of Stable and Responsive Government, with a goal to “ensure the County has the financial, human and physical resources required to deliver quality, reliable, accountable and affordable public service”. An action item from this goal is stated as follows:

*“Complete an organizational financial plan that maximizes assessment revenues, financing, reserves, and delivery models to ensure affordability of all current and prospective obligations”.*

During the 2023 Budget Deliberation, Council expressed a desire to expedite the completion of a Long Term Financial Plan to provide a model and guidance for future budgetary decisions and to demonstrate how certain projects / funding initiatives can best be accommodated within the County’s financial capacity.

#### **1.2 History of Financial Planning**

In 2017, County of Brant Council approved Guidelines for Achieving Financial Sustainability, a Debt Management Plan and a Reserve Management Plan. Copies of these documents are attached at Appendices A, B and C to the Terms of Reference.

#### **1.3 Ongoing Studies and Project**

The County of Brant is currently undertaking a number of Financial Studies and Projects that will need to be incorporated into the Long Term Financial Plan. Some of these studies will be completed in time to be included in the initial modeling and report. The Plan will need to include a process / system for inputting new data / study findings as these studies are completed.

A sample of the studies referred to include:

- County of Brant Growth Projections / Municipal Comprehensive Review – Completed as part of Official Plan project
- County of Brant Strategic Plan – expected Q2 2023
- Asset Management Plan (Core Assets) – expected Q2/Q3 2023
- Asset Management Plan (Remaining Assets) – expected Q2 2024
- Development Charges Background Study – to be completed concurrently with LTFP
- Water / Wastewater Financial Plan and Rate Study – to be completed Q1 2024

## **Section 2 - Objectives**

The County of Brant is seeking a Long Term Financial Plan that will achieve the following objectives:

1. Demonstrate the current financial status of the County of Brant and the sustainability of its assets, programs and services. Identify any threats from funding gaps or significant investments.
2. Develop a Financial Model that can be used to assess the viability of new major spending initiatives, and to consider these within the content of affordability and impact to taxpayers.
3. Establish a program for continued development, update and expansion of the Long Term Financial Plan, to ensure flexibility of the organization to pivot strategies as needed to respond to changes in social, environmental and/or economic circumstances.
4. Review the County's existing financial policies, recommending changes where appropriate and identifying policy gaps.

Specifically, the County will be seeking a financial model that can be used to input updated data, reconcile actuals and assess the impact of new funding initiatives (revenues and / or expenditures).

The County is also seeking an analysis and commentary on service levels, program viability and identifying any adjustments that may be recommended for enhanced long term financial security.

The County will also be seeking a plain English analysis of its policies and procedures, recommending any updates, enhancements and/or new policies for consideration.

## **Scope**

The County of Brant Long Term Financial Plan should take into consideration, but not be limited to the following:

- Asset Management Recommendations – overall investments needed over time
- Growth-related projects
- Investments – Particularly making recommendation on the future use or maintenance of the Brant County Power proceeds
- Fees and Charges / Levels of Subsidization
- Rate-Funded Municipal Services (existing and proposed)
- Growth in New Assessment / Tax Base
- New Programs and services
- Strategic Plan
- Major Capital Projects
- Federal / Provincial Funding Trends
- Community Grants
- Annual Operating Costs / Inflation
- Development Charges
- Tax Levy Increases / Ability to Pay
- Debt-Related Servicing Costs
- Legislative Landscape
- Shared Services Funding Commitments

## **Section 4 – Timelines**

The Long Term Financial Plan is an essential component to the County's budgeting and financial analysis processes. It is Council's expectation that this will be completed as a priority project in 2023, for presentation to Council in advance of the 2024 Budget Deliberations process.



## Appendix A



guidelines for achieving

# FINANCIAL SUSTAINABILITY

July 2017

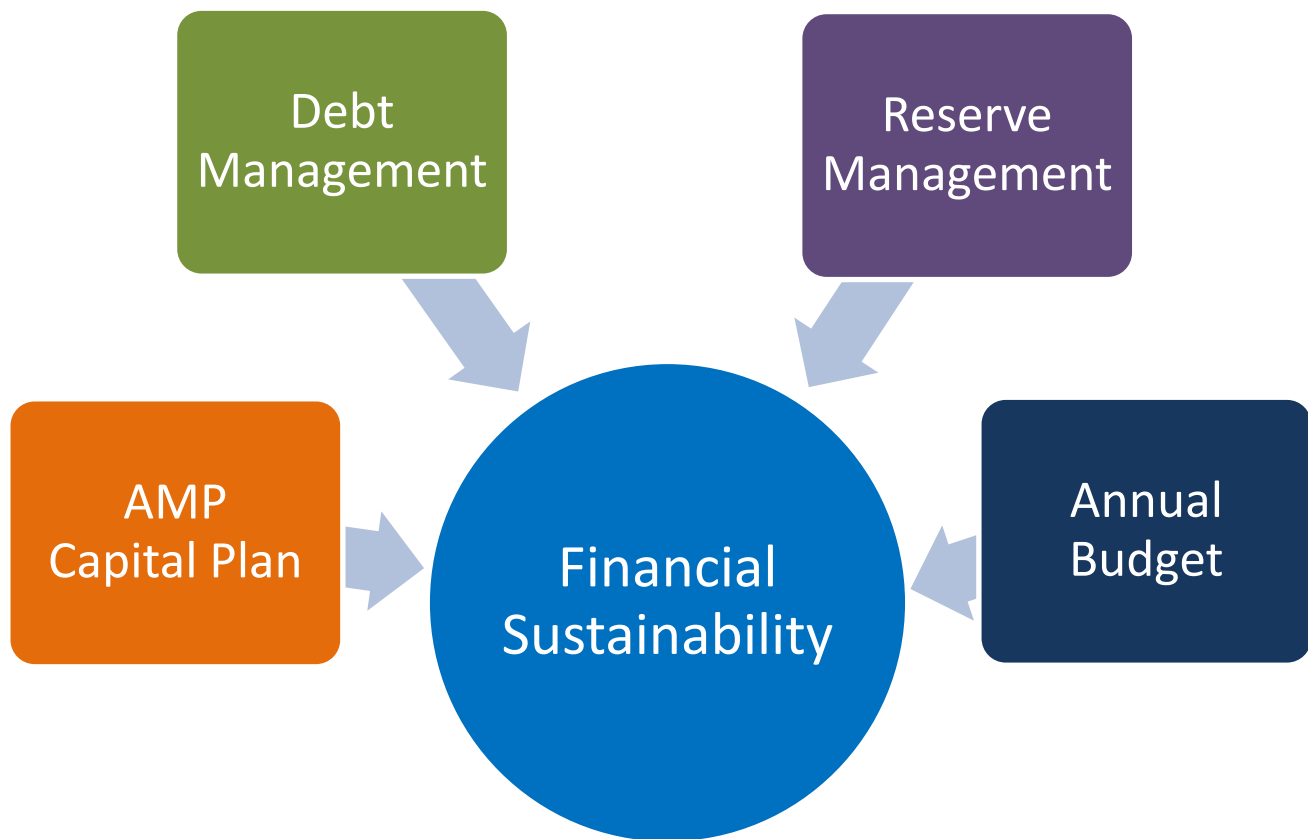


# What is Financial Sustainability?

## *Your municipality is in a financially sustainable position if...*

1. It can offer a range and level of service comparable to other similar municipalities with approximately the same tax effort;
2. It can adjust service levels in response to changes in transfer payments;
3. It can keep its infrastructure in a state of good repair;
4. It has sufficient reserves and/or debt capacity to replace infrastructure at the appropriate time;
5. It can adjust its capital plan in response to changes in the rate of growth.

# Financial Sustainability – 4 Tenants



**There are 4 tenants to a good Financial Sustainability Plan.**

# Capital Plan (Asset Management Plan)

## What do we need to invest in?

### 1. Maintenance

- General maintenance based on recommended schedules
  - 2% to 4% of the value of the asset should be invested in maintenance annually to ensure stability of assets (industry standard for Municipal Infrastructure)

### 2. Refurbishment

- Periodic work to extend the life of the asset or to replace a component
  - Building, roof and / or siding
  - HVAC system
  - Insulation upgrade

### 3. Replacement

- Replace an existing asset at the end of the asset's life cycle

# Capital Plan – AMP

## Asset Management Plan

- The County's Asset Management Plan was completed in 2013 by R.V. Anderson.

### Key Recommendations

- To support the existing assets, the Capital Tax Levy should be increased to \$9M by 2018.

### Current Status of Target

<u>Year</u>	<u>AMP Target</u>	<u>Capital Budget</u>
2013	\$7.4M	\$7.9M
2014	\$7.7M	\$5.1M
2015	\$8.0M	\$5.3M
2016	\$8.4M	\$6.6M
2017	\$8.7M	\$7.8M
2018	\$9.0M	

*\*1.2M is required in the 2018 Capital Budget to meet the AMP Target*

### Long Term

The County should continue to plan for \$9M per year, plus inflation to sustain existing infrastructure. Replacement of new infrastructure will require additional funds in the long term.

The AMP should be evaluated and updated regularly.

# Debt Management

## Philosophy

1. Debt practices will be responsive and fair to the needs of both current and future tax payers and will be reflective of the life cycle of the asset.
2. The term of borrowing will not extend beyond the life of the asset.
3. Decisions will take into consideration the recommendations of various Council approved plans, such as the Strategic Plan, Official Plan, Recreation Plan or any other Council approved plan.
4. Council will endeavor to incur debt instead of using invested funds, when the debt is at a lower interest rate than the interest earned on invested funds.
5. Debt incurred for capital investment purposes will take into consideration the expected return on the investment and whether it will service the debt, and if it creates other tangible benefits to the County such as jobs, healthcare or other ancillary social benefits. Investment debt should pay for itself, including interest, and may create a revenue stream for the County.
6. Rate based debt incurred for water and wastewater will be guided by the *Sustainable Water and Waste Water Systems Improvement and Maintenance Act, 2010* or other applicable legislation as it arises.
7. Development Charge debt will be guided by the *Development Charges Act, 1997* or other applicable legislation as it arises.

# Debt Management

## Limitations on Indebtedness As per Debt Management Plan

### **Statutory Limitations – Annual Repayment Limit (ARL)**

The annual debt and financial obligation limit for the County is calculated in accordance with provincial legislation.

The ARL is based on the County's prior year Financial Information Return (FIR). No more than 15% of the total Own Source Revenue can be used to service debt and other long-term obligations without receiving OMB approval.

## Types of Capital Projects

### Tax Supported

#### 1. Growth (Non-Development Charge)

- a. Other assets or capital works considered to be growth related, but not deemed to be fundable through development charges.
- b. Repayment will be funded from taxes.

#### 2. Replacement

- a. Replacement assets as well as regular and/or ongoing capital expenditures shall be funded on a “pay as you go” basis.
- b. Repayment will be funded from the tax levy, user fees and/or reserves

#### 3. New Services / Assets

- a. New capital related to the delivery of services that is not considered to be attributable to growth.
- b. Repayment will be funded from the tax levy, user fees and/or reserves.

# Debt Management

## Types of Capital Projects – cont'd

### DC or Rate Based

#### 1. Development Charges

- a. Issuance of growth related debt to ensure adequate infrastructure or capital, services and resources.
- b. Repayment will be recovered through the County's development charges

#### 2. Rate Based

- a. New or existing capital related to the provision of Water and / or Waste Water services not funded by development charges.
- b. Repayment will be funded from water and wastewater user rates and/or reserves where applicable.

### Capital Investments

#### 1. Enhancement and / or Development of Commercial or Industrial Business Solutions.

- a. Self funded business ventures that contribute to the financial viability and growth of the County's commercial or industrial base. These ventures will be lasting, quantified and provide social or environmental benefits.
- b. Repayment will be funded from the revenues generated from the business venture.



# Debt Management

## Types of Debt

### 1. Short-term Debt (under 1 year)

- Reserve and reserve fund loans (see Reserve Management Plan)
- Bank line of credit

### 2. Medium-term Debt (one to four years)

- Reserve and reserve fund loans (see Reserve Management Plan)
- Operating and capital leases
- Term loans
- Promissory notes

### 3. Long-term Debt (five years or greater)

- Debentures
- Term loans/mortgages with any Canadian bank
- Government issued debt (such as through Infrastructure Ontario loan program)
- Capital leases
- Reserve and reserve fund loans (see Reserve Management Plan)

## Philosophy

1. Long term financial sustainability will require saving for future capital asset life cycle and replacement investments.
2. Reserves will be used judiciously to manage debt levels. They may reduce the need to issue debt.
3. Contributions to and draws from the reserves can be 'smoothed' to provide a predictable impact on the tax levy and water and wastewater rates.
4. Reserves can also protect municipalities against non-capital long term liabilities and external shocks.

# Reserve Management

## Guiding Principles

**Reserves will be maintained to meet one of the following purposes of the Municipality:**

**Asset Replacement** - established to smooth the spikes in capital budgets and smooth out property tax changes;

**Project Reserves** - established to provide cost effective self borrowing mechanisms to reduce risks associated with interest rate fluctuations;

**Economic Stability Reserves** - established to buffer against significant fluctuations in the economy;

**Contingency Reserves** - established to accommodate contingent, unfunded or known liabilities (where the amount is unknown) for current and/or future years;

**Working Fund Reserves** - established to provide cash flow for operations to eliminate the requirement to borrow funds to meet immediate obligations;

**Self Insurance Reserves** - established to provide self insurance provisions.

## Types of Reserves

### **1. Discretionary** - subdivided into:

- a) Operating
- b) Capital
- c) Specific Use

### **2. Obligatory** - subdivided into:

- a) Operating
- b) Capital

Council, on the recommendation of the Treasurer, may establish a discretionary reserve fund and shall establish an obligatory reserve fund.

# Budget

## Timing

- Where possible, the budget will be presented to council in November and December

## Base Budget

- The base budget is the previous year's budget, minus any previously approved one-time revenues or expenditures, plus any Council approved in-year expenses and / or revenues

## Revenues

- User fees increased based on analysis and market comparators
- New revenue streams to offset loss of revenue to be explored
- Fund new services or enhancements from other revenue sources where applicable

## Expenditures

- Inflationary increases as applicable
- A percentage increase equal to the new growth for the proceeding year
- Increases resulting from approved enhanced services
- Increases to debt service charges based on issuance of debt
- Decreases for redundant services, debt discharge etc.

## Staff Wage Increases

- Tied to the Consumer Price Index (CPI)
- Market conditions such as inflation or economic repression may dictate a greater or smaller increase at council's discretion

# Points to Remember

- ✓ Financial sustainability is about the stewardship of the long-term.
- ✓ Asset management is simultaneously one of the greatest challenges to financial sustainability and essential to achieving it.
- ✓ The time to plan for financial sustainability in relation to asset management is now.
- ✓ Growth does not necessarily pay for growth, which typically means that funds must be diverted from asset management investments.
- ✓ Few municipalities have saved enough in reserves to meet their future asset management needs.
- ✓ Tax and rate increases at or below the rate of inflation may be shifting the burden of asset management investments to future generations.

# Appendix B



## **Debt Management Plan**

**Effective Date: July 1, 2017 (pending approval)**

### **POLICY STATEMENT**

The County of Brant endeavors to manage finances in a fiscally responsible and sustainable manner. As part of that mandate, debt financing is an essential tool for safeguarding and preserving current capital resources, and planning for future capital. It is prudent to maintain solvency and liquidity to meet on-going financial requirements, and as such, a Debt Management Plan is essential. Issuance of debt is an efficient use of available financial resources and provides flexibility in response to unforeseen circumstances and new opportunities.


### **PURPOSE**

The purpose of this Debt Management Plan is to:

- Enhance the quality of decisions made regarding debt;
- Promote consistency in the approach to debt;
- Establish the parameters regarding the purposes for which debt may be issued including:
  - The types and amounts of permissible debt
  - Purposes for which debt can be issued
  - The timing of issuance
  - Procedures for managing outstanding debt
  - The structural features applicable to debt instruments
- Contribute to the sound financial position of the County.

### **PHILOSOPHY**

1. Debt practices will be responsive and fair to the needs of both current and future tax payers and will be reflective of the life cycle of the asset.
2. The term of borrowing will not extend beyond the life of the asset.
3. Decisions will take into consideration the recommendations of various Council approved plans, such as the Strategic Plan, Official Plan, Recreation Plan or any other Council approved plan.
4. Council will endeavor to incur debt instead of using invested funds, when the debt is at a lower interest rate than the interest earned on invested funds.
5. Debt incurred for capital investment purposes will take into consideration the expected return on the investment and whether it will service the debt, and if it creates other tangible benefits to the County such as jobs, healthcare or other ancillary social benefits. Investment debt should pay

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 2 of 9	Revision Date:

- for itself, including interest, and may create a revenue stream for the County.
6. Rate based debt incurred for water and wastewater will be guided by the *Sustainable Water and Waste Water Systems Improvement and Maintenance Act, 2010* or other applicable legislation as it arises.
  7. Development Charge debt will be guided by the *Development Charges Act, 1997* or other applicable legislation as it arises.

## **DEFINITIONS**

For the purpose of this policy:

**Amortizing Debenture:** A debenture that has a blended principal and interest payment that is equal in each repayment period.

**Annual Repayment Limit:** A calculation, of the debt and financial obligation limit, provided annually to a municipality by the Ministry of Municipal Affairs and Housing that determines whether Ontario Municipal Board approval is required for the categories of debt or financial obligation described in Ontario Regulation 403/02 as amended.

