

Memorandum

To	Justin Rousseau
From	Gary Scandlan and Daryl Abbs
Date	April 25, 2023
Re:	Municipality of Lakeshore – Removing the Belle River Road Project from the Development Charges Study.

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As per Council resolution #211-05-2022 *“Direct Administration to prepare a report setting out the steps required to remove the sanitary sewer portion of the Development Charges for Belle River Road and West Belle River Road south of County Road 42.”* As a result, Lakeshore staff have requested that Watson & Associates Economists Ltd. (Watson) prepare a detailed memo on the following:

- Overview of the municipal planning framework and the utilization of development charges (D.C.) in that framework;
- Overview of the D.C. calculation methodology;
- Process for amending a D.C. by-law under the Development Charges Act (D.C.A.);
- Impacts of removing a project from the D.C. by-law;
- Impacts of Bill 23, More Homes Built Faster Act; and
- Options for Council’s consideration.

This memo provides the requested information for your consideration.

1. Introduction

In 2020 Watson & Associates Economists Ltd. (Watson) undertook a Development Charges (D.C.) Background Study for the Municipality of Lakeshore as required under the Development Charges Act (D.C.A.). This study provided the necessary background for the Municipality to pass D.C. by-law #89-2020.

D.C.s provide for the recovery of growth-related capital expenditures from new development. The D.C.A. is the statutory basis to recover these charges. As part of the 2020 study, the Municipality identified a number of conveyance systems to be included as growth-related capital projects related to wastewater services. One of these projects is the Belle River Rd./North Woodslee/South Woodslee conveyance. The anticipated timing for the servicing of this area was identified as commencing between 2035 to



2040. As such, this project was included in the D.C. calculations to recover the growth-related capital costs from new development.

Development/new home construction in the Belle River area has proceeded in advance of the anticipated servicing. These new homes would be required to initially install private septic systems. Residents have inquired to Council about paying the wastewater D.C. in advance of the construction of the infrastructure, as well as paying to have their own private septic system installed.

With regard to wastewater services, although development in some areas may need to build septic systems for their developments, the area where the development is occurring is within the urban boundary and the services will be built by the Municipality over the forecast period. The owners of these properties have chosen to build in advance of those services and hence, would be required to build interim servicing for their properties as well as pay the development charge.

2. Development Charges Calculation Overview

2.1 Municipal Planning Framework

D.C.s recover the cost of capital expenditures required to accommodate development. As such, the calculations are based on a combination of planning estimates and engineering estimates.

The general municipal planning process begins with the preparation of the Official Plan (O.P.). The Municipality's O.P., dated March 2021, identifies the lands to be developed, the type of development anticipated (e.g. residential, industrial, commercial, etc.) as well as the growth targets for those development areas. Further, the O.P. identifies settlement boundaries for urban properties to be serviced with water and wastewater.

After the O.P. lands and targets were established, the Municipality undertook master planning studies to identify the required capital needs to service the population and employment targets. The Municipality completed a water and wastewater master plan in 2020 to identify the infrastructure required to service development lands in the defined urban areas.

Subsequent to the completion of the master planning work, the Municipality then prepared a D.C. background study in 2020 (with an update in 2022). This study utilized the planning and development targets established in the O.P., along with the growth-related infrastructure needs identified in the master plans to calculate a development charge applicable to new development in the Municipality. The following section describes the methodology of the calculations in further detail.



2.2 D.C. Methodology

The D.C. calculation commences with an estimate of “the increase in the need for service attributable to the anticipated development,” for each service to be covered by the by-law. There must be some form of link or attribution between the anticipated development and the estimated increase in the need for service. While the need could conceivably be expressed generally in terms of units of capacity, subsection 5 (1) 3 of the D.C.A., which requires that Municipal Council indicate that it intends to ensure that such an increase in need will be met, suggests that a project-specific expression of need would be most appropriate.