**Bank Loan:** A loan made by a bank listed in Schedule I or II or III to the *Bank Act* (Canada), a loan corporation or trust corporation registered under the *Loan and Trustee Corporations Act* or a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies and includes, (a) a syndicated bank loan, and (b) a banker's acceptance, whether or not is is discounted, if, (i) it is drawn as a bill of exchange under the *Bills of Exchange Act* (Canada), and (ii) it is accepted by a bank to which the *Bank Act* (Canada) applies.

**Banker's Acceptance:** A short-term credit obligation created by a non-financial firm such as a corporation, and is guaranteed by a bank as to payment.


**Borrower:** The party receiving the funds.

**County:** The Council of the County of Brant.

**County Own Source Revenue:** Is equal to "Net Revenues" per the Financial Information Return (FIR) Schedule 81, Annual Debt Repayment Limit, Line 2610. It is calculated as the Total County Revenues less revenues from Federal and Provincial Grants and Gas Tax, Development Charges, Parkland Dedication, and Donated Tangible Capital Assets.

**County Treasurer:** The Treasurer of the County of Brant.



	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 3 of 9	Revision Date:

**Debenture:** A formal written obligation to repay specific sums on certain dates. In the case of a municipality, debentures are typically unsecured.

**Debt:** Any obligation for the payment of money. For Ontario municipalities, debt would normally consist of debentures as well as either notes or cash loans from financial institutions, but could also include loans from reserves.

**Debt and Financial Obligation Limit:** The maximum amount of new annual debt serving costs that a municipality can undertake or guarantee as determined by the Ministry of Municipal Affairs and Housing (MMAH) as per Ontario Regulation 403/02 (Debt and Financial Obligation Limit). Any amounts greater than this limit would have to be approved by the Ontario Municipal Board (OMB).

**Debt Service Charges:** The amount corresponding to annual debt and financial obligations.


**Deemed Debentures:** A bank loan agreement is deemed to be a debenture for the purpose of the following provisions of the *Municipal Act*, 2001, as set out in O. Reg. 276/02, s. 5: Section 403; Subsections 404(1) to (8) and Subsections 404(10) to (14); Subsections 405(2); Section 406; Subsections 408(2.1) and (3), clauses 408(4)(a), (c) and (d), and subsections 408(5) and (7); Subsections 412(2) and (4).

**Development Charge (DC):** Fees collected from developers at the time a building permit is issued. The fees are charged for the cost of infrastructure required to provide municipal services to new development, such as roads, transit, water and sewer infrastructure, community centres, libraries, fire and police facilities.

**DC Eligible Costs:** Are growth related costs for certain services as defined by the Development Charges Act.

**DC Background Study:** Is a document required by the *Development Charges Act*, 1997 to identify service needs arising from residential and non-residential growth and the associated eligible costs, in order to calculate the Development Charge rates charged by the County.

**Infrastructure Ontario (IO):** A crown corporation wholly owned by the Province of Ontario and established by the *Ontario Infrastructure and Lands Corporation Act*, 2011. Infrastructure Ontario provides Ontario municipalities, universities and hospitals access to an alternative financing service for longer-term fixed rate loans for the building and renewal of public infrastructure.

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 4 of 9	Revision Date:

**Lease Finance Agreement:** Means a lease allowing for the provision of Municipal Capital Facilities if the lease may, or will, require payment by the County beyond the current term of Council.

**Municipal Capital Facilities:** Includes land, as defined in the *Assessment Act*, works, equipment, machinery and related systems and infrastructures.

**Own Source Revenue:** Means revenue for a fiscal year, excluding grants, proceeds of sale of real property, transfers from a reserve fund or reserve, Government of Ontario revenues (for the purpose of repaying the principal and interest of long-term debt), and other municipal or school board receipts for the purpose of repayment of the principal and interest on long-term debt.

**Reserve Funds:** A fund that is segregated and restricted to meet a specific purpose. Monies set aside for a revenue fund must be deposited into a separate bank account and the interest earned on those investments must be added to the reserve fund.

**Short Term Debt:** Any debt for which the repayment of the entire principal is due within one year.

**Sinking Fund:** A fund in which money is accumulated on a regular basis that when combined with interest earned is used to retire or repay the debentures on maturity.


## **GUIDING PRINCIPLES**

The Debt Management Plan incorporates all debt agreements for capital that are entered into on behalf of the County of Brant. The County may issue a debenture or other financial instrument for long-term borrowing only to provide financing for a capital work (*Municipal Act*, 2001, s. 408(2.1)).

### **Types of capital projects:**

#### **Tax Supported**

1. Growth (Non-Development Charge)
  - a. Other assets or capital works considered to be growth related, but not deemed to be fundable through development charges.
  - b. Repayment will be funded from taxes.

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 5 of 9	Revision Date:

2. Replacement
  - a. Replacement assets as well as regular and/or ongoing capital expenditures shall be funded on a “pay as you go” basis.
  - b. Repayment will be funded from the tax levy, user fees and/or reserves
3. New Services / Assets
  - a. New capital related to the delivery of services that is not considered to be attributable to growth.
  - b. Repayment will be funded from the tax levy, user fees and/or reserves.

#### DC or Rate Based

1. Development Charges
  - a. Issuance of growth related debt to ensure adequate infrastructure or capital, services and resources.
  - b. Repayment will be recovered through the County’s development charges
2. Rate Based
  - a. New or existing capital related to the provision of Water and / or Waste Water services not funded by development charges.
  - b. Repayment will be funded from water and wastewater user rates and/or reserves where applicable.

#### Capital Investments


1. Enhancement and / or Development of Commercial or Industrial Business Solutions.
  - a. Self funded business ventures that contribute to the financial viability and growth of the County’s commercial or industrial base. These ventures will be lasting, quantified and provide social or environmental benefits.
  - b. Repayment will be funded from the revenues generated from the business venture.

This policy applies to all debt, including Lease Financing Agreements, and debt payments entered into by the County.

### **SCOPE**

The scope of the Debt Management Plan is as follows:

1. Adherence to legislative requirements;

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 6 of 9	Revision Date:

2. Structural features;
3. Limitations on Indebtedness;
4. Types of debt

## **1. Adherence to Legislative Requirements**

Debt may only be undertaken by the County in compliance with the *Municipal Act, 2001*, S.O. 2001, c. 25, specifically Part XIII – Debt and Investment, and the applicable regulations thereunder, as amended from time to time. The debt must also be in compliance with Ontario Regulation 403/02 (Debt and Financing Obligation Limits); Ontario Regulation 438/97 (Eligible Investments and Related Financial Agreements); Ontario Regulation 247/01 (Variable Interest Rate Debentures and Foreign Currency); and Ontario Regulation 276/02 (Bank Loans), as amended.

The County will not issue debentures to finance current operations. The money received will be applied only for the purposes for which the debenture was issued, or for repayment of outstanding temporary borrowing. Under section 407 of the *Municipal Act, 2001*, the County is permitted to draw on temporary borrowing facilities in a tax year, pending receipt of tax revenues.

## **2. Structural Features**


The County will manage its debt in a manner to limit, where practicable, exposure to interest rate risk, foreign currency risk, financial risk associated with entering into financial leases, and any other financial risks which may arise from debt financing.

### **Debt Denomination**

- The County will issue debt that is only denominated in Canadian dollars.

### **Fixed Interest**

- The County shall issue debt with a fixed rate of interest over the term.
- Interest rate swap agreements may be used to exchange floating-rate interest payments for fixed-rate interest payments.
- If there is a material financial advantage to issue variable rate debentures or enter into variable interest rate bank loan agreements, the interest rate can be left variable if in the opinion of the County Treasurer, it is in the County's best interest.
- Variable interest rate debentures may be issued, in accordance with Ontario Regulation 247/01, when the interest rate is lower than a fixed rate debenture.

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 7 of 9	Revision Date:

- Long-term bank loans and debentures with variable interest rates can be left variable if prevailing market conditions are favourable, as determined by the County Treasurer.

### **Repayment Terms**

- The term of the debentured asset may be shorter than the useful life of the capital asset, but will not exceed the lesser of 30 years or the estimated useful life of the asset.
- Under no circumstances will the term of financing exceed the anticipated useful life of the asset or the maximum term of 40 years, in accordance with the *Municipal Act, 2001*.

### **Debt Structure**


- Debt shall be structured for the shortest period consistent with a fair allocation of costs to current and future users.
- Debt shall be structured to achieve the lowest possible net cost to the County given market conditions, the type of debt being issued, and the nature and type of the repayment source.
- Banker's Acceptance may be used to bridge finance pending issuance of a debenture if it will reduce up-front interest or other costs.
- A construction financing debenture may be deferred for up to five years as the project is being completed. In accordance with Section 405 of the *Municipal Act, 2001*, short-term temporary borrowing for capital projects is allowed in advance of the issuance of debentures. The use of rolling short-term financing may be used for a debenture approved capital project.

### **Lease Finance Agreements**

- There are different financial and other risks associated with lease finance agreements, which where practicable, risk should be mitigated prior to their use.

### **Bond Forward Agreements**

- Bond forward agreements, which are similar to purchasing a forward fuel contract, lock in interest rates with an insurance premium for up to six months. While this creates cost certainty, the price with a locked-in future interest rate may not be cost effective. The County will fully evaluate the merits of these agreements before entering into one.

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 8 of 9	Revision Date:

### **3. Limitations on Indebtedness**

The County will preserve borrowing capacity for future capital assets by setting debt limits.


#### **Statutory Limitations – Annual Repayment Limit (ARL)**

The annual debt and financial obligation limit for the County is calculated in accordance with section 3 of Ontario Regulation 403/02 as amended.

The ARL is based on the County's prior year Financial Information Return (FIR). The Ministry of Municipal Affairs and Housing regulates the level of debt that may be incurred by municipalities. No more than 15% of the total Own Source Revenue can be used to service debt and other long-term obligations without receiving OMB approval.

### **4.Types of Debt**

1. Short-term Debt (under 1 year)  
The County may use either of the following sources to fund short-term operational needs:
  - Reserve and reserve fund loans (see Reserve Management Plan)
  - Bank line of credit
  
2. Medium-term Debt (one to four years)  
The County may use any of the following sources to fund medium-term, needs:
  - Reserve and reserve fund loans (see Reserve Management Plan)
  - Operating and capital leases
  - Term loans
  - Promissory notes
  
3. Long-term Debt (five years or greater)  
The County may use any of the following sources to fund long-term needs:
  - Debentures
  - Term loans/mortgages with any Canadian bank
  - Capital leases

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 9 of 9	Revision Date:

- Reserve and reserve fund loans (see Reserve Management Plan)
- Government issued debt (such as through Infrastructure Ontario)

## **AUTHORITY AND AUTHORIZATION**

### **Approval of Funding for Capital Projects**

Capital projects eligible for debenture funding must be approved by council. This is normally done through the capital budget process. The funding of emerging strategic priorities outside of the traditional budget process shall be approved by specific by-law.

### **Debenture Issue**

Each debenture issue shall be approved by a specific by-law of Council including the term, rates of interest, debt servicing obligation, and general terms of issue.

The County Treasurer will submit a recommendation report to Council to authorize the Treasurer to negotiate the terms and placement of a debenture issue and/or bank loan agreement, in an amount to finance capital projects or for any short term loan and prepare all documentation. The Treasurer will then arrange for the execution and determine the timing of the debt closing.


Approval by Council is required to authorize the issuance of debentures and/or bank loan agreements.

Council shall, before giving authorization for capital work that would require a long-term debt or financial obligation, have the County Treasurer calculate an updated Annual Repayment Limit using the most recent Annual Repayment Limit determined by the Ministry O.Reg. 403/02, s. 4 (1).

## **ANNUAL REPORT TO COUNCIL**

Once every fiscal year, the County Treasurer shall provide a report to Council containing the following:

- The current Annual Repayment Limit for issued debt, and approved debt
- Debt to be issued in the current fiscal year
- Debt to be issued beyond the current fiscal year

	Policy/Procedure #
Debt Management Plan	Effective Date: July 1/17
Page 10 of 9	Revision Date:

- Known or anticipated major capital projects anticipated in the next 5, 10 and 20 years.

### **DEBT MANAGEMENT PLAN REVIEW**

The Debt Management Plan will be reviewed periodically by the County Treasurer. Any required changes will be submitted to Council for consideration and approval. Any changes or revisions to the *Municipal Act*, 2001, or to regulations thereunder subsequent to the formal adoption of the Debt Management Plan which affects the plan will apply when they come into force. The Debt Management Plan will be updated to reflect such changes at the time of formal review. The plan will be reviewed every four years at a minimum (from date of last review).



# Appendix C



## **Reserve and Reserve Fund Management Plan**

**Effective Date: July 1, 2017 (pending approval)**

### **POLICY STATEMENT**

The County of Brant endeavors to manage finances in a fiscally responsible and sustainable manner. As part of that mandate, reserve management is an essential tool for safeguarding and preserving current capital resources, and planning for future capital. It is prudent to maintain solvency and liquidity to meet on-going financial requirements, and as such, a Reserve and Reserve Fund Management Plan is essential. Proper utilization of reserves, and reserve funds are an efficient use of available financial resources and provides flexibility in response to unforeseen circumstances and new opportunities.


### **PURPOSE**

The purpose of the Reserve and Reserve Fund Management Plan is to:

- Establish consistent principles, standards and guidelines for the maintenance, management and accounting of reserves and reserve funds.
- Adherence to statutory requirements;
- Promotion of financial stability and flexibility;
- Provision for major capital expenditures;
- Smooth expenditures which would otherwise cause fluctuation in the operating budget;
- To take advantage of financial opportunities that may arise.

### **PHILOSOPHY**

- Long term financial sustainability will require saving for future capital asset life cycle and replacement investments.
- Reserves will be used judiciously to manage debt levels. They may reduce the need to issue debt.
- Contributions to and draws from the reserves can be 'smoothed' to provide a predictable impact on the tax levy and water and wastewater rates.
- Reserves can also protect municipalities against non-capital long term liabilities and external shocks

	Policy/Procedure #
Reserves and Reserve Fund Mangement Plan	Effective Date: July 1/17
Page 2 of 5	Revision Date:

## **DEFINITIONS**

For the purpose of this plan:

**County:** The Council of the County of Brant.

**County Treasurer:** The Treasurer of the County of Brant.

**Deferred Revenue:** Revenue that is considered a liability on the County's financial statements until it becomes relevant to current operations, such as prepayment received for goods or services that have not yet been provided. Some Deferred Revenue is set aside in obligatory reserve funds for a specific purpose as required by legislation, regulation, or agreement such as development charges, cash-in-lieu of parkland, and federal and provincial gas tax.

**Discretionary Reserve Fund:** Reserve funds created at the discretion of Council whenever revenues are earmarked to finance future expenditures of a purpose designated by Council.

**Municipal Capital Facilities:** Includes land, as defined in the *Assessment Act*, works, equipment, machinery and related systems and infrastructures.

**Obligatory Reserve Fund:** Reserve funds that are required by legislation or agreement to be segregated from the County's general revenues for a special purpose or for works to be undertaken on behalf of the contributor. These funds are classified in the financial statements as Deferred Revenue.

**Reserve:** An allocation of accumulated net revenue that makes no reference to any specific asset and does not require the physical segregation of money. Established primarily for the purpose of providing working funds. A reserve cannot have a revenue or expense of itself, like a reserve fund.

**Reserve Fund:** A fund that is segregated and restricted to meet a specified purpose and includes both an obligatory reserve fund and a discretionary reserve fund.

## **GUIDING PRINCIPLES**

### **Establishment of Reserves and Reserve Funds**

**Reserves will be maintained to meet one of the following purposes of the Municipality:**

	Policy/Procedure #
Reserves and Reserve Fund Mangement Plan	Effective Date: July 1/17
Page 3 of 5	Revision Date:

**Asset Replacement** - established to smooth the spikes in capital budgets and smooth out property tax changes;

**Project Reserves** - established to provide cost effective self borrowing mechanisms to reduce risks associated with interest rate fluctuations;

**Economic Stability Reserves** - established to buffer against significant fluctuations in the economy;

**Contingency Reserves** - established to accommodate contingent, unfunded or known liabilities (where the amount is unknown) for current and/or future years;

**Working Fund Reserves** - established to provide cash flow for operations to eliminate the requirement to borrow funds to meet immediate obligations;

**Self Insurance Reserves** - established to provide self insurance provisions.

**Reserves can be established through the following processes:**

1. Inclusion in the annual operating or capital budget which is approved by Council; or
2. Through resolution of Council.

The budget document or resolution will clearly identify the name of the reserve being created and the purpose for the reserve. A reserve may be amended through resolution.

**Reserve Funds will be maintained in the following categories:**


**1. Discretionary-** subdivided into:

- a) Operating
- b) Capital
- c) Specific Use

**2. Obligatory** - subdivided into:

- a) Operating
- b) Capital

Council, on the recommendation of the Treasurer, may establish a discretionary reserve fund and shall establish an obligatory reserve fund.

	Policy/Procedure #
Reserves and Reserve Fund Mangement Plan	Effective Date: July 1/17
Page 4 of 5	Revision Date:

**A reserve fund can be recommended only if at least one of the following applies:**

- a) A mandatory obligation exists, either pursuant to legislation or contract
- b) The funds are intended for purchasing or maintaining capital assets
- c) The funds are donated for a specific purpose
- d) The funds are intended to fund a future liability

A report which recommends the establishment of a reserve must include the following:

- a) Statement of purpose
- b) Rationale for the appropriate level to be maintained or targeted in the reserve
- c) Initial contribution
- d) Contribution policy

A **Discretionary Reserve Fund** will be established through bylaw. The bylaw will clearly identify the name of the reserve fund, the funding method and the purpose for the reserve fund. A reserve fund can only be used for the identified purpose, unless Council amends or repeals the establishing bylaw.