The following steps provide the overall methodology to calculating the D.C.:

1. **Identify the amount, type and location of growth** – as noted above the planning estimates are based on those outlined in the O.P. More specifically for water and wastewater, the growth is separated into urban areas (to be serviced) versus rural areas (not to be serviced).
2. **Identify the servicing needs to accommodate growth** – the growth-related needs related to step 1 have to be identified (i.e., what services are required in the growth areas, e.g., water, wastewater, parks and recreation, etc.).
3. **Identify capital costs to provide services to meet the needs** – what capital projects are required to accommodate the servicing needs (e.g., those projects outlined in the water and wastewater master plan).
4. **Capital costs identified in step 3 must be reduced by deducting:**
 - a. Grants (either from the Provincial or Federal government, etc.), subsidies and other contributions (i.e. donations, funds from fundraisers, etc.) received by the Municipality;
 - b. Benefit to existing development – the extent to which an increase in service to meet the increased need would benefit the existing development;
 - c. Amounts in excess of 15-year historical service calculation – an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 15-year period; and
 - d. D.C. Reserve funds (where applicable) – remaining balances in a D.C.-eligible service reserve fund (e.g., if there is a positive ending balance in the reserve fund for wastewater, this amount needs to be deducted from the total capital costs related to wastewater in the D.C. calculation).



5. **Net costs are then allocated between residential and non-residential benefit** on various metrics depending on the service. For example, wastewater services are shared 65%/35% between residential and non-residential based on the population to employment ratio over the 20-year forecast period for the urban area defined in the O.P.
6. **Net costs are then divided by growth to calculate the D.C.:**
 - a. For the residential calculations, the total cost is divided by the “gross” (new resident) population to determine the per capita amount. The eligible D.C. costs determined in step 4 are based on the net anticipated population increase (the forecast new unit population less the anticipated decline in existing units). The cost per capita is then multiplied by the average occupancy of the new units to calculate the charge.
 - b. For the non-residential development, the total costs in the charge allocated to non-residential development (based on the need for service) are divided by the anticipated development over the planning period to calculate a cost per square foot (sq.ft.) of gross floor area (G.F.A.).

Figure 2-1 provides for the wastewater calculation as provided in the 2022 update background study.

Figure 2-1
D.C. Calculation for Wastewater

SERVICE/CLASS	2020\$ D.C.-Eligible Cost		2020\$ D.C.-Eligible Cost	
	Residential	Non-Residential	S.D.U.	per sq.ft.
1. <u>Wastewater Services</u>	\$	\$	\$	\$
1.1 Treatment plants	39,010,847	21,005,840	10,903	4.67
1.2 Sewers	11,495,377	6,189,818	3,213	1.38
	50,506,223	27,195,659	14,116	6.05
2. <u>Water Services</u>				
2.1 Treatment plants and storage	9,882,778	5,321,496	2,762	1.19
2.2 Distribution systems	5,223,010	2,812,390	1,460	0.63
	15,105,788	8,133,886	4,222	1.82
TOTAL	65,612,011	\$35,329,544	\$18,338	\$7.87
D.C.-Eligible Capital Cost	\$65,612,011	\$35,329,544		
20 Year Urban Gross Population/GFA Growth (sq.ft.)	11,918	4,489,500		
Cost Per Capita/Non-Residential GFA (sq.ft.)	\$5,505.29	\$7.87		
By Residential Unit Type	P.P.U.			
Single and Semi-Detached Dwelling	3.331	\$18,338		
Other Multiples	1.947	\$10,719		
Apartments - 2 Bedrooms +	1.703	\$9,376		
Apartments - Bachelor and 1 Bedroom	1.316	\$7,245		

Based on the figure above, the total residential cost to be recovered for wastewater is approximately \$50.51 million, while the total anticipated gross population growth is



11,918. When divided, the D.C. per capita is approximately \$5,505. This is then multiplied by the Persons per Unit (P.P.U.) assumptions to calculate the D.C. by residential unit type. Note, amending the D.C. by-law to remove the Belle River Strip conveyance project (discussed in Section 4), would result in a change in the highlighted D.C. Calculation for sewers.