An **Obligatory Reserve Fund** is established through either terms of an agreement which is entered into by the County or through legislation from a higher level of government. Obligatory Reserve Funds will be added to the summary of Reserve Funds


The Finance Department will establish tracking procedures to ensure that funds in the reserve or reserve fund that are earmarked for a specific project are easily identifiable to management and Council.

**Approval of funding allocations to and from Reserves and Reserve Funds**

Approval of funding to and from the Reserves and Reserve funds will be in accordance with the County's established Budget practice and reports to Council as referred to above.

**Closing Reserves and Reserve Funds**

If the purpose or purposes for which the reserve or reserve fund was created have been accomplished and the reserve or reserve fund is determined to be no longer necessary, the Treasurer, in consultation with the Department General Manager, shall report to Council with the recommendation on:

	Policy/Procedure #
Reserves and Reserve Fund Mangement Plan	Effective Date: July 1/17
Page 5 of 5	Revision Date:

- a)The closure of the reserve or reserve fund
- b)The disposition of any remaining funds
- c)The necessary amendment to the Reserve by-law

A resolution of Council will be required to close a reserve. The bylaw establishing the Reserve Fund will be required to be repealed in order to close a Reserve Fund.

### **Allocation of Operating Surplus / Deficit**

- Year-end General Levy budget surplus will be allocated in accordance with Council direction.
- Year-end General Levy budget deficits will be funded in accordance with the Council direction.
- Year-end Water and Wastewater budget surplus will be allocated to appropriate Water or Wastewater Reserve. Deficits will be funded from the Water and Wastewater Reserve, if insufficient any shortfall will be funded from the appropriate reserve fund.


### **Temporary Reserve Fund Borrowing**

Temporary borrowing to cover a reserve short-term deficit, interim servicing requirements or internal financing is permitted, when justified, adequately supported and authorized by Council. However the following conditions must be met in order to allow borrowing from reserve funds:

- Borrowing must not adversely affect the intended purpose of the reserve.
- A plan to repay the reserve within a reasonable timeframe is required and must be documented.
- Interest, equivalent to the County's interest on reserve fund bank accounts, will be applied to outstanding amount borrowed.
- Where applicable, legislative requirements may apply. For example, the Development Charges Act permits inter-fund borrowing only between development charge reserve funds and prescribes a minimum interest rate (ie. Bank of Canada prime rate as of the document approval date, updated on the first business day of every January, April, July and October).

### **ANNUAL REPORT TO COUNCIL**

Once every fiscal year, the County Treasurer shall provide a report to Council containing the following:

	Policy/Procedure #
Reserves and Reserve Fund Mangement Plan	Effective Date: July 1/17
Page 6 of 5	Revision Date:

- A reserve analysis outlining the current balance with comparative figures from the prior year, with explanations for major changes in reserve balances.
- As required under development charge legislation, if and when a Development Charges Bylaw is enacted by Council, the Treasurer will provide Council with a financial statement related to the Development Charge Bylaw and include information regarding development charge reserve funds. This statement will then be forwarded to the Minister of Municipal Affairs and Housing within 60 days after Council receipt.
- Yearend audit and financial statements - balances of reserves, both obligatory and discretionary reserves and reserve funds will be presented with note disclosure and comparative figures as required to meet PSAB reporting standards.
- Where required, reporting to Council or other agencies may exist for reserved residual balances related to grants or other contributed funds (eg. Federal and Provincial Grants).

### **RESERVE MANAGEMENT PLAN REVIEW**

The Reserve Management Plan will be reviewed periodically by the County Treasurer. Any required changes will be submitted to Council for consideration and approval. Any changes or revisions to the *Municipal Act*, 2001, or to regulations thereunder subsequent to the formal adoption of the Reserve Management Plan which affects the plan will apply when they come into force. The Reserve Management Plan will be updated to reflect such changes at the time of formal review. The plan will be reviewed every four years at a minimum (from date of last review).



## Policy Development Committee Report

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**To:** The Chair and Members of the Policy Development Committee  
**From:** Jessica Kitchen, Planner - Policy Planning  
**Date:** May 2, 2023  
**Report #:** RPT- 0153 -23  
**Subject:** Fence By-Law 54-03 – County Initiated Review  
**Purpose:** For Approval

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### Recommendation

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Whereas the County of Brant initiated a review of policies and regulations relating to private fencing and swimming pool enclosures throughout the County;

And whereas staff undertook a comprehensive review of the County's [Fence By-Law 54-03](#) (which included both private fences and swimming pool enclosures) in Summer/Fall 2022 including community consultation and engagement, environmental scans of surrounding municipalities, and project research resulting in [RPT-00225-22](#) (which included two separate by-laws one for private fences and one for swimming pool enclosures) to Committee on December 13<sup>th</sup>, 2022;

And whereas Council asked staff for additional research to be undertaken on the new draft Swimming Pool Enclosure By-Law;

And whereas staff yielded findings which supported staff's recommendations within [RPT-00225-22](#) through [RPT-0107-23](#) presented to Council on February 14<sup>th</sup>, 2023;

And whereas Council again, referred the new draft Swimming Pool Enclosure By-Law back to Committee to include amendments specific to the regulation of temporary swimming pools;

Therefore be it resolved that [Fence By-Law 54-03](#) be repealed;

And that the new Fence By-Law forming Attachment 3 of RPT-0153-23 be approved;

And that the new Swimming Pool Enclosure By-Law forming Attachment 4 of RPT-0153-23 be approved;

And that both the new Fence By-Law and the Swimming Pool Enclosure By-law come into force and effect upon date of adoption by Council;

And that clear communication be delivered to the County of Brant residents in 2023 through social media and the County Newsletter regarding requirements of the new Swimming Pool Enclosure By-law and a further comprehensive media campaign including both social media and print be included in the 2024 budget as appropriate related to the requirements and permits for swimming pools.



## Strategic Plan Priority

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### Strategic Priority 2 - Effective Communication

#### Executive Summary

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As part of good practice, municipal by-laws are reviewed periodically to update policies and ensure effective implementation. A review of [Fence By-Law 54-03](#) was initiated in Summer 2022, through Fall 2022, which determined the by-law was out of date. As a result, a recommendation was brought forward to Committee on December 13<sup>th</sup>, 2022, to repeal and replace [Fence By-Law 54-03](#) with two new by-laws to regulate private fencing and swimming pool enclosures throughout the County.

On December 20<sup>th</sup>, 2022, Council directed both by-laws back to Committee for further discussion. Staff received additional feedback and direction from Committee and Council during meetings held on February 14<sup>th</sup> and 28<sup>th</sup>, 2023. Following these meetings Council provided amended wording to revise the new draft Swimming Pool Enclosure By-Law to deregulate and exempt temporary swimming pools.

After lengthy discussions about the definition of **swimming pool** and the requirements of enclosures for swimming pools, staff continue to recommend approval of Attachment 4 of this report.

Only minor changes and formatting to the proposed Swimming Pool Enclosure By-law have been made since Council last reviewed the By-law, including the removal of the definition **ground level** and the inclusion of the definition of **effective ground level**. The definition of height was altered to include **vertical distance** and **effective** ground level. The word **ground level** in section 4.5.2 was removed and the word **effective** was added to 5.1.4. The word **broken glass** has been removed from section 3.9. Updating of the transition section 14.2 and enactment sections 15.1 and 15.2 was also completed.

These slight word changes will assist the Building and By-law Divisions with enforcement of this new draft Swimming Pool Enclosure By-law.

It should be noted that the Fence By-law has also been updated to reflect the updated definitions of **effective ground level** and **height**.

A definition of **temporary pool** is not included in this new draft Swimming Pool Enclosure By-Law as the proposed By-law itself does not regulate temporary pools.

However, it is recommended that as a result of the new draft updated Swimming Pool Enclosure By-Law a comprehensive communication strategy around what is a pool by municipal definition (those that contain a depth of 600 mm or more of water) and what municipal permits and enclosures are required should be conducted via social media and through the County's newsletter in 2023. Furthermore, next spring a more comprehensive media campaign should also be undertaken after budget approval to further assist and educate residents on pools in the County of Brant.

If approved by the Committee, both By-Laws will proceed to the May 23<sup>rd</sup>, 2023, Council Meeting for decision. If adopted by Council, the By-Laws would come into force upon adoption, as appeal periods do not apply under [the Municipal Act, 2001, S.O. 2001, c.25](#).



Both By-Law's must come into effect concurrently as regulations set out within are interdependent.

**Attachments**

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- 1. RPT-00225-22
- 2. RPT-0107-23
- 3. New Draft Fence By-Law
- 4. New Draft Swimming Pool Enclosure By-Law (Staff Recommended)

**Reviewed By**

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- 1. Pam Duesling, General Manager of Development Services
- 2. Jennifer Boyer, Manager of Policy Planning

**Copied To**

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- 1. Alysha Dyjach, Director of Council Services, Clerk
- 2. Mat Vaughan, Director of Development Planning
- 3. Rochelle Welchman, Assistant County Solicitor
- 4. Greg Bergeron, Manager of Enforcement and Regulatory Services
- 5. Kathy Ballantyne, Director of Parks and Facilities
- 6. Heather Mifflin, Director of Finance, Treasurer
- 7. Richard Weidhaas, Chief Building Official

**By-law and/or Agreement**

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By-law(s) Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No





## Administration and Operations Committee Report

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**To:** To the Chair and Members of the Administration and Operations Committee  
**From:** Jessica Kitchen, Planner - Policy Planning  
**Date:** December 13, 2022  
**Report #:** RPT-0225-22  
**Subject:** Review of Fence By-Law 54-03 – County initiated project to update policies and ensure effective implementation of regulations relating to private fencing and swimming pool enclosures throughout the County.  
**Purpose:** For Approval

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### Recommendation

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That RPT-0225-22, Review of the Fence By-law 54-03, be approved;  
That By-law 54-03 – A By-law to regulate fences, be repealed, and;  
That a new Fence By-law and Swimming Pool Enclosure By-law be presented to Council for approval, and;  
That both by-laws come into force and effect on January 1<sup>st</sup>, 2023.

### Executive Summary

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As part of good practice, municipal by-laws are reviewed periodically to update policies and ensure effective implementation. A review of [Fence By-Law 54-03](#) was initiated in early 2022 which determined the by-law was out of date. As a result, two new by-laws are proposed to address implementation barriers and update policies, procedures, and regulations.

If approved by Committee, both by-Laws will be sent to the December 20<sup>th</sup>, 2022, Council Meeting for decision. If adopted, both by-laws would come into force and effect January 1<sup>st</sup>, 2023.

### Strategic Plan Priority

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Strategic Priority 2 - Effective Communication

### Impacts and Mitigation

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#### Social Impacts

Regulation of fences and swimming pool enclosures, ensures the health, safety, and well-being of the community, as well as the protection of persons and property throughout the County of Brant.

## Health and Safety Impacts

Fences offer privacy and seek to protect persons and property as well as keep the community safe from potential hazard and harm. Reviewing [Fence By-Law 54-03](#) helps ensure policies which seek to implement these regulations are kept current.

Private swimming pools provide a source of recreational enjoyment and physical exercise for the community. Creating a separate by-law to regulate the enclosure of private swimming pools helps ensure continued maintenance of these structures and that structures remain safe and inaccessible when unattended.

## Economic Impacts

Initiated and undertaken by the Corporation this project has no financial considerations of note, save and except costs expended for advertising. Fees and charges relating to both by-laws are reviewed through Corporate Budget and do not form part of this report.

## **Report**

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As noted above, this Report is intended to provide Committee with:

- An overview of the proposed new Fence By-Law (Attachment 1);
- An overview of the proposed new Swimming Pool Enclosure By-Law (Attachment 2);
- Recommendation of approval of Attachments 1 and 2 of RPT-00225-22;
- An overview of proposed regulatory changes (Attachments 3 and 4);
- Consultation and engagement undertaken as part of this project; and
- Summary of comments and feedback/correspondence received throughout the project (Attachment 5).

## **Public Consultation and Engagement**

While [the Municipal Act, 2001, S.O. 2001, c.25](#) does not require consultation prior to enacting or amending by-laws, establishing a method of engagement was an important first step in the project to remain transparent by communicating proposed changes and help address outdated policies. Posting of existing and early draft by-laws to [www.engagebrant.ca](http://www.engagebrant.ca) generated discussion which helped shape the proposed new by-laws forming Attachments 1 and 2 of RPT-00225-22. Comments and feedback and correspondence received throughout the project have been collected and compiled within Attachment 5 of RPT-00225-22.

Conducted virtually consultation and engagement took the form of:

**June 3<sup>rd</sup>, 2022** - EngageBrant project page launch [www.engagebrant.ca/fence-and-pool-enclosure-by-laws](http://www.engagebrant.ca/fence-and-pool-enclosure-by-laws) - project materials posted for public feedback.

**June 3<sup>rd</sup>, 2022** – Project Advertising – via social media platforms [www.brant.ca/news](http://www.brant.ca/news), Facebook, Twitter, and Instagram.

**June 3<sup>rd</sup>, 2022** – DIS Circulation – weekly ‘Developer Information Session’ update via email.

**June 13<sup>th</sup>, 2022** – Corporate Project Circulation – via Jostle.

**June 23<sup>rd</sup>, 2022** – Public Notification – Notice placed within the Expositor Newspaper, including how to get involved and key project dates.

**June – November 2022** – Comments and Feedback/Correspondence Received (Attachment 5)

**November 17<sup>th</sup>, 2022** – Notice of Public Meeting – Notice placed within the Expositor Newspaper, including how to get involved and access to project materials.

**November 17<sup>th</sup>, 2022** – EngageBrant Update – Revised project materials posted.

### **Interdepartmental Consultation**

Internal consultation began in early 2022 with Building, Clerks, By-Law Enforcement and Regulatory Services, Finance, Legal, and Planning Divisions. During the preparation of this report no further feedback was received from internal Departments or Divisions.

### **Background**

On April 13<sup>th</sup>, 2003 Council adopted [Fence By-Law 54-03](#) to regulate private fencing throughout the County, including private swimming pool enclosures. This By-Law set standards for fences throughout the County, including height and materials. This by-law is now outdated.

The review of [Fence By-Law 54-03](#) focused on separating private swimming pool enclosure regulations to clarify divisional responsibilities, remove duplication, improve implementation, and clarify processes. Regulatory changes of note include:

- Fence height within residential interior side yards proposed to increase from 1.81m to 2.21m.
- Fence heights on residential corner lots proposed to increase from 0.91m to 2.21m.
  - The proposed by-law provides for fencing to be a maximum height of 2.21m provided a minimum 4.57 m setback from the exterior side lot line is maintained.
- Fence heights within agricultural zones proposed to increase to 1.81m within any yard from 0.90m in a front yard and 1.81m in an interior or rear yard.
  - Provided a minimum 4.57m setback from the exterior lot line is maintained.
- Fence heights within industrial zones proposed to change from no regulations, except ornamental fencing at 0.60m, to a maximum height of 3.01m for all fencing.
- Fence heights within commercial zones proposed to change from no regulations, except ornamental fencing at 0.60m, to a maximum height of 2.40m for all fencing.
- New privacy screen regulations (Section 6).
- Shift Fence Variances from By-Law Enforcement and Regulatory Services to Development Planning Division. By-Law Enforcement and Regulatory Services will still enforce the proposed new Fence By-Law.

The Fence Variance process forms Section 8 of the new Fence By-Law and will continue to allow property owners to request variations by making an application to the Committee of Adjustment. Attachment 6 contains data relating to Fence Variances collected from 2018 – October 2022 for the Committee's reference.

Updates to definitions, formatting, and terminology were also addressed through the review. Attachment 3 details all proposed regulatory changes.

A new Swimming Pool Enclosure By-Law is proposed to regulate private swimming pool enclosures, and the maintenance of these structures. Creation of a separate by-law will provide clear implementation and divisional responsibilities, as well as updated regulations for all private swimming pool enclosures (including above ground swimming pools and temporary swimming pools). Regulatory changes of note include:

- Shift implementation and review of Swimming Pool Enclosure Permits from the Building Division to By-Law Enforcement and Regulatory Services creating consistency with enforcement of these structures.
- Permit and regulate all private swimming pools (including above ground and temporary swimming pools) capable of holding 600mm of water or greater. Current regulations do not require enclosure or permit if:
  - The walls of an above ground swimming pool are 1.22 m in height, having a removable or lockable ladder, and secured cover or equivalent.
  - Temporary swimming pools (ex. vinyl, free form) are secured with a lockable cover or an equally secure alternative and locked and covered when not supervised.
- Regulation of hot tubs and Jacuzzi's with secured covers. Hot tubs and Jacuzzi's are proposed to be exempt from permit and regulations if the water surface area is less than 8.01 square metres and the cover locks and holds 90.72 kilograms. Hot tubs and Jacuzzi's which are covered and locked have been exempt from permits and regulations to date.

[The Ontario Building Code Act, 1992, O. Reg. 332/12](#) only governs public swimming pools or spas, not private swimming pools, spas, or enclosures. Public swimming pools will continue to be reviewed and inspected by the Building Division. Updates to definitions, enforcement procedures, and transitional policies were also addressed through the review. Attachment 4 details all proposed regulatory changes.

If approved, these By-Law's would not be enforced retroactively. Any private fences and swimming pool enclosures legally established prior to the By-Law's coming into force and effect could continue to exist, until such time that these are removed and/or replaced. Any new fences or swimming pool enclosures proposed upon the passing of these By-laws would need to conform with the provisions and regulations in force and effect at that time.

## Analysis

### **Policy Review**

Sections 8, 9, and 10 of [The Municipal Act, 2001, S.O. 2001, c.25](#) provide municipalities with the power to adopt and amend By-Laws to regulate fences on private property and private swimming pool enclosures.

This report proposes regulatory changes to help improve implementation relating to fencing on private property and private swimming pool enclosures throughout

the County. Proposed revisions conform with the [County of Brant Official Plan \(2012\)](#) and [County of Brant Comprehensive Zoning By-Law 61-16](#).

In considering current policy and regulatory structure, it is suggested that both By-Law's come into force and effect on January 1<sup>st</sup>, 2023. This ensures swimming pool enclosure regulations remain in force and effect until January 2023. Implementation relating to private fencing and swimming pools would remain unchanged until the effective date.

### **Summary and Recommendations**

It is Staff's opinion that [Fence By-Law 54-03](#) be repealed and replaced with two separate by-laws to clarify implementation and regulations relating to private fences and swimming pool enclosures throughout the County of Brant.

Draft by-laws forming Attachments 1 and 2 of RPT-00225-22 were prepared in consultation with Building, Clerks, By-Law Enforcement and Regulatory Services, Finance, Legal, and Planning Divisions.

It is Staffs opinion that appropriate consideration has been given to the proposed amendments and that no negative impacts will result with approval of the proposed By-Laws.

### **Attachments**

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1. New Draft Fence By-Law
2. New Draft Swimming Pool Enclosure By-Law
3. Comparison Chart – Fence By-Law Regulations
4. Comparison Chart – Swimming Pool Enclosure By-Law Regulations
5. Project Comments and Feedback Received/Correspondence Received
6. Fence Variance Data

### **Reviewed By**

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1. Pam Duesling, General Manager of Development Services
2. Jennifer Boyer, Manager of Policy Planning

### **Copied To**

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1. Alysha Dyjach, Director of Council Services, Clerk
2. Mat Vaughan, Director of Development Planning
3. Jyoti Zuidema, Solicitor
4. Greg Bergeron, Manager of Enforcement and Regulatory Services
5. Kathy Ballantyne, Director of Parks and Facilities
6. Heather Mifflin, Director of Finance, Treasurer
7. Richard Weidhaas, Chief Building Official

### **By-law and/or Agreement**

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By-law(s) Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No







## Policy Development and Strategic Direction Committee Report

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**To:** To the Chair and Members of the Policy Development and Strategic Direction Committee

**From:** Jessica Kitchen, Planner - Policy Planning

**Date:** February 14, 2023

**Report #:** RPT-0107-23

**Subject:** Fence By-Law 54-03 – County initiated review.

**Purpose:** For Approval

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### Recommendation

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Whereas the County of Brant initiated a review of policies and regulations relating to private fencing and swimming pool enclosures throughout the County;

And whereas staff undertook a comprehensive review of the County's [Fence By-Law 54-03](#) in Summer/Fall 2022 including community consultation and engagement, environmental scans of surrounding municipalities, and project research resulting in [RPT-00225-22](#) to Committee on December 13<sup>th</sup>, 2022;

And where feedback received and additional research undertaken since December 20<sup>th</sup>, 2022 has yielded findings which support initial recommendations set out within staff's report [RPT-00225-22](#), also noted as option one of this report;

Therefore, that RPT-0107-23 Fence By-Law 54-03, be approved;

And that [By-Law 54-03](#) – A By-law to regulate fences, be repealed;

And that a new Fence By-Law forming Attachment 2 of RPT-0107-23 be approved;

And that the new Swimming Pool Enclosure By-Law forming Attachment 3 of RPT-0107-23 be approved;

And that both by-laws come into force and effect upon date of adoption by Council.

### Executive Summary

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As part of good practice, municipal by-laws are reviewed periodically to update policies and ensure effective implementation. A review of [Fence By-Law 54-03](#) was initiated in Summer 2022, continuing through Fall 2022, which determined the by-law was out of date. As a result, a recommendation was brought forward to Committee on December 13<sup>th</sup>, 2022, to repeal and replace [Fence By-Law 54-03](#) with two new by-laws to regulate private fencing and swimming pool enclosures throughout the County.

On December 20<sup>th</sup>, 2022, Council directed both by-laws back to Committee for further discussion. Based on discussion and feedback received since the

December 20<sup>th</sup>, 2022, Council Meeting, further research and environmental scans of surrounding municipalities were undertaken and additional options to regulate temporary swimming pools considered. Findings of additional research undertaken by staff and options considered are outlined within this supplementary report for consideration.

This report is intended as a supplementary update to staff's initial report [RPT-00225-22](#) to Committee on December 13<sup>th</sup>, 2022. This report culminates by suggesting staff's initial recommendation (option one) be approved based on feedback and findings resulting from additional project research.

## **Strategic Plan Priority**

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Strategic Priority 2 - Effective Communication

## **Impacts and Mitigation**

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### Social Impacts

Regulation of fences and swimming pool enclosures, ensures the health, safety, and well-being of the community, as well as the protection of persons and property throughout the County of Brant.

### Health and Safety Impacts

Fences offer privacy and seek to protect persons and property as well as keep the community safe from potential hazard and harm. Reviewing [Fence By-Law 54-03](#) helps ensure policies which seek to implement these regulations are kept current.

Private swimming pools provide a source of recreational enjoyment and physical exercise for the community. Creating a separate by-law to regulate the enclosure of private swimming pools helps ensure continued maintenance of these structures and that structures remain safe and inaccessible when unattended.

### Economic Impacts

Initiated and undertaken by the Corporation this project has no financial considerations of note, save and except costs expended for advertising. Fees and charges relating to both by-laws are reviewed through Corporate Budget and do not form part of this report.

## **Report**

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### Background

On April 13<sup>th</sup>, 2003 Council adopted [Fence By-Law 54-03](#) to regulate private fencing throughout the County, including private swimming pool enclosures. Through a Corporate review initiated in Summer 2022 this by-law was determined to be outdated. [RPT-00225-22](#) to Committee on December 13<sup>th</sup>, 2022, recommended repeal of [Fence By-Law 54-03](#) and adoption of two new by-laws to regulate private fencing and swimming pool enclosures throughout the County. On December 20<sup>th</sup>, 2022, Council directed both by-laws back to Committee for further discussion. Detailed summaries relating to regulatory changes and consultation formed part of the December 13<sup>th</sup>, 2022, [Administration and Operations Committee agenda](#).

Creation of separate by-laws provides clear implementation and divisional responsibilities, as well as updated regulations for all private fencing and swimming pool enclosures (including above ground and temporary swimming pools).

Analysis

Currently [Fence By-Law 54-03](#) regulates and requires enclosure of all swimming pools (including above ground and temporary swimming pools and manmade fish ponds or ornamental ponds) having a depth of 40 cm (400 mm) or greater. To be legally permitted within the County all swimming pools (or other bodies of water, such as ornamental ponds), whether temporary or permanent, with a depth of 40 cm (400 mm) or greater must be enclosed by permit. While section 43 of [Fence By-Law 54-03](#) allows for some exemptions relating to above ground swimming pools, hot tubs with lockable covers, and vinyl, free form swimming pools, these structures are still required to be secured and inaccessible when unattended by today’s standard.

Following the December 20<sup>th</sup>, 2022, Council Meeting staff received feedback on the new draft Swimming Pool Enclosure By-Law. Concerns were raised with respect to the cost of enclosure of above ground and temporary swimming pools within the rural areas of the County. Based on this feedback received and to help inform this project an additional environmental scan of other municipal regulations was undertaken, and the results analyzed. Municipalities reviewed as part of the environmental scan included:

City of Brantford	Meaford County
City of Burlington	Town of Newmarket
City of Cambridge	Town of Niagara on the Lake
City of Guelph	Norfolk County
City of Hamilton	Township of North Dumfries
Haldimand County	Township of Scugog
Town of Halton Hills	City of Waterloo
City of Kitchener	

The environmental scan found all the municipalities reviewed regulate temporary swimming pools in the same manner as permanent swimming pools, regardless of whether temporary swimming pools are specifically defined, and do not provide any exemption criteria for temporary swimming pools (ex. Based on capacity, height, and/or size).

Through the analysis it was noted that some of the municipalities reviewed exempt above ground swimming pools and hot tubs/hydro-massage pools from full enclosure based on specific criteria. Currently the County’s [Fence By-Law 54-03](#) takes a similar approach to exemption of above ground pools through Section 43.

As a result of environmental scans, feedback received, and research undertaken throughout this project the following options were considered when drafting new regulatory by-laws for the County:

**Option 1** – Regulate all swimming pools (including above ground and temporary swimming pools) with a depth of 600 mm or greater, excluding existing natural bodies of water or streams, man made fishponds or ornamental ponds, and hydro-massage pools having a locked and secured cover or lid.

**Option 2** – Regulate all swimming pools (including above ground swimming pools) of any depth, excluding existing natural bodies of water or streams, hydro-massage pools having a locked and secured cover or lid, and temporary swimming pools.

**Option 3** – Regulate all swimming pools (including above ground and temporary swimming pools) with a depth of 600 mm or greater, excluding above ground swimming pools (based on specific criteria), existing natural bodies of water or streams, and hydro-massage pools having a locked and secured cover or lid.

While all options were given equal consideration, option one has been recommended for the Committee's approval. It is staff's opinion that option one is the preferred approach by creating flexible implementation, providing exemptions for County Residents relating to hydro-massage pools and temporary swimming pools with a depth lesser than 600 mm, while balancing the health, safety, and well-being of the community, protection of persons and property, and corporate liability.

Option one also provides a more flexible approach than that of the County's current [Fence By-Law 54-03](#) and other municipal regulations reviewed by proposing to only regulate swimming pools (bodies of water used for swimming, bathing, wading, etc.) having a depth 600 mm or greater (excluding existing natural bodies of water or streams, manmade fish ponds or ornamental ponds, and hydro-massage pools), whereas the current By-Law regulates all swimming pools greater than 40 cm (400 mm).

Findings outlined within this report support staff's recommendation to Committee and Council brought forward in [RPT-00225-22](#) on December 20<sup>th</sup>, 2022, and noted as option 1 within this supplementary report.

### Summary and Recommendations

It is Staff's opinion that appropriate consideration has been given to the proposed amendments and that no negative impacts will result with approval of the proposed by-laws. Staff recommends that [Fence By-Law 54-03](#) be repealed and replaced with two separate by-laws to clarify implementation and regulations relating to private fences and swimming pool enclosures throughout the County of Brant.

Draft by-laws (Attachments 2 and 3) have been prepared based on staff's recommendation (option 1), minor clerical and formatting amendments, and extensive collaboration with Building, By-Law Enforcement and Regulatory Services, and Legal Divisions.

If approved by the Committee, the by-Laws will proceed to February 28<sup>th</sup>, 2023, Council Meeting for decision. If adopted by Council, the by-laws would come into force upon adoption, as appeal periods do not apply under [the Municipal Act, 2001, S.O. 2001, c.25](#). Both By-Law's must come into effect concurrently as regulations set out within are interdependent. If adopted, as part of next steps staff will work with the County's Communication Team to ensure clear messaging of all regulatory changes to the community. This project timeline aligns with the typical increase in swimming pool enclosure permit submissions the County receives in advance of the Summer season.

### Attachments

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1. RPT-00225-22
2. New Draft Fence By-Law
3. New Draft Swimming Pool Enclosure By-Law – Option 1

**Reviewed By**

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- 1. Pam Duesling, General Manager of Development Services
- 2. Jennifer Boyer, Manager of Policy Planning

**Copied To**

---

- 1. Alysha Dyjach, Director of Council Services, Clerk
- 2. Mat Vaughan, Director of Development Planning
- 3. Rochelle Welchman, Assistant County Solicitor
- 4. Greg Bergeron, Manager of Enforcement and Regulatory Services
- 5. Kathy Ballantyne, Director of Parks and Facilities
- 6. Heather Mifflin, Director of Finance, Treasurer
- 7. Richard Weidhaas, Chief Building Official

**By-law and/or Agreement**

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By-law(s) Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No



## **BY-LAW \_\_\_\_ - 23**

### **AMENDED BY BY-LAW(S):**

Amending By-Law	Explanatory Note

**Being a by-law to regulate fences and to repeal By-Law 54-03.**

**For accurate reference you should consult the original by-laws that are retained by the Clerk.**

**BY-LAW NUMBER - 23**

**- of -**

**THE CORPORATION OF THE COUNTY OF BRANT**

A by-law to regulate fences on privately owned lands.

**WHEREAS** sections 8, 9, and 10 of *the Municipal Act, 2001, S.O. 2001, c.25* authorize the County of Brant to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 10 of Subsection 10(2) authorizes by-laws respecting fences;

**AND WHEREAS** pursuant to Subsection 8(3) of *the Municipal Act, 2001, S.O. 2001, c.25* the by-laws of a municipality may (a) regulate or prohibit regarding a certain matter; (b) require a person to do certain things respecting such matter;

**AND WHEREAS** Section 98 of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may provide that *the Line Fences Act, R.S.O. 1990, c. L-17* does not apply to all or any part of the municipality, but despite such by-law being passed, Section 20 of *the Line Fences Act, R.S.O. 1990, c.L.17* continues to apply throughout the municipality;

**AND WHEREAS** it is deemed expedient to exclude the Corporation of the County of Brant from the provisions of *the Line Fences Act, R.S.O. 1990, c. L-17*, as amended;

**AND WHEREAS** Section 132 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law to authorize the *owner* or occupant of *land* to enter adjoining *land*, at any reasonable time, for the purpose of making repairs or alterations to any building, *fence* or other structures on the *land* of the *owner* or occupant but only to the extent necessary to carry out the repairs or alterations;

**AND WHEREAS** Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes the County of Brant to pass by-laws providing that a person who contravenes a by-law of the County Brant passed under that Act is guilty of an offence;

**AND WHEREAS** Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law enabling the municipality to do such matter or thing at the *person's* expense when that *person* fails to do what they are required or directed to do by by-law or otherwise, and to recover the costs of such action from the *person* by



adding the costs to the tax roll and collecting them in the same manner as taxes;

**AND WHEREAS** Subsection 391(1) of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may impose fees and charges on persons (a) for services or activities provided or done by or on behalf of it; (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and, (c) for the use of its property including property under its control;

**AND WHEREAS** Council deems it necessary and expedient to regulate fences in the County of Brant;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

1. SHORT TITLE

1.1. This by-law shall be known as “The Municipal Fence By-law.”

2. DEFINITIONS

2.1. For the purpose of this by-law:

2.2. “**Building**” means a *building* as defined in the County of Brant Comprehensive Zoning By-Law.

2.3. “**Corner Lot**” means a *corner lot* as defined in the County of Brant Comprehensive Zoning By-Law.

2.4. “**County**” means the Corporation of the County of Brant and includes the geographic area contained within the County of Brant.

2.5. “**Effective Ground Level**” at any location means the highest level of the ground within 1.22 metres (4 feet) measured horizontally in any direction from the location under consideration.

2.6. “**Erect**” shall include alter, construct, plant, place, relocate and any work preparatory to erection, and “erection” has a corresponding meaning.

2.7. “**Fence**” shall include a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or pickets or other similar materials, which encloses or divides in whole or in part a *yard* or other *land*, or establishes a property boundary, or provides privacy.

2.8 “**Ground Level**” means the *ground level* at the boundary line but where the *ground levels* are not the same on both sides of the boundary, the higher of such levels shall be considered as *ground level* for the purposes of the *fence*;

however, in the case of a *privacy screen* on an elevated deck, the surface of the deck shall be the point of measurement.

- 2.8. **“Height”** means the vertical distance measured from the *ground level or effective ground level, as the case may be*, where the *fence* posts are embedded to the top of the said posts.
- 2.9. **“Interior lot”** means an *interior lot* as defined in the County of Brant Comprehensive Zoning By-Law.
- 2.10. **“Line Fences Act”** shall mean *the Line Fences Act, R.S.O. 1990, c. L-17*.
- 2.11. **“Lot”** means a *lot* as defined in the County of Brant Comprehensive Zoning By-Law.
- 2.12. **“Lot Line”** means a *lot line* as defined in the County of Brant Comprehensive Zoning By-Law.
- 2.13. **“Municipal Law Enforcement Officer”** shall mean any *person* appointed as such by the Corporation of the County of Brant to enforce municipal by-laws.
- 2.14. **“Owner”** shall mean the *owner* of the property or any *person* having care and control of the property, including an occupant or tenant.
- 2.15. **“Person”** means a natural *person*, partnership, or corporation, and includes the heirs, executors, administrators or other legal representatives to whom the context can apply according to law.
- 2.16. **“Privacy Screen”** shall mean a visual barrier that shields any part of a *yard* from view.
- 2.17. **“Sound Barrier”** means a *fence* or *building* constructed to minimize sound from road, highway, or railway traffic.
- 2.18. **“Visibility Triangle”** means a *visibility triangle* as defined in the County of Brant Comprehensive Zoning By-Law.
- 2.19. **“Yard”** means a *yard* as defined within the County of Brant Comprehensive Zoning By-Law.
- 2.20. **“Front Yard”** means a *front yard* as defined within the County of Brant Comprehensive Zoning By-Law. For the purpose of this by-law the shortest *lot line* abutting the street is the front *lot line*.
- 2.21. **“Rear Yard”** means a *rear yard* as defined within the County of Brant Comprehensive Zoning By-Law.