3. Process for Amending a D.C. By-law

As discussions have occurred with Council regarding the removal of the project required to service the Belle River Strip, it has been requested from staff that a summary of the process for amending a D.C. by-law be provided.

The process for amending a D.C. by-law, as set out in Section 19 (1) of the D.C.A. states the following:

“Sections 10 to 18 apply, with necessary modifications, to an amendment to a development charge by-law other than an amendment by, or pursuant to an order of, the Ontario Land Tribunal.”

To summarize the requirements generally, the following must be undertaken:

1. The Municipality must complete a background study, which shall include:
 - The estimates of the anticipated amount, type and location of development;
 - The calculations for each service to which the D.C. by-law would relate;
 - An examination, for each service to which the D.C. by-law relate, of the long-term capital and operating costs for capital infrastructure required for the service;
 - Consideration of the use of more than one D.C. by-law to reflect different needs for services in different areas;
 - An asset management plan; and
 - Other information as may be prescribed by the D.C.A.
2. The background study must be made available to the public at least 60 days prior to the passing of the D.C. by-law and until the by-law expires or is repealed by posting the study on the website of the municipality, or if there is no website, in the municipal office.
3. Before passing a D.C. by-law Council must hold at least one public meeting, of which at least 20-days notice has to be given; and ensure the proposed by-law and background study are made available to the public at least two (2) weeks prior to the public meeting.



4. The Clerk of a municipality has to give written notice of the passing of the by-law, and of the last day for appealing the by-law, which will be the day that is 40 days after the day the by-law is passed.
5. Any person or organization may appeal a development charge by-law to the Ontario Land Tribunal by filing with the clerk of the municipality on or before the last day for appealing the by-law.

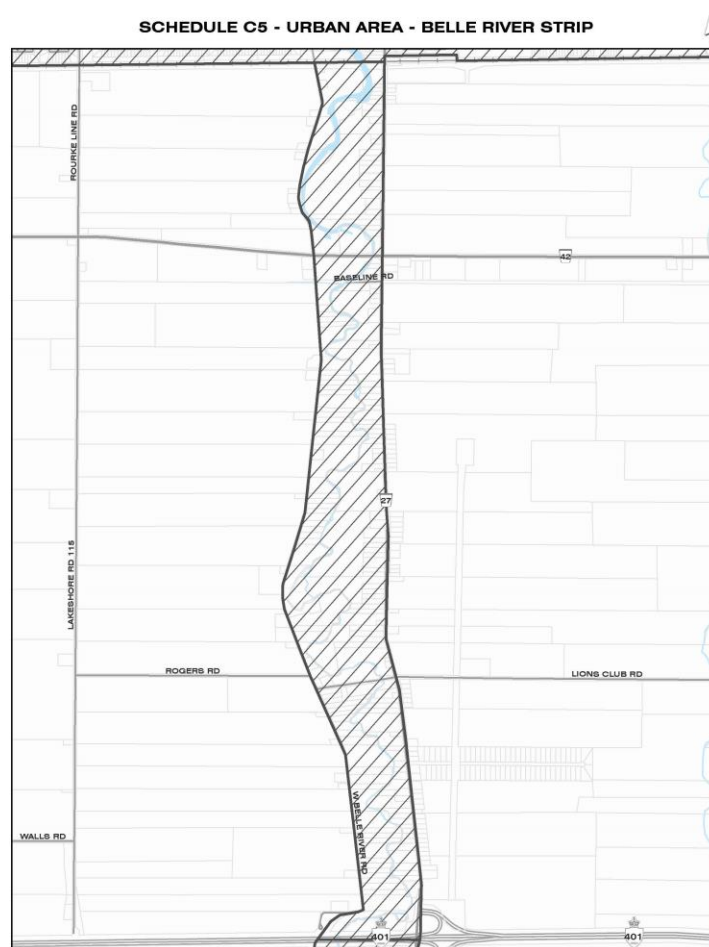
Based on the above, any amendment to a D.C. by-law requires a D.C. background study and full public process.



4. Potential Considerations/Implications of Removing a Project from the D.C. Background Study

4.1 Anticipated Impacts to the Calculations

Discussions regarding development paying for D.C.s for municipal wastewater in advance of the services being provided have occurred due to recent applications to develop homes in Belle River. The servicing area is provided in the following map.



Chapter 5 of the D.C. 2020 background study sets out the capital needs to accommodate development for wastewater services. The capital needs required to accommodate development in the Belle River Strip are identified as project 6 – Belle River Rd/N Woodslee/S Woodslee Conveyance. The gross capital cost of this project (in 2020\$) is \$10.2 million with \$2.04 million being attributed to post period benefit, leaving a net amount of \$8.16 million which is shared 65%/35% between residential and non-residential development. The capital worksheet from the D.C. background study is shown in Table 4-1.



If Project 6 was removed from the D.C. calculations, this would result in the removal of \$5.30 million from the residential D.C. calculation and \$2.86 million from the non-residential D.C. calculation. However, without the quantum of development to be removed, the actual impact on the D.C. calculation is not known at this time.

To remove this project, the calculations would need to be modified to remove the development anticipated to occur in the Belle River Strip. Since the D.C. calculations for wastewater are based on the total costs to service the total development anticipated in the Municipality, this may result in a change in the wastewater D.C. for all other areas. Note that the growth anticipated in this area was not separately identified in the Municipality's D.C. growth forecast (Appendix A to the background study).

The removal of this development will also impact the calculations for the Denis St. Pierre Water Pollution Plant Expansion as this project was sized to accommodate growth in the Belle River Strip. This would result in more of the costs of the plant expansion to be considered Post-period Benefit, which would need to be cash flowed by the Municipality until such time that the development was included in the D.C. forecast.



Table 4-1
Municipality of Lakeshore
Infrastructure Costs Included in the Development Charges Calculation for
Wastewater Services

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing* (year)	Gross Capital Cost Estimate (2020\$)	Post Period Benefit	Other Deductions	Net Capital Cost	Less:		Potential D.C. Recoverable Cost		
							Benefit to Existing Development	Grants, Subsidies and Other Contributions Attributable to New Development	Total	Residential Share 65%	Non-Residential Share 35%
	2020-2039 (Urban)										
1	Forcemain to transmit wastewater from Comber to the new STF (Phase 1)	2030	4,007,000	337,000		3,670,000	2,203,850		1,466,150	952,998	513,153
2	Pump Station to transmit wastewater from Stoney Point to the new STF (Phase 1)	2030	500,000	42,000		458,000	275,000		183,000	118,950	64,050
3	New Pumping Station and forcemain to transmit sewage from Lighthouse Cove to the new STF (Phase 1)	2035	2,282,100	191,900		2,090,200	1,255,155		835,045	542,779	292,266
4	Rochester Place conveyance system1	2035	3,192,100	319,200		2,872,900	1,596,050		1,276,850	829,953	446,898
5	Belle River/Maidstone Conveyance (Puce to Manning)	2022-2027	13,975,100	1,397,600		12,577,500	6,987,550		5,589,950	3,633,468	1,956,483
6	Belle River Rd/N Woodslee/S Woodslee conveyance	2035-2040	10,200,000	2,040,100		8,159,900	-		8,159,900	5,303,935	2,855,965
7	Essex Fringe Conveyance System	2040	3,346,900	334,700		3,012,200	3,012,200		-	-	-
8	Sanitary Trunk Line Cost Sharing Agreement - CE30476 (09/08/03)		174,300	-		174,300	-		174,300	113,295	61,005
9	Pike Creek Gravity Collection System	2035-2040	4,400,000	4,400,000		-	-		-	-	-
	Total		42,077,500	9,062,500	-	33,015,000	15,329,805	-	17,685,195	11,495,377	6,189,818



4.2 Bill 23, More Homes Built Faster Act, 2022

In addition to the above impacts to the calculations, any amendments to the by-law will need to consider Bill 23, More Homes Built Faster Act, 2022. Bill 23 introduced a number of changes to the Development Charges Act (D.C.A.), along with nine other Acts including the Planning Act, which seek to increase the supply of housing. The changes to the D.C.A. that would impact the Municipality upon amending or passing a new D.C. by-law are as follows:

- Mandatory Phase-in; and
- Removal of growth-related studies.