- 2.22. “**Side Yard**” means a *rear yard* as defined within the County of Brant Comprehensive Zoning By-Law.
- 2.23. “**Exterior Side Yard**” means an *exterior side yard* as defined within the County of Brant Comprehensive Zoning By-Law.
- 2.24. “**Interior Side Yard**” means an *interior side yard* as defined within the County of Brant Comprehensive Zoning By-Law.
- 2.25. “**Zone**” means any land use *zone* established in the County of Brant Comprehensive Zoning By-Law.
- 2.26. “**Zoning By-law**” means any by-law administered by the *County* passed pursuant to section 34 of *the Planning Act, R.S.O. 1990, c.P.13*, or a predecessor or successor thereof, as may be amended from time to time.

### 3. GENERAL PROVISIONS

- 3.1. Nothing in this by-law shall serve to prevent something that is permitted under the *Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1*.
- 3.2. *The Line Fences Act, R.S.O. 1990, c. L-17* shall continue to apply in the *County*, except to municipal *fences*.
- 3.3. This by-law shall not apply to licensed Automobile Wrecking Yard *fences*, constructed in accordance with the provisions of the *County’s Business Licensing By-Law*.
- 3.4. Where the provisions of this by-law and the provisions of a Site Plan Control Agreement or Subdivision Agreement conflict, the Site Plan Control Agreement or Subdivision Agreement shall prevail, except:
- 3.4.1. Where the *fence* contemplated contains either barbed wire or an *electrical* current, the *height* requirements provided in this by-law for the said *fences* shall apply as minimum standards.
- 3.4.2. Where *fences* or structures that act as *sound barriers*.
- 3.4.3. On lands that are associated with an airport.
- 3.5. This by law shall not apply to construction *fences* that act as a barrier to active construction sites. Any construction *fences* that are on any road allowance shall obtain approval from the *County*.
- 3.6. *Front yard, interior side yard, and corner lot* provisions under Table 5.1.1 of this by-law do not apply to a *person* who *erects*, or causes to be *erected*, a *fence* enclosing a privately *owned* outdoor tennis court, basketball court, baseball

diamond, or other privately *owned* outdoor recreational facility of a similar nature if:

- 3.6.1. the facility is lawfully *erected* and maintained in accordance with the County of Brant Comprehensive *Zoning By-Law* and any other applicable municipal by-laws or provincial or federal legislation; and
- 3.6.2. the *fence* is of such open construction that it does not obstruct the visibility of motorists and pedestrians.

3.7. The provisions of this by-law do not apply to *fences erected* by or on behalf of municipal, provincial, or federal government.

3.8. Applicants proposing to alter a *fence* constructed by or on behalf of the *County*, shall require a Municipal Fence Permit.

3.9. Applicants issued a Municipal Fence Permit shall fulfill all requirements of the permit.

3.10. Rod iron and picket *fences* shall be constructed to not impede visibility for motorists and pedestrians.

3.11. If there is a conflict between a provision of this By-law and a provision of any other municipal by-law or other regulation or legislation, then the more restrictive provision shall apply.

3.12. In this by-law, where adjacent *yards* are classified differently as defined in the by-law, the *fence* requirements applicable to the *yard* that are the most restrictive shall apply to any portion of the *fence erected* between the adjacent *yards*.

#### 4. PROHIBITIONS

4.1. No *person* shall *erect* or permit to be *erected* a *fence* that does not comply with the provisions of this by-law.

4.2. No *person* shall *erect* or permit to be *erected* a *fence* comprised of sheet metal or corrugated metal panels on a *lot* in a residential *zone*.

4.3. No *person* shall *erect* or permit to be *erected* a *fence* comprised of barbed wire, except in the case of:

- 4.3.1. A *fence* on a farm for the keeping of livestock in compliance with the County of Brant Comprehensive *Zoning By-law* or the protection of livestock or crops from animals, provided the barbed wire portion of the *fence* begins at least 1.21 m from the *ground level*, unless an alternate *fence* construction is found to be a normal farm practice;

- 4.3.2. On the top of a *fence* on a *lot* used or *zoned* for commercial or industrial purposes, provided that the barbed wire is a minimum of 1.82 m above the *effective ground level* and the barbed wire portion of the fence projects inwards towards the area enclosed by the *fence*; or
  - 4.3.3. On the top of a *fence erected* for security reasons around any *County owned*, operated, or maintained facility provided that the barbed wire portion of the fence projects inwards to the area enclosed by the *fence* and further that the barbed wire portion of the *fence* begins at least 1.82 m from the *ground level*; or
  - 4.3.4. On the top of a *fence erected* for security reasons enclosing a facility *owned* or operated by any level of government or a utility provider, provided that the barbed wire is a minimum of 1.82 m above the *effective ground level* and projects inwards towards the area enclosed by the *fence*.
- 4.4. No *person* shall *erect* or permit to be *erected* a *fence* equipped to transmit an electric current, except for a *fence* on a farm for the keeping of livestock or the protection of livestock or crops from animals as permitted in the County of Brant Comprehensive *Zoning By-law* provided that the *fence* meets the following:
- 4.4.1. Applicable Canadian Standards Association Standards;
  - 4.4.2. The maximum electrical current does not exceed 120 volts at 0.04 amps;
  - 4.4.3. The electrical portion of the *fence* begins at least 1.21 m from the *ground level*, unless alternate construction is found to be a normal farm practice; and,
  - 4.4.4. The electrical portion of the *fence* is located 1.01 m from a *lot line* abutting any residential or institutional uses or *zones*.
- 4.5. No *person* shall *erect* or permit to be *erected* a *fence* on *County* property without the prior authorization from the *County*.
- 4.6. No *person* shall *erect* or permit to be *erected* a *fence* that poses a risk or is hazardous to *persons* or property.
- 4.7. No person shall damage or alter, or permit the damage or alteration, of any fence constructed by or on behalf of the County unless that person has been issued a Municipal Fence Permit approved by the County.
- 4.8. Notwithstanding any of the provisions set out in this by-law, no person shall erect, or permit to be erected, a fence within a visibility triangle.
- 4.9. No *person* shall hinder or obstruct or attempt to hinder or obstruct any *person* who is exercising a power or performing a duty under this by-law, including by

refusing to identify themselves when requested to do so by a *Municipal Law Enforcement Officer*.

4.10. No *person* shall fail to comply with an Order issued pursuant to this bylaw.

## 5. FENCE HEIGHTS

5.1. The following *height* restrictions shall apply to *fences erected* within the *County*:

Table 5.1.1. Maximum Fence Heights

Residential Zones	
<i>Front Yard</i>	0.91 m and shall not obstruct the visibility of motorists or pedestrians.
<i>Interior Side Yard</i>	2.28 m
<i>Rear Yard</i>	2.28 m
<i>Exterior Side Yard</i>	2.28 m
<i>Corner Lot</i>	(a) 0.91 m within a <i>front yard</i> and an <i>exterior side yard</i> and shall not obstruct the visibility of motorists or pedestrians. (b) 2.28 m within in an <i>interior side yard</i> , an <i>exterior side yard</i> and <i>rear yard</i> , provided the <i>fence</i> is set back a minimum of 4.57 m from the <i>exterior side lot</i> line.
Employment Zones (Any yard)	3.04 m and shall not be within the <i>visibility triangle</i>
Commercial Zones (Any yard)	2.44 m and shall not be within the <i>visibility triangle</i>
Institutional Zones (Any yard)	2.44 m and shall not be within the <i>visibility triangle</i>
Agricultural Zones (Any yard)	1.82 m and shall not be within the <i>visibility triangle</i>

5.2. Despite the provisions of Table 5.1.1. Maximum Fence Heights:

- 5.2.1. a gate may exceed such a limit by a maximum of 0.31 m;
- 5.2.2. an archway forming an entrance or exit may exceed such a limit by 0.41 m;
- 5.2.3. a decorative cap or structural post may exceed such a limit by a maximum of 0.15 m.

## 6. PRIVACY SCREENS

6.1. A *privacy screen* may be *erected* within an *interior side yard* or *rear yard* of a residential property, only if:

- 6.1.1. the total *height* of the *privacy screen* from the *effective ground level* or on an elevated deck is no more than 2.22 m.
- 6.1.2. the *privacy screen* is no larger than 12.19 m in total length and no single individual length for a screen is more than 5.02 m; and
- 6.1.3. The *privacy screen* is in accordance with the provisions of Table 5.1.1. Maximum Fence Heights.

## 7. MAINTENANCE OF FENCES

7.1. Any *owner* may enter adjoining land, at any reasonable time during daytime hours, for the purpose of maintenance (i.e., repairs or alterations) to any *fence* on the land of the *owner* provided that:

- 7.1.1. The *owner* enters the adjoining land only to the extent necessary to carry out maintenance;
- 7.1.2. The *person* exercising the power of entry displays or, on request, produces proper identification;
- 7.1.3. The *owner* provides reasonable notice of the proposed entry to the adjoining *owner*; and
- 7.1.4. The *owner* restores the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or maintenance.

## 8. FENCE VARIANCES

8.1. Any *owner* or authorized designate affected by this by-law may apply for a Fence Variance from the provisions of this by-law except where:

- 8.1.1. The *fence* is required by the *County's* Municipal Swimming Pool Enclosure By-Law.

8.2. All Fence Variances shall be assessed in a similar process as that of a Minor Variance application with an appeal available to the Planning and Development Committee.

8.3. A complete application must be submitted, accompanied by the fee for Fence Variance within the *County's* Fees and Charges By-law.

8.4. Upon receipt of the application, the *County* will conduct a site visit to determine if the *fence* will obstruct traffic safety sight lines. Where it is determined that the *fence* will obstruct traffic safety sight lines the application will be denied, and the

denial will be final and binding unless appropriate design modifications are submitted.

- 8.5. Where it is determined that the *fence* will not obstruct traffic safety sight lines, the *County* shall provide a copy of the application to every property owner that shares a common property boundary with the applicant along which the *fence* is located or is to be constructed. Copy of the application shall be provided by personal service, registered mail, or by prepaid first-class mail, along with a notice advising that any objection to the proposed *fence* must be delivered to the *County* within fourteen (14) days of receipt of the notice. For the purpose of this section, notice sent by prepaid first-class mail shall be deemed to be delivered five (5) days after the date of mailing.
- 8.6. Where an objection is not received within the time indicated in subsection 8.5. no further opportunity to file an objection will be granted, and a by-law to amend the Fence By-Law and permit the Fence Variance will be prepared for Planning and Development Committee for recommendation to Council.
- 8.7. Where an objection is received within the time indicated in subsection 8.5., notification will be provided to the Secretary Treasurer of Committee of Adjustment who shall schedule a hearing before the Committee of Adjustment and shall provide notice in the manner and containing the information described in section 8.5., at least ten (10) days before the date of the hearing, to the applicant and to the party that filed the objection to the application, or their representative.
- 8.8. Notice shall be provided by personal service or prepaid first-class mail and shall include the following:
  - 8.8.1. The date, time and location of the hearing;
  - 8.8.2. A statement that the hearing is being held pursuant to the authority granted in section 8.5. of the Fence By-Law;
  - 8.8.3. An explanation of the purpose and effect of the proposed Fence Variance;
  - 8.8.4. A description of the subject land or a key map showing the location of the subject land;
  - 8.8.5. A statement that if the party notified, or their representative, does not attend at the hearing, the Committee of Adjustment may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
  - 8.8.6. Where the good character, propriety of conduct or competence of a party is an issue in a hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
  - 8.8.7. An explanation of the purpose and effect of the proposed Fence Variance.
  - 8.8.8. A description of the subject land or a key map showing the location of the subject land;
- 8.9. The Committee of Adjustment will conduct a hearing in accordance with the



*Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended, and may authorize such Fence Variance from the provisions of this by-law, in respect of any fence on the said land, as in its opinion is desirable, if in the opinion of the Committee of Adjustment the general intent and purpose of the by-law is maintained. Where a notice of hearing has been given to a party, or their representative and the party, or their representative, does not attend the hearing, the Committee of Adjustment may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

- 8.10. In addition to complying with the requirements of this by-law, the Committee of Adjustment shall comply with such rules of procedure as are set out in the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended.
- 8.11. The hearing of every application shall be held in public, except as otherwise provided in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S.22*, as amended, and the Committee of Adjustment shall hear the applicant and the *person(s)* who filed the objection to the application, or their representative and the Committee of Adjustment may adjourn the hearing or reserve its decision.
- 8.12. Any member of the Committee of Adjustment may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- 8.13. No decision of the Committee of Adjustment on an application is valid unless it is concurred in by the majority of the members of the Committee of Adjustment that heard the application, and the decision of the Committee of Adjustment, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision.
- 8.14. Any Fence Variance granted by the Committee of Adjustment may be for such time and subject to such terms and conditions as the Committee of Adjustment considers advisable and as are set out in the decision.
- 8.15. The Secretary-Treasurer of the Committee of Adjustment shall compile a record of the hearing as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S22*.
- 8.16. The Secretary-Treasurer of the Committee of Adjustment shall, not later than ten (10) days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail, by electronic transmission, or by telephone transmission of a facsimile, to each party who participated in the proceeding or the party's representative, together with a notice of the last day for appealing to the Planning and Development Committee and such notice shall be deemed to be received by the party as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c.S22*.
- 8.17. If all objections under subsection 8.7. are withdrawn within fifteen (15) days after the last day for filing an objection, the Secretary-Treasurer of the

Committee of Adjustment is not required to send notice as described under subsection 8.8. and the Committee of Adjustment is not required to hold a hearing as set out in subsection 8.9.

8.18. If all objections received under subsection 8.7. are withdrawn, the Secretary-Treasurer of the Committee of Adjustment shall notify the applicant and the party that filed the objection, or their representative, that the objection has been withdrawn, that a hearing will not be held and that no further opportunity to appeal will be granted.

8.19. Where subsection 8.16. applies, a by-law to amend the Fence By-Law to permit the Fence Variance will be prepared to the Planning and Development Committee for recommendation to Council.

## 9. APPEAL TO PLANNING AND DEVELOPMENT COMMITTEE

9.1. The applicant or any other *person* who appeared before the Committee of Adjustment, may within twenty (20) days of the making of the decision appeal to the Planning and Development Committee against the decision of the Committee of Adjustment by filing with the Secretary-Treasurer of the Committee of Adjustment a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by payment to the Secretary-Treasurer of the fee as set out in the *County's Fees and Charges By-law* on an appeal of a Fence Variance.

9.2. Where a notice of appeal is not received within the time indicated in subsection 9.1., no further opportunity to file a notice of appeal will be granted, and a by-law to amend the Fence By-Law to permit the Fence Variance will be prepared for Planning and Development Committee recommendation to Council.

9.3. The Secretary-Treasurer of the Committee of Adjustment, upon receipt of a notice of appeal filed under subsection 9.1., shall forthwith forward the notice of appeal to the Planning Administrative Assistant together with the record of the hearing as set out in subsection 8.15.

9.4. Where a notice of appeal is received, the Planning Administrative Assistant shall schedule a hearing before the Planning and Development Committee and shall provide notice in the manner and containing the information described in section 8.5., at least ten (10) days before the date of the hearing, to each party who participated in the hearing or the party's representative.

9.5. Notice shall be provided by personal service or prepaid first-class mail and shall include the following:

9.5.1. The date, time and location of the appeal hearing;

9.5.2. A statement that the hearing is being held pursuant to the authority granted in section 8.1. of the Fence By-Law;

9.5.3. The objection to the decision and the reasons in support of the objection;

- 9.5.4. A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Planning and Development Committee may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
- 9.5.5. Where the good character, propriety of conduct or competence of a party is an issue in the appeal hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
- 9.6. The Planning and Development Committee will conduct a hearing in accordance with the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended, and may recommend upholding, reversing or amending the decision of the Committee of Adjustment as in its opinion is desirable, if in the opinion of the Planning and Development Committee the general intent and purpose of the by-law is maintained. Where a notice of hearing has been given to a party, or their representative, and the party, or their representative does not attend the hearing, the Planning and Development Committee may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- 9.7. In addition to complying with the requirements of this by-law the Planning and Development Committee shall comply with such rules of procedure as are set out in the *Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22* as amended.
- 9.8. The hearing shall be held in public, except as otherwise provided in the *Statutory Powers Procedures Act, R.S.O. 1990, c. S.22*, as amended, and the Planning and Development Committee shall hear the appellant and any party who participated in the hearing, or their representatives, and the Planning and Development Committee may adjourn the hearing or reserve its decision.
- 9.9. Any member of the Planning and Development Committee may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- 9.10. No recommendation of the Planning and Development Committee on an appeal is valid unless it is concurred in by the majority of the members of the Planning and Development Committee that heard the appeal, and the recommendation of the Planning and Development Committee, whether upholding, amending or reversing the decision of the Committee of Adjustment, shall be in writing and shall set out the reasons for the recommendation. When the Planning and Development Committee makes a recommendation on an appeal, the recommendation will be sent to Council for decision. Council may ratify, reject, or amend the recommendation of Committee.
- 9.11. Any decision by the Planning and Development Committee may be for such time and subject to such terms and conditions as the Planning and Development Committee considers advisable and as are set out in the decision.
- 9.12. The Recording Secretary of the Planning and Development Committee shall compile a record of the hearing as set out in the *Statutory Powers*

*Procedures Act, R.S.O. 1990, c. S22.* and shall provide said record to the Secretary Treasurer of Committee of Adjustment.