See Appendix A for a summary of all changes to the D.C.A. arising from Bill 23.

4.2.1 *Mandatory Phase-in*

For all D.C. By-laws passed the charge must be phased in annually over the first five (5) years the by-law is in force as follows:

- Year 1 – 80% of the maximum charge;
- Year 2 – 85% of the maximum charge;
- Year 3 – 90% of the maximum charge;
- Year 4 – 95% of the maximum charge; and
- Year 5 to expiry – 100% of the maximum charge.

As a result, if the Municipality amended the D.C. by-law to reduce the charge, the reduced charge would need to be phased-in as per the above. For example, if the new charge was calculated at \$10,000 per single detached unit, the maximum the Municipality could impose in the first year would be \$8,000. Note that this would apply to all services in the by-law, not just wastewater services.

4.2.2 *Removal of Growth-related Studies*

The definition of eligible capital costs has been revised to remove the costs of studies, including the preparation of the D.C. Background Study. This applies to by-laws passed after November 28, 2022. As a result, any amendment to the existing by-law or new by-law may result in the removal of growth-related studies from the D.C. by-law.

5. Options for Council's Consideration

5.1 Overview of Options

Given there have been inquiries into payment of D.C.s in the Belle River Strip, there are a number of options Council may consider. The subsequent sections provide a brief overview of the following options:



- Status quo;
- Removal of the project and anticipated development from the D.C.;
- Utilizing delayed payment agreements; and
- Updating the D.C. forecast periods.

5.2 Status Quo

Council may elect to keep the D.C. calculations as-is. Although development is proceeding in advance of the servicing, the Municipality has the ability to impose the D.C. The by-law has clear rules regarding who will pay a D.C. and who is exempt (wholly or partially), and in this situation, these rules do not exempt these properties. The services these areas will be required to contribute towards include fire, police, library, parks and recreation, growth studies, roads/public works, sanitary sewer and water. All of these services, except water and sewer are imposed by the by-law, on development occurring anywhere within the Municipal boundaries. The Municipality has determined that the anticipated development over the planning period will increase the needs for these services and that all development should pay a D.C. As these services are, and will be, of benefit to these proposed development areas, a D.C. should be paid. In regard to sewer services, although development in some areas may need to build septic systems for their developments, the area where the development will be built is within the urban boundary and the services will be built by the Municipality over the forecast period. The owners of these properties have chosen to build in advance of those services and hence, would be required to build interim servicing for their properties as well as pay the D.C.

When servicing is available, the existing properties will not have to pay to hook-into the system as they will have already paid their D.C.

5.3 Removal of Project and Anticipated Development from the D.C.

If Council elects to remove the anticipated development and capital costs from the D.C. study, there may also be planning implications to consider. The O.P. identifies the Belle River Strip as an urban area. If Council removes the projects and development from the D.C., they may no longer be planning for urban development in this area which is contrary to the Municipality's O.P. However, should Council choose this approach, there will be no D.C. funding identified for the conveyance works when the Municipality plans to service the area. As a result, the Municipality may have to utilize Part XII of the Municipal Act to impose capital charges on the existing and new development in the area. Those properties that have developed and have not paid a D.C. may be required by the Municipality to connect to the system and pay the capital charge.

This approach would result in the removal of growth studies from the by-law, as well as trigger a review of the level of service calculations on a 15-year period and trigger the mandatory phase-in required by Bill 23.



5.4 Utilizing Delayed Payment Agreements

If the number of developments proceeding in advance