- 9.13. The Secretary Treasurer of Committee of Adjustment shall, not later than ten (10) days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail, email, telephone, or fax, to each party who participated in the appeal hearing or their representatives, including a statement that no further opportunity to appeal will be granted by the *County* and such notice deemed to be received by the party as set out in the *Statutory Powers Procedures Act, R.S.O. 1990, c.S22.*
- 9.14. Where the Planning and Development Committee recommendation is to permit the Fence Variance, the recommendation will be sent to Council for decision. Council may ratify, reject, or amend the recommendation of Committee.
- 9.15. If all appeals under subsection 9.1. are withdrawn within fifteen (15) days after the last day for filing a notice of appeal, the Secretary Treasurer of Committee of Adjustment shall notify the parties that the appeal has been withdrawn, that a hearing will not be held and that the recommendation of Committee will be sent to Council for decision.
- 9.16. Where the appeal is withdrawn pursuant to subsection 9.15. and where a Fence Variance was approved by the Committee of Adjustment, a recommendation to amend the Fence By-Law will be prepared by Planning and Development Committee for Council decision.

## 10. ADMINISTRATION

- 10.1. Pursuant to the provisions of Sections 23.1 through 23.5 of *the Municipal Act, 2001, S.O. 2001, c.25* the Clerk of the Corporation of the County of Brant is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the By-law and schedules as may be necessary after the passage of this By-law.
- 10.2. Any *fence* that was in lawful existence prior to the effective date of this Bylaw shall be deemed to comply with this By-law and may be maintained to the same location, *height* and dimensions as previously existed; and
- 10.3. Where an existing fence is replaced or substantially altered, the replacement and or alteration shall be constructed in accordance with this By-law.
- 10.4. If there is a conflict between a provision of this By-law and a provision of any other municipal by-law, the provision that establishes the highest standard to protect the health or safety of the public shall apply.

## 11. POWERS OF ENTRY RE INSPECTION

11.1. Pursuant to Sections 435 and 436 of *the Municipal Act, 2001, S.O. 2001, c.25* any employee, officer or agent of the *County* may without notice, and upon producing the proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- 11.1.1. the provisions of this by-law;
- 11.1.2. a direction or order of the municipality made under this by-law;
- 11.1.3. an order made under Section 431 of *the Municipal Act, 2001, S.O. 2001, c.25*.

## 12. ENFORCEMENT PROVISIONS

12.1. The provisions of this by-law shall be enforced by *Municipal Law Enforcement Officers*.

12.2. Every *Person* who contravenes any of the provisions of this by-law, including any schedule attached hereto or an order issued pursuant to this by-law, and every director or officer of a corporation who knowingly concurs in the contravention, pursuant to Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* is guilty of an offence.

12.3. Pursuant to the provisions of Section 431 of *the Municipal Act, , 2001, S.O. 2001, c.25* when a *person* has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter, in addition to any other penalty or order imposed, may make an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the *person* convicted, directed toward the continuation or repetition of the offence.

12.4. Pursuant to the provisions of Section 433 of *the Municipal Act, 2001, S.O. 2001, c.25* where a *person* has been convicted of any offence under this by-law, every fine imposed for contravention of this by-law belongs to the *County*.

12.5. Pursuant to the provisions of Section 440 of *the Municipal Act, 2001, S.O. 2001, c.25* in addition to any other remedy and to any penalty imposed by the by-law, any such further contraventions may be restrained by action by the *County*.

12.6. Pursuant to Sections 444 and 445 of *the Municipal Act, 2001, S.O. 2001, c.25* where a contravention of this by-law has occurred, the *County* may make an order requiring the *person* who contravened or permitted the contravention of the by-law to discontinue the contravening activity, to do work to correct the contravention.

12.7. An order may be personally delivered, posted in a conspicuous location on

the property or served by Registered Mail. An order posted on the property is considered served. Where an order is mailed, the order shall be deemed delivered on the earlier of receipt of the order by the addressee or the fifth (5th) day following the date of mailing, whether actually received or not.

- 12.8. Pursuant to Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* where pursuant to this by-law or any other Act, a *person* is required to do a matter or thing, in default of it being done by the *person* so directed, the matter or thing may be done at the *person's* expense, and for that purpose enter upon land at any reasonable time, and the costs including interest calculated at a rate of fifteen percent (15%) from the date the costs were incurred, until the date the costs including interest are paid in full, may be recovered in the same manner as property taxes and may be registered as a lien upon the land.

### 13. PENALTIES

- 13.1. Any *person* who contravenes any provision of this by-law is guilty of an offence and, upon conviction is liable to the penalties as prescribed by *the Provincial Offences Act, R.S.O. 1990 c. P.33*.
- 13.2. A *person* convicted under this by-law is liable to a maximum fine of \$10,000.00 upon a first conviction and a maximum fine of \$25,000.00 for any subsequent conviction.
- 13.3. Despite Section 13.3 of this by-law where the *person* convicted is a corporation, the corporation is liable to a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.
- 13.4. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum of no more than \$10,000. The total daily fines imposed for each offence may exceed \$100,000.

### 14. SEVERABILITY

- 14.1. If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

### 15. ENACTMENT AND REPEAL

- 15.1. That this by-Law come into force and effect on \_\_\_\_\_, 2023, to allow for implementation of revised fees and charges through the County of Brants Fees and Charges By-Law.

15.2. By-Law #54-03 as amended, is hereby repealed upon this By-law coming into force and effect.

**READ** a first and second time this \_\_\_\_ day of \_\_\_\_\_ 2023.

**READ** a third time and finally passed in Council, this \_\_\_\_ day of \_\_\_\_\_ 2023.

**THE CORPORATION OF THE COUNTY OF BRANT**

\_\_\_\_\_  
David Bailey, Mayor

\_\_\_\_\_  
Alysha Dyjach, Clerk





# BY-LAW \_\_\_\_ - 23

AMENDED BY BY-LAW(S):

Amending By-law	Explanatory Note

**By-law 54-03 and amendments thereto previously regulated private swimming pool enclosures. For accurate reference you should consult the original By-laws that are retained by the Clerk.**

**BY-LAW NUMBER - 23**

**- of -**

**THE CORPORATION OF THE COUNTY OF BRANT**

A by-law to regulate swimming pool enclosures on privately owned lands.

**WHEREAS** Sections 8, 9, and 10 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 6 of Subsection 10(2) authorizes by-laws respecting the health, safety and well-being of person and paragraph 10 of Subsection 10(2) authorizes by-law respecting fences;

**AND WHEREAS** Pursuant to Subsection 8(3) of *the Municipal Act, 2001, S.O. 2001, c.25* the by-laws of a municipality may (a) regulate or prohibit regarding a certain matter; (b) require a person to do certain things respecting such matter; (c) provide for a system of licences respecting the matter.

**AND WHEREAS** Section 132 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes council to pass a by-law to authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structures on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alterations;

**AND WHEREAS** Section 425 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes the County of Brant to pass by-laws providing that a person who contravenes a by-law of the County Brant passed under that Act is guilty of an offence;

**AND WHEREAS** Section 446 of *the Municipal Act, 2001, S.O. 2001, c.25* authorizes Council to pass a by-law enabling the municipality to do such matter or thing at the person's expense when that person fails to do what they are required or directed to do by by-law or otherwise, and to recover the costs of such action from the person by adding the costs to the tax roll and collecting them in the same manner as taxes;

**AND WHEREAS** Subsection 391(1) of *the Municipal Act, 2001, S.O. 2001, c.25* provides that a municipality may impose fees and charges on persons, (a) for services or activities provided or done by or on behalf of it; (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and (c) for the use of its property including property under its control;

**AND WHEREAS** Council deems it necessary to require owners of privately owned swimming pools to erect and maintain a swimming pool enclosure.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

1. SHORT TITLE

- 1.1 This By-law shall be know as the “Municipal Swimming Pool Enclosure By-Law.”

2. DEFINITIONS

- 2.1. For the purpose of this By-Law:

2.1.2 **“Building”** means any permanent structure used or intended to be used for the shelter, accommodation or enclosure of *persons*, animals, or goods, but shall not include a lawful boundary wall or *fence*.

2.1.3 **“Construct”** means to do anything in the erection, installation, extension, or material alteration of a *swimming pool* and includes excavation activities and the installation of a *swimming pool* fabricated or moved from elsewhere and “*Construction*” has a corresponding meaning.

2.1.4 **“Country”** means the Corporation of the County of Brant and includes the geographic area contained within the County of Brant.

2.1.5 **“Effective Ground Level”** at any location means the highest level of the ground within 1.22 metres (4 feet) measured horizontally in any direction from the location under consideration.

2.1.6 **“Exterior Face”** means when used in conjunction with a *swimming pool enclosure* the side of the *swimming pool enclosure* from which access to the *swimming pool* is to be prevented.

2.1.7 **“Gate”** means a barrier swinging on a vertical axis.

2.1.8 **“Height”** means the vertical *distance* measured from the *effective ground level* at any point along the length of the *swimming pool enclosure* to the top of the *swimming pool enclosure* measured on the *exterior face*.

- 2.1.9 **“Hydro Massage Pool”** means any privately *owned* outdoor tank or body of water maintained or used or which may be used for swimming, wading, bathing commonly referred to as a hot tub, whirlpool, jacuzzi, spa, or swim spa, having a water surface area that is less than 8.01 square metres, a cover capable of being locked and holding a 90.72 kilogram.
- 2.1.10 **“Officer”** means a Municipal Law Enforcement *Officer*, or any other *person* appointed by the *County* for the enforcement of the by-laws and includes a peace *Officer*.
- 2.1.11 **“Owner”** means a registered *owner*, but also includes an occupant, lessee, tenant, or any other *person* in charge of or in control of premises on which a *swimming pool* is located but does not include any Federal, Provincial or Municipal authority.
- 2.1.12 **“Person”** means a natural *person*, partnership, or corporation, and includes the heirs, executors, administrators or other legal representatives to whom the context can apply according to law.
- 2.1.13 **“Property”** means any grounds, yard, or vacant land.
- 2.1.14 **“Swimming Pool”** means any privately *owned* outdoor tank or body of water maintained or used or which may be used for swimming, wading, diving, bathing which could, when filled, contain a depth of 600 mm or more of water, other than an existing natural body of water or stream. It shall also include, but not be restricted to, a privately *owned* outdoor “*swimming pool*” on lands used in connection with, any type of multiple residential development, motel, hotel, or similar establishment and a privately-*owned* outdoor *swimming pool* used for display or commercial purposes. This does not include a *hydro-massage pool* as defined in this by-law.
- 2.1.15 **“Swimming Pool Area”** means a *swimming pool* and includes any surrounding platforms, walkways, play areas and landscape areas within the *swimming pool enclosure*.
- 2.1.16 **“Swimming Pool Enclosure”** means a fence, wall or other structure or combination thereof, including doors and *gates* surrounding an outdoor *swimming pool* to restrict access thereto.
- 2.1.17 **“Swimming Pool Equipment”** means water circulation or treatment equipment such as but not limited to heaters, pumps, and filters.

2.1.18 “**Temporary Swimming Pool Enclosure**” means a *swimming pool enclosure* used temporarily for the purpose of enclosing a *swimming pool* in the course of *construction* in order to effectively prevent or restrict access thereto by unauthorized *persons*, and to prevent any accident or injury to any *person* in or on the *property*.

### 3. GENERAL PROVISIONS

- 3.1. The provisions of this by-law shall regulate the *swimming pool requirements* of privately-owned outdoor *swimming pools constructed* on *property* within the boundaries of the *County*.
- 3.2. Every *owner* of land upon which a *swimming pool* is located shall erect and maintain in good repair such *swimming pool enclosures* as required, in compliance with the standards in this by-law.
- 3.3. No *owner* shall place, erect, *construct*, or install or permit to be placed, erected, *constructed*, or have installed any *swimming pool* without first obtaining a Swimming Pool Permit, as required from the *County*.
- 3.4. An application for permit shall contain the following information:
  - 3.4.1. A site plan showing the location of the *swimming pool enclosure*, *swimming pool* and *swimming pool equipment* on the *property* in relation to the location of *property* lines, street lines, sewage system and all other *buildings* or structures on the *property*;
  - 3.4.2. A detailed drawing showing the details of the *swimming pool enclosure* including the type, *height*, materials, *gate(s)*, and latching materials; and,
  - 3.4.3. A lot grading plan completed and stamped by a Professional Engineer, an Ontario Land Surveyor or a Landscape Architect may be required at the discretion of the Development Engineering Department.
- 3.5. The applicant shall pay a fee in accordance with the *County's* Fees and Charges By-law. The fee pursuant to the *County* Fees and Charges By-law shall be payable upon application for the Swimming Pool Permit.
- 3.6. The provisions of this by-law, in no way exempt *swimming pools* from complying with any applicable Federal or Provincial statutes, and regulations thereunder, or any other regional or municipal by-law, including the requirement for a permit.

- 3.7. No *person* shall place water or allow water to remain in any *swimming pool* unless a required Swimming Pool Permit has been issued and the *swimming pool enclosure* has been *constructed*, inspected, approved, and maintained in compliance with this by-law.
- 3.8. No *person* shall permit any *gate* or door forming part of a *swimming pool enclosure* to be unlocked when the *swimming pool* is not under competent supervision.
- 3.9. No *person* shall install or allow the use of any barbed wire, or electrification in connection with any *swimming pool enclosure*.
- 3.10. A permit is not required for a *swimming pool enclosure* for a *swimming pool* which has been dismantled or deflated and is being reconstructed, placed, or erected in the exact location in which it was previously *constructed*, erected or placed provided that a permit was obtained for the original installation, and the required *swimming pool enclosure* remains in compliance with this by-law.
- 3.11. *Swimming pools* shall comply with all yard and setback requirements specified in the County of Brant Comprehensive Zoning By-law.
- 3.12. No *person* shall fail to lock a *hydro-massage pool* cover when not under competent supervision.

#### 4. SWIMMING POOL ENCLOSURE REQUIREMENTS

- 4.1 *Swimming pools* shall be enclosed with a *swimming pool enclosure* not less than 1.53 metres in *height* and not more than maximum permitted *height* in the *County's Fence By-law*, measured from the *effective ground level* at the *exterior face* of the *swimming pool enclosure*.
  - 4.1.1 If the outside wall of the *swimming pool* is made of rigid material and has a height of not less than 1.22 metres (4 feet) measured from *effective ground level* at all points on the perimeter of such wall, and provided that any steps, ladder or other means of entry to the swimming pool are secured by a fence or *gate* that comply with all other requirements of this By-law, Section 4.1 does not apply.
- 4.2 All *swimming pool enclosures* shall be *constructed* of wood, metal, or chain link fencing unless the *Officer* has approved a fence of any other materials and *construction* which in their opinion will yield an equivalent or greater degree of safety to the standards specified in this by-law.

- 4.3 Chain Link – A fence of chain link *construction* shall:
- 4.3.1 Be supported by galvanized posts having a diameter of not less than 38.01 mm;
  - 4.3.2 Be spaced not more than 2.44 metres apart;
  - 4.3.3 Such chain link fencing shall be at least 14 gauge with a mesh of diameter not more than 38.01 mm, having a top rail securely fastened to the upright posts and a bottom rail or a tension wire securing the bottom of *fencing* to the posts.
- 4.4 Wood – A fence of wood *construction* shall:
- 4.4.1 Be supported by posts that measure a minimum of 100.01 mm x 100.01 mm, spaced not more than 2.44 m apart. Such posts shall extend at least 0.92 m into the ground;
  - 4.4.2 Be *constructed* of solid panels, vertical boards or vertical pickets, having horizontal rails not less than 1.22 m apart measured vertically from the top of the bottom horizontal rail to the top of the upper horizontal rail.
  - 4.4.3 Have openings between the panels, vertical boards or pickets not exceeding 38.01 mm.
- 4.5 Wrought iron or other metal type – a fence of wrought iron or metal *construction* shall:
- 4.5.1 Be of sufficient strength to provide an effective *swimming pool enclosure*;
  - 4.5.2 Have supports of posts spaced not more than 2.44 m apart and placed at least 0.92 m below grade or sufficiently anchored to a suitable surface; and
  - 4.5.3 Have horizontal members, including top and bottom rails, that are spaced at least 1.22 m apart, and vertical members that are spaced no more than 100.01 mm apart on the *exterior face* of the fence.

- 4.6 The *swimming pool enclosure* shall be located at a distance of at least 1.22 m from any outside structure, pool equipment, fence, tree, air conditioning unit, utility meter, steps, ledge, windowsill, or other object that might afford a means whereby, in the opinion of the *Officer*, the safety of the *swimming pool enclosure* is compromised.
- 4.7 The maximum permitted space between the bottom of the *swimming pool enclosure* and the ground or surface beneath it, is 76.01 mm.
- 4.8 All *swimming pool enclosures* shall be set back not less than 1.22 m from the nearest inside wetted surface of the *swimming pool wall*.
- 4.9 No *swimming pool enclosure* shall have any element or attachment which will aid or facilitate climbing the exterior.
- 4.10 The wall of a *building* may form a part of the required *swimming pool enclosure* provided that any entrances on the wall, leading to the *swimming pool area*, are kept locked when the pool is not supervised.

## 5. GATES AND ENTRANCES

- 5.1. *Gates* of entrances which form part of the *swimming pool enclosure* shall be:
  - 5.1.1. Of *construction* and *height* equivalent to or greater than that of the *swimming pool enclosure* as described in Section 4 of this by-law;
  - 5.1.2. Supported on substantial hinges;
  - 5.1.3. Equipped with self-closing hardware capable of placing the *gate* or entrance in a latched position; and
  - 5.1.4. Equipped with an operable self-latching device located at least 1.22 m above the *effective ground level* on the *swimming pool* side of the *gate* or entrance. Any thumb latch or release mechanism of any kind that is located on the *exterior face* of the *gate* or entrance, and is connected to the self-latching device, shall be located at least 1.52 m above the *effective ground level*.



- 5.2. Where double *gates* are used, both sections shall be supported by substantial hinges and one section equipped with approved self-closing and self-latching hardware, having the self-latching hardware located on the top inside of the *gate*. The remaining section of the *gate* is to be equipped with a ground pin and lock to mechanically secure that section of the *gate*. Ground pin and locks shall be located on the inside of the *gate*. Both sections of the *gate* to be locked at all times when the *swimming pool* is not under competent supervision. Ground locks are to be located on the inside of the *swimming pool enclosure* to prevent access.
- 5.3. Doors providing direct access to a *swimming pool area* from an attached or detached garage, but excluding doors from a dwelling unit, are to be equipped with a self-closing device and with a self-latching device located not less than 1.52 m above the bottom of the door and kept securely locked when the *swimming pool* is not under competent and immediate supervision.

## 6. TEMPORARY SWIMMING POOL ENCLOSURE

- 6.1. A *swimming pool* while under *construction*, shall be completely enclosed by a *temporary swimming pool enclosure*, except where the *swimming pool enclosure* requirements have been approved by the *Officer*.
- 6.2. A *temporary swimming pool enclosure* shall:
- 6.2.1 Consists of a 1.22 m high plastic mesh fence having mesh openings not greater than 50.01 mm and supported by steel bar posts located a maximum of 2.44 m apart and with a nine (9) gauge galvanized steel wire threaded through the top and bottom of such fence; or
- 6.2.2 be *constructed* of material that will provide an equivalent or greater degree of safety referred to in article 6.2.1 above, and which has been approved by the *Officer*.

## 7. MAINTENANCE

- 7.1. The *owner* of any lands on which a *swimming pool* is located or *constructed* shall maintain a *swimming pool enclosure* around the entire *swimming pool area*, in accordance with the provisions of this by-law.
- 7.2. No *person* shall place water, or cause water to be placed, in a *swimming pool*, unless the *swimming pool enclosure* described in this by-law is maintained in accordance with the provisions of this by-law.

- 7.3. Where an existing *swimming pool enclosure* is replaced or substantially altered, the replacement and or alteration shall be *constructed* in accordance with this by-law.
- 7.4. Any *owner* may enter adjoining land, at any reasonable time during daytime hours, for the purpose of maintenance (i.e., repairs or alterations) to any fence on the land of the *owner* provided that:
  - 7.4.1. The *owner* enters the adjoining land only to the extent necessary to carry out maintenance;
  - 7.4.2. The *person* exercising the power of entry displays or, on request, produces proper identification;
  - 7.4.3. The *owner* provides reasonable notice of the proposed entry to the adjoining *owner*; and
  - 7.4.4. The *owner* restores the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or maintenance.

## 8. REVOCATION OF SWIMMING POOL PERMIT

- 8.1. The *County* may revoke a Swimming Pool Permit immediately:
  - 8.1.1. Where it was issued on mistaken or false information;
  - 8.1.2. It was issued in error; or
  - 8.1.3. The permit holder requests in writing that it be revoked.
- 8.2. The *County* may revoke a Swimming Pool Permit:
  - 8.2.1. If after six (6) months after its issuance, *construction* of the *swimming pool enclosure*, in the opinion of the *Officer*, has not started; or
  - 8.2.2. Where the *construction* or erection of the *swimming pool enclosure*, in the opinion of the *Officer*, has not commenced, has been suspended or discontinued for a period of more than one (1) year.

- 8.3. Prior to revoking a Swimming Pool Permit as described in Section 8.2 of this by-law, the *Officer* shall give written notice of intention to revoke the *swimming pool* permit and rationale of revocation to the permit holder at their last known address and if, on the expiration of fifteen (15) days from the date of such notice, if the ground for revocation continues to exist, the *Swimming Pool* Permit shall be revoked without further notice and all submitted plans and other information shall be disposed of in accordance with the County of Brant Records and Retention By-law.

9. SWIMMING POOL PERMIT REFUNDS

- 9.1. Where an applicant requests, in writing, the cancellation of a *Swimming Pool* Permit to the *County*, and is no longer commencing with the project, the applicant of the *Swimming Pool* Permit shall be entitled to a refund not to exceed fifty (50%) percent of the permit fee paid.

10. ENFORCEMENT PROVISIONS

- 10.1 The *Officer* or their designate shall enforce the provisions of this by-law and are authorized to enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this by-law is being complied with or compliance with an order issued under this by-law.
- 10.2 Where an *owner* fails to comply with any provision of this by-law, an order may be issued to the *owner* requiring compliance and indicate the time for complying with the order and giving notice that, if the order is not complied with within that time, the *County* may carry out the order at the *owner's* expense.
- 10.3 An order may be personally delivered, posted in a conspicuous location on the *property* or served by Registered Mail. An order posted on the *property* is considered served. Where an order is mailed, the order shall be deemed delivered on the earlier of receipt of the order by the addressee or the fifth (5th) day following the date of mailing, whether actually received or not.
- 10.4 Where an order has been issued and compliance has not been achieved within the required time period as set out in the order the *County* may, through its employees or agents or *persons* acting on its behalf, enter upon the land to drain, fill in or enclose the *swimming pool* at the expense of the *owner* and any and all expenses incurred may be added to the tax roll and collected from the *owner* of the *property* in the same manner as municipal taxes.

- 10.5 Where it is required for the *County* to have work conducted to remedy a non-conformity as described in Section 10.4 of this by-law, the *County* may charge an administration fee of fifteen (15%) percent of such expense which will be added to the expense of the work.

## 11. PENALTIES

- 11.1. Every *person* who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction is liable to the penalties as prescribed by *the Provincial Offences Act, R.S.O. 1990 c. P.33*.
- 11.2. A *person* convicted under this by-law is liable to a maximum fine of \$25,000.00 upon a first conviction and a maximum fine of \$50,000.00 for any subsequent conviction.
- 11.3. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum of no more than \$10,000. The total daily fines imposed for each offence may exceed \$100,000.
- 11.4. No *person* shall hinder or obstruct an *Officer*, from carrying out an inspection of a *property* for the purpose of confirming compliance with the provisions of this by-law or for compliance with an order issued for the *property*.
- 11.5. No *person* shall hinder or obstruct an *Officer*, or their agent or agents, from entering onto lands to carry out remedial action on a *property* whereby an order has been issued and compliance has not been achieved by the stipulated compliance date.
- 11.6. No *person* shall hinder or obstruct any *Officer* who is exercising a power or performing a duty under this by-law, including refusing to identify themselves when requested to do so by an *Officer*.

## 12. ADMINISTRATION

- 12.1 If there is a conflict between a provision of this by-law and a provision of any other municipal by-law, the provision that establishes the highest standard to protect the health or safety of the public shall apply.
- 12.2 Pursuant to the provisions of Sections 23.1 through 23.5 of *the Municipal Act, 2001*, S.O. 2001, c.25 the Clerk of the Corporation of the County of Brant is hereby authorized to affect any minor modifications or corrections of an administrative, numerical, grammatical, semantical, or descriptive nature or kind to the by-law and schedules as may be necessary after the passage of this by-law.

## 13. SEVERABILITY

- 13.1. If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 13.2. If there is a conflict between a provision of this by-law and a provision of any other municipal by-law or piece of legislation, then the more restrictive provision shall apply.

## 14. TRANSITION

- 14.1. Any *swimming pool enclosure* that was in lawful existence prior to the effective date of this by-law shall be deemed to comply with this by-law and may be maintained to the same location, *height* and dimensions as previously permitted.
- 14.2. After the date of the passing of this by-law, by-law #54-03 as described in Section 15.1 of this by-law, shall apply only to those properties in which an application for a *swimming pool enclosure* permit has been submitted prior to the date of passing, and then only to such properties until such time as the work permitted under any issued permit for those applications has been completed for a period not exceeding twelve months from the application date.

15. ENACTMENT

15.1. By-law #54-03 is hereby repealed and replaced with this by-law on May 23<sup>rd</sup> th, 2023.

15.2. This By-law shall come into force and effect on May 23<sup>rd</sup>, 2023.

**READ** a first and second time, this 23<sup>rd</sup> day of May 2023.

**READ** a third time and finally passed in Council, this 23<sup>rd</sup> day of May 2023.

**THE CORPORATION OF THE COUNTY OF  
BRANT**

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David Bailey, Mayor

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Alysha Dyjach, Clerk



## Policy Development Committee Report

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**To:** To the Chair and Members of the Policy Development Committee  
**From:** Adam Crozier, Project Manager, Office of the CAO  
**Date:** May 2, 2023  
**Report #:** RPT-198-23  
**Subject:** Development of Administrative Penalties System  
**Purpose:** For Approval

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### Recommendation

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Whereas the Province of Ontario has permitted municipalities to use an Administrative Penalties System to adjudicate certain municipal by-law offences since 2007;

And Whereas the use of Administrative Penalties Systems by municipalities reduces strain on the overburdened Provincial court system, and transfers the appeals process to a less formal and more appropriate system for minor offences involving only monetary penalties;

And Whereas the County of Brant is desirous of developing an Automated Speed Enforcement program, and in 2022, the Province of Ontario permitted municipalities to adjudicate Automated Speed Enforcement violations through an Administrative Penalties System;

Therefore, that the County of Brant implement an Administrative Penalties System in accordance with provisions of applicable Provincial legislation and regulation beginning with Phase 1 as articulated in RPT-198-23, being the transition of the County of Brant Parking By-law from the Provincial Offences Act to an Administrative Penalties System;

That staff be directed to develop the adjudication process for an Automated Speed Enforcement program through an Administrative Penalties System in accordance with Ontario Regulation 355/22 to be implemented during the launch of the County's Automated Speed Enforcement program;

That staff be authorized to bring forward the necessary by-law amendments for Council's consideration, and develop the policies required to implement an Administrative Penalties System as outlined in staff report RPT-198-23;

And that staff be directed to report back on any required additional resources necessary to operate an Administrative Penalties System for the County of Brant.

### Executive Summary

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This report outlines moving the way parking tickets and other County by-law offences are handled from the Provincial court system to a County operated "Administrative Penalties System." Also commonly referred to as an Administrative Monetary Penalties System, it is a

way to have a two-step appeal mechanism for parking and other by-law tickets without having offenders or County staff attend costly and time-consuming Court proceedings.

Importantly, moving to Administrative Penalties will allow the County to develop an Automated Speed Enforcement program as the volume of tickets issued through that program could not be processed by the Provincial court system, and the Province has recently allowed the County and other municipalities the option to do so.

County staff propose a 3 phased implementation plan and will require further approvals and by-law amendments from Council to completely implement the program.

## **Strategic Plan Priority**

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Strategic Priority 6 - Stable and Responsive Governance

## **Impacts and Mitigation**

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### Social Impacts

The social impacts related to the recommendations and conclusions of this report would be enhanced customer service associated with the handling of County by-law infractions and which would permit the deployment of an Automated Speed Enforcement program for County roadways. The removal of minor and routine by-law offence processing from the Provincial Offences Act (POA) Court operated by the City of Brantford for each the City and the County will lead to additional capacity to deal with matters of greater significance than trials for parking tickets.

### Environmental Impacts

There are no environmental impacts associated with this report.

### Economic Impacts

With regard to the individual Phases proposed in this report, staff do not anticipate any significant cost associated with Phase 1 of the implementation of an Administrative Penalties System as it assumes functions currently undertaken by County staff. Additional resources will likely be required with the deployment of the County's Automated Speed Enforcement program and will be evaluated as both Phase 1 and Phase 2 progress, with further reporting to Council expected. Phase 3 would further see minimal impact on costs.

Additionally, the Administrative Penalties System permits the scheduling of the appeals process and for appeals to be conducted virtually or locally within the County of Brant, reducing the costs associated with a municipal law enforcement officer having to be present at the Courthouse in Brantford until their case is being heard.

## **Report**

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### Background

#### What is an Administrative Penalties System?

An Administrative Penalties System (also referred to as Administrative Monetary Penalties System) is a dispute resolution process and method to impose a fine for the contravention of a law or regulation that is civil and not criminal in nature. In Canada Administrative Penalties are issued by all levels of government for a wide range of matters and have become



increasingly adopted as an alternate means to resolve contraventions of laws, by-laws, and regulations outside of the civil and criminal court system.

The general founding principles of Administrative Penalties are that they represent a reasonable and constitutionally acceptable means to impose a monetary penalty, known as a Penalty Order, on an individual with reasonable methods to appeal a contravention of a civil penalty, and importantly, for matters that do not involve further significant punitive means more appropriate in a criminal proceeding.

In Ontario, individual municipalities have been permitted to establish and operate an Administrative Penalties System since 2007 with changes to the *Municipal Act, 2001* (herein “the Municipal Act”) and the publication of [Ontario Regulation 333/07](#) (herein “the APS Regulation.”) Initially these additions to the Municipal Act only permitted municipalities to operate Administrative Penalties Systems for parking infractions and contraventions of licensing programs, but further authority was added in 2017 to cover the contravention of all by-laws with authority granted by the Municipal Act (e.g. Fence By-law, Roads Use By-law, Noise By-law, etc.) Notably, the *Building Code Act, 1992*, was amended at this time to permit Administrative Penalties for conventions of municipal Property Standards By-laws, but other major enforcement matters undertaken by the County such those under the *Planning Act, 1990*, are not authorized to be incorporated into an Administrative Penalty System.

Since this expansion to cover all Municipal Act by-laws the number of municipalities transitioning from the traditional Provincial Offences Act (POA) Court system to a municipally operated Administrative Penalties System has grown significantly, including its use by smaller municipalities.

While technically an expansion of municipal service offerings the creation of an Administrative Penalties System has several benefits, most significantly the removal of minor violations from the POA Court system. Through a variety of factors, the ability of the POA Court system to process offences has declined in the past few years and cannot keep up with the volume of offences processed, nor it cannot handle a proposed expansion in the volume considered by new program offerings such as Automated Speed Enforcement.

#### Administrative Penalties System in Ontario and Differences to Provincial Offences Act (POA) Court System

As outlined earlier, the structure of most municipal Administrative Penalties Systems are based on the initial rules set out by the APS Regulation, and adapted since 2007, mainly by larger municipalities.

The general premise of Administrative Penalties Systems is that they operate in a similar capacity to a court system with 2 levels of appeals and a final independent adjudicator, known as a “Hearing Officer.”

If an individual wishes to appeal a contravention the case would be referred to a “Screening Officer” who would review the case and issue a decision to deny the appeal, reduce the monetary amount of the penalty, or uphold the appeal and cancel the penalty order. If the appeal is denied the individual can further appeal to a “Hearing Officer,” who cannot be a municipal employee to maintain independence from the process but is appointed by the County, who would make the final decision on the appeal.

While the Administrative Penalties System for Automated Speed Enforcement contraventions is largely based on the Administrative Penalties System for Municipal Act violations, the

Province has included some specific provisions that will create certain differences in processes related to processing contraventions and appeals of Penalty Orders.

The main difference between the existing POA Court system and Administrative Penalties System is that the overall structure of the POA Court system is governed by the Province, and Administrative Penalties Systems are governed and operated by individual municipalities. In the POA Court system law enforcement officers can issue a set fine (Part I) or lay a charge with a summons to court (Part III) where the matter will be reviewed by a Judge or Justice of the Peace. Currently for Municipal Act by-laws the County must apply to the POA Court to have short form wording and set fines amounts for offences under the specific by-law approved. In the absence of having short form wording and set fines approved, the default position would be to summons individuals to court for Part III proceedings as provided for under the POA. Part III proceedings are generally costly and slow moving through the court system.

In an Administrative Penalties System, the County will have the independence to establish the fines for specific contravention under County By-laws and will have to establish a set amount for each violation of each by-law in order to issue a penalty order. The adoption of Administrative Penalties for parking offences will immediately enhance the effectiveness of Officers in the field as the service of Penalty Orders will not be limited to serving the notice during the commission of the offence. For the purposes of transitioning to an Administrative Penalties System for the County staff proposes that the existing set fines will be transferred under the authority of the Parking By-law and reviewed within 2 years to determine their continued applicability. With this system Council will have the authority to set fine amounts, with the APS Regulation noting they must be “reasonable,” without the need to apply to the Provincial court system.

## Analysis

### Current County of Brant Processes

The current process to handle by-law offences varies, but for the most part, the majority of offences issued by County municipal law enforcement officers are related to the County's Parking By-law. When an individual receives a parking ticket, they have 15 days to make payment or request a trial before an additional fee must be assessed. This fee is the cost associated with requesting the name and address of the registered owner of the vehicle through the Ministry of Transportation's Authorized Requestor Information System (commonly referred to as ARIS), as the individual will be sent a “Notice of Impending Conviction” (NIC.) County staff have also implemented a minor internal appeal mechanism whereby a designated staff member will review a ticket and have authority to cancel the ticket based on errors or circumstances identified after the issuance of the ticket. This process was implemented to avoid going to trial for tickets where exigent circumstances exists or with significant errors contained on them, which is a costly process for both the individual receiving the ticket and the County, and with photographic evidence now being used on each ticket.

Should the individual not pay for the ticket following receiving the NIC the ticket is then forwarded to the Provincial Offences Act (POA) Court in Brantford where the individual still has the opportunity to pay the offence. Finally, if the offence is still unpaid at the POA Court the registered owner's information is forwarded to the Defaulted Fines Control Centre (DFCC) operated by the Ministry of the Attorney-General, and the owner cannot renew their vehicle licence permit without paying the fine. This amount is remitted back to the County following the final payment of the ticket amount.

## Brantford Provincial Offences Act (POA) Court

The County of Brant shares the services for POA Court administration with the City of Brantford through a shared services agreement, which was recently revised in 2021. In effect, the City provides for the administration of the court system and certain prosecution services, with the expenses apportioned between the partners and recovered from the fine revenue that is generated from offences occurring within each jurisdiction.

Following the cost reconciliation of the expenses resulting from operating the court, the County is remitted the remainder of the balance as revenue. In consultation with staff operating the Brantford POA Court it has been confirmed that the vast majority of this revenue generated is derived from fines issued by the Brant County OPP, representing 96.7% of all County POA revenue derived; these offences and the fine revenue generated will remain within the POA Court system and will maintain this source of operating funding for the POA Court. Currently, fine revenue resulting from County By-law offences, including Parking offences represents only 3.3% of fine revenue, noting that the majority of the fine revenue associated with enforcement of the Parking By-law (approximately \$60,000 in 2022) is collected by the County prior to the ticket entering the POA Court system. As such, the transition to Administrative Penalties is not expected to negatively impact the County's portion of the fine revenue currently generated to operate the Brantford POA Court.

A concerning trend in the overall court system is significant delays in having cases heard, which according to the Jordan Decision issued by the Supreme Court of Canada in 2016, is supposed to be no longer than 18 months for provincial court cases. Resulting from the onset of the COVID-19 pandemic the Brantford POA Court has focused on the processing of more serious offences, and as such, the 17 requests for trials related to parking offences in the County have not been held since 2020. While County by-law offences ultimately represent a small amount of the workload of the Brantford POA Court system, the removal of any number of cases from the Provincial court system will be an overall benefit to the justice system.

While the removal of further offences/contraventions from the POA Court system into an Administrative Penalties System is not anticipated pose an issue in the future, any potential issues occurring anticipated with the transfer of the remainder of by-law offences proposed to occur in Phase 3 of this transition, staff note that any revenues associated from the County's Administrative Penalties System can be directed to cover any potential shortfall with POA Court revenue. Staff do not foresee an issue as identified above as a near majority of the fine revenue collected through the POA Court system (tickets issued by the Brant County OPP) will still remain in the POA Court system.

## Automated Speed Enforcement & Administrative Penalties System

While the implementation of an Administrative Penalties System for the County of Brant and the processing of municipal by-law offences will represent an overall administrative improvement, the importance of establishing an Administrative Penalties System is in its ability to provide for the processing and appeal mechanism for Automated Speed Enforcement violations. The Province permitted the use of an Administrative Penalties System for the adjudication of Automated Speed Enforcement violations in 2022 as it represents an efficient means to handle appeals of Automated Speed Enforcement tickets outside of the Provincial Offences Act (POA) Court system. Staff note that municipalities now have the option to direct Automated Speed Enforcement tickets to either a municipally operated Administrative Penalties System or the POA Court system, naturally subject to capacity in the Court system.

An Automated Speed Enforcement ticket is different from a traditional speeding ticket as it is issued to the registered owner of the vehicle instead of the vehicle driver and does not involve the issuing of demerit points against a driver's licence or further penalties. In essence, the penalties associated with an Automated Speed Enforcement violation are like that of receiving a parking ticket, albeit with pre-determined fine amount in line with a traditional speeding ticket.

During the initial formulations of the County's Automated Speed Enforcement program an area of concern identified was that it would generate a significant increase in volume of tickets and requests for trials that could lead to significant strain on the Brantford POA Court. Staff note this issue is common across the Province and that this concern is shared by the City who have directed that their proposed Automated Speed Enforcement program also operate under Administrative Penalties and not through the POA Court.

Using figures from other Automated Speed Enforcement programs operating in Ontario, it appears that each camera sees approximately 5,000 issued tickets per year, and unlike with parking tickets issued, each Automated Speed Enforcement ticket would have to be registered with the POA Court and paid through that process, adding significant workload to the existing Court system.

## **Next Steps**

### Phasing of Administrative Penalties System Roll Out

Staff propose that the County's Administrative Penalties System be rolled out in 3 distinct phases based on regulatory and procedural timelines, and the associated Automated Speed Enforcement program.

**Phase 1 (Immediate):** The first phase of the Administrative Penalties System implementation program will be to transfer administration of the Parking By-law from the Provincial Offences Act (POA) Court system to an Administrative Penalties System. While representing the greatest volume of County by-law offences, the foundation of municipal Administrative Penalties Systems are based on the Regulation that permitted municipalities to implement Administrative Penalties System for parking related offences in 2007. Notably, this regulation still is the basis for the expansion of Administrative Penalties Systems to other offences including to all Municipal Act by-laws permitted in 2017, and for Automated Speed Enforcement permitted in 2022.

These additional elements either do not have their own enacting Regulation (all other Municipal Act by-laws), or explicitly refer to the APS Regulation in their own regulations (Automated Speed Enforcement.) As such, it is prudent to use this Regulation as the foundation for the County's Administrative Penalties System and to phase in the additional elements. Finally, as County staff already manage an informal appeal mechanism for parking tickets that will be largely applicable to the "Screening" phase of the Administrative Penalties System, it serves to develop the program with minimal disruption and only with the need for the retention and appointment of a Hearing Officer.

**Phase 2 (Near Term):** The second phase of the implementation program will be the adjudication of Automated Speed Enforcement contraventions. The timeline for this phase will be largely dictated by the implementation of the County's Automated Speed Enforcement (subject to the responsiveness of the Province and Ministry of Transportation) which cannot function without an Administrative Penalties System to manage ticket appeals. As the various elements of the Automated Speed Enforcement program are developed, the need to present an established Administrative Penalties System will be a major element in securing an

agreement with the Province to receive access to the licence plate database (ARIS) to issue Automated Speed Enforcement tickets.

**Phase 3 (Long Term):** The third and final phase of the implementation program will be to incorporate all remaining Municipal Act by-laws into an Administrative Penalties System. This is recommended to be the final phase as it will involve amendments to several by-laws, a method to track contraventions and the appeals process will need to be identified, and as these by-laws typically have more nuanced but lower volumes of offences generated. That said, the incorporation of these by-laws into an Administrative Penalties System will reduce the time involved with court proceedings, notably for municipal law enforcement officers.

#### Development of By-laws and Operating Policies and Procedures

Following Council's consideration of this report, several steps remain by both staff and Council to implement an Administrative Penalties System for the County of Brant. Notably, Council must pass by-laws to:

1. Establish an Administrative Penalties System for Parking Violations
2. Amend the Parking By-law to transition the authority from the Provincial Offences Act Court to the Administrative Penalties System
3. Delegate appointment of Screening and Hearing Officers
4. Amend the Fees and Charges By-law to implement fees associated with the Administrative Penalties System
5. Establish an Administrative Penalties System for Automated Speed Enforcement
6. Establish an Administrative Penalties System for all other non-parking Municipal Act By-laws, and various amendments to each By-law.

Staff will further develop the policies required by Ontario Regulation 333/07, the APS Regulation, to govern the program, including but not limited to the following:

- Guidelines for Conflict of Interest
- Financial Management and Reporting
- Public Complaints
- Extension of Time for Payment
- Extension of Time to Request a Review
- Prevention of Political Interference
- Relief from Undue Hardship

#### Additional Administrative Fees

In addition to holding the authority to establish the specific fine amount for contraventions of County by-laws, the County will also be able to establish additional fees associated with the processing of a contravention and, for those who file an appeal and do not show for a screening or hearing appointment.

Most municipalities surveyed using an Administrative Penalty System have fees for the following matters, with fees assessed currently through the POA Court process identified:

- MTO Search (Currently Assessed, required to issue "Notice of Impending Conviction")
- Late Payment (Currently Assessed)
- MTO Plate Denial (Currently Assessed, includes fee collected by Province to administer DFCC program)
- No Appearance – Screening Appointment
- No Appearance – Hearing Appointment

### Additional Resources

As noted above staff anticipate that current staff levels will be sufficient to transition Parking By-law enforcement from the POA system to the Administrative Penalties System as the informal appeals process is formalized into a Screening Officer process. Depending on the volume of Penalty Orders and appeals related to the proposed Automated Speed Enforcement program, additional human resources will likely be required to handle Screening Officer duties. Staff propose that a Hearing Officer be retained on a short-term basis to evaluate the volume of reviews requested of a Hearing Officer, and to provide for an opportunity for the City to establish an Administrative Penalties System, and to then evaluate the desire for a joint appointment benefitting both municipalities. In discussions with other municipalities operating Administrative Penalties Systems, Hearing Officers are required infrequently (anywhere from 1 day per every 4-8 weeks depending on receiving appeals of Screening Officer decisions) and are paid on a per diem basis.

### Summary and Recommendations

The use of Administrative Penalties Systems has been permitted for municipalities by the Province of Ontario since 2007, and have been widely adopted as a means to handle minor offences outside of the traditional Provincial court system. As identified above the transition to Administrative Penalties System holds several advantages, notably:

- Reduces strain on the overburdened Provincial court system to handle more serious civil and criminal offences
- Moves the appeal process for minor by-law offences to a less formal and more appropriate setting
- Will permit appeals to be heard both virtually and in-person within the County of Brant and not requiring the offender or County municipal law enforcement officers to attend the Brantford Courthouse
- Council is provided the opportunity to establish reasonable fines for contraventions of County by-laws
- Will permit the establishment of an Automated Speed Enforcement program for the County will all aspects managed by County Council and staff

The recommendations of this report will permit County staff to finalize the necessary policies and procedures, and to prepare the necessary by-law amendments for Council's consideration to fully implement the Administrative Penalties System.

### Attachments

None.

### Reviewed By

Greg Bergeron, Manager of Enforcement and Regulatory Services  
Jyoti Zuidema, Solicitor & Corporate Counsel  
Alison Newton, Chief Administrative Officer

### Copied To

None.

### By-law and/or Agreement

By-law Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No



## Policy Development Committee Report

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**To:** To the Chair and Members of the Policy Development Committee  
**From:** Rob Walton, General Manager of Operations  
Alex Davidson, Director of Environmental Services  
**Date:** May 2, 2023  
**Report #:** RPT-103-23  
**Subject:** Development of Stormwater Management Utility  
**Purpose:** For Information and Direction

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### Recommendation

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Whereas the County of Brant operates and maintains stormwater drainage in urban and rural areas based on various means of management and funding;

And whereas, the urban drainage systems have been largely funded by taxation and rural systems under the Drainage Act, RSO 1990 have been funded directly by the landowners;

And whereas, the costs of construction and maintenance of all drainage systems are increasing due to environmental standards and climate change;

And whereas municipalities are increasingly implementing a utility model to fund the maintenance and capital elements of their urban stormwater management systems, similar to the model the County currently uses for water supply and wastewater treatment;

That staff be authorized to proceed with the development of a utility model for the County's urban stormwater management system including the financial modelling required to develop a reasonable user fee to remove reliance on the general tax levy as the primary funding source for urban stormwater management infrastructure;

And that staff be directed to undertake public consultation regarding this proposal, and report back to Council in advance of 2024 budget discussions.

### Strategic Plan Priority

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Strategic Priority 4 - Reliable Infrastructure

### Impacts and Mitigation

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#### Social Impacts

The social impacts of this report relate to County's ability to handle urban stormwater management in the face of climate change and weather events increasing in scope and scale, and to provide sustainable funding for projects associated with climate change adaptation.

Many residents will not welcome a new monthly fee for stormwater management. However, the introduction of a small monthly fee should be compared to the long-term cost of handling this service under taxation and/or levies to deal with large capital improvements.

### Environmental Impacts

The environmental impacts of this report relate to highlighting the importance of the County's urban stormwater management systems to ensuring maintenance is properly funded to promote water quality standards, notably as stormwater runoff feeds local waterways and source water recharge areas.

### Economic Impacts

The economic impacts of this report relate to a transfer of responsibility for the funding of urban stormwater management from the general tax levy supported by all County ratepayers to a utility model with a monthly fee assessed to directly benefiting landowners, which is in a similar vein to how the funding of rural drainage works under the Drainage Act currently operates.

The current funding of storm water operations for urban areas of the County is funded yearly by \$150,000 of Capital and \$375,000 of Operations (total of \$525,000), all charged to taxation. There is no storm water reserve.

Further, the development of a utility model combined with the update of the County asset management plan provides an opportunity to identify the true costs of the County's urban stormwater management systems from operational maintenance to capital renewal.

## **Report**

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### Background

As a concept, the development of stormwater management utilities has evolved over the past 25-30 years to fund stormwater operational maintenance and/or capital improvements through a user pay model. In most instances the current funding of stormwater management projects is incorporated into annual budgets, either operating or capital, and funded from the overall tax levy. One of the first municipalities to adopt a stormwater management fee was the City of London in the mid-1990s with the intent of providing a stable funding source to maintain its stormwater infrastructure, to reduce the amount of combined stormwater and sanitary sewers, and to improve overall water quality. London has spent nearly \$40 million since 2008 to separate 50kms of combined sewers, with 15km still remaining in 2023. Our research indicates that there are approximately 19 storm water utility models in Ontario; London, Kitchener, Guelph, and the Township of Zorra are examples.

The County of Brant, as a municipality with both urban and rural areas, handles drainage and drain maintenance through various means, with most rural drainage handled under the provisions of the *Drainage Act, 1990* (Drainage Act), and urban drainage handed through in-road drainage infrastructure and an overall system managed through an Environmental Compliance Approval (ECA) through the Ministry of the Environment, Parks and Conservation (MECP). While the County corporately maintains some responsibility for drainage in rural areas, most of the costs associated with new drains and drain maintenance are handled directly by benefitting landowners through the Drainage Act. In comparison, no directly assessable funding is provided by benefitting landowners in urban environments.



The development of stormwater management utilities are viewed as an efficient means to:

1. provide for a direct user pay method for residents to pay for services that directly benefit them;
2. to shift the funding of stormwater management maintenance and capital projects from the tax levy to a utility-based model similar to waste and wastewater funding models;
3. to highlight the importance urban stormwater management will have for climate change adaptation in the coming years: provide efficient management and oversight to effectively address advancing stormwater management technology and ever-increasing stringent requirements of the ECA's issued by the MECP.

In most municipalities a simplistic formula fee structure is used where most properties, namely residential, are assessed a minimum fee, which is determined based on the funding structure and immediate needs of the overall stormwater management system. The by-laws of many of the existing stormwater utilities assess properties less than 0.4ha the minimum fee. Properties greater than 0.4 hectares are assessed based on property runoff (combination of property size and runoff co-efficient or "C" factor).

It is anticipated that the annual storm water budget should increase from \$525,000 to \$1,000,000 over time to deal with the increased costs of aging infrastructure, climate change and the looming costs of cleaning storm water ponds. A monthly fee of \$7 to 12 per month is the anticipated range for the minimum fee for small properties but this will be confirmed prior to public consultation.

It is proposed that the public consultation will be undertaken through Engage Brant and there will be one virtual meeting (live and recorded to be posted on-line) and one in person open house.

### Analysis

As identified above the development of a stormwater management utility has several benefits to provide appropriate means to fund operational maintenance and capital projects related to stormwater management, and with Council direction, staff propose to investigate the financial modelling required to assess the future needs of stormwater management in the County, appropriate fee structures, and to provide an additional source of funding for major stormwater improvements. Collecting a small fee across the urban drainage areas and then using this funding in a manner like water and wastewater utilities is a sound business and asset management decision. Further, staff note that significant projects such as the projects identified during the Paris Flood Mitigation Master Plan remain unfunded and following any implementation of a stormwater management utility, staff propose investigating methods to fund the stormwater component of these projects through the utility model. These flood mitigation projects will likely involve significant funding from upper levels of government, but it is appropriate to examine how the components of the stormwater infrastructure will be affected by and should contribute to their construction.

Secondly, staff propose that public consultations be held to present the proposed model and outline the benefits of providing a stable and sustainable funding source for stormwater management infrastructure, along with a rationalization of the funding source on a user pay model. Information from the consultations will help to shape the proposals to provide appropriate funding and to study the matter further prior to Council receiving a subsequent report on the utility model in advance of 2024 budget deliberations.

Finally, this proposed utility model along with a re-focused emphasis on managing and maintaining the County's overall urban stormwater management system is in line with

changing Provincial attitudes towards the environmental management of stormwater. In recent years the Province has made amendments to its regulatory and administrative structures resulting in the County now holding an ECA for the entire stormwater system rather than Approvals for individual components of the system (i.e. stormwater outlets) In many respects the Province now views the operations of stormwater management systems in the same way it approaches water distribution and wastewater treatment as the quality of stormwater directly impacts the quality of the overall system. Further, these developments will place additional pressures on the County to manage and report on the overall stormwater management system, which in many ways will require additional resources from a transfer of responsibilities from the province to individual municipalities.

The County Finance Department has been consulted about this project and will form part of the project team.

**Summary and Recommendations**

This report outlines a process to examine a storm water utility model for the urban areas of Brant. This model has been used by other municipalities to improve management of the storm water system, deal with the costs of storm pond cleanouts and the rising system costs predicted through asset management. The water/wastewater utility model is certainly a good example of using a rate-based system to do efficient management and this model will be similar.

The stormwater utility model will be developed by staff, consultation with the public will be undertaken and a report will be presented to Council in advance of the 2024 Budget considerations.

**Attachments**

None.

**Reviewed By**

None.

**Copied To**

Matt D’Hondt, Solid Waste/Wastewater Operations Manager  
David Stevenson, Water Technologist  
Matt Free, Solid Waste/Wastewater Technologist  
Adam Crozier, Project Manager, Office of the CAO  
Heather Mifflin, Director of Finance, Treasurer

**By-law and/or Agreement**

By-law Required	No
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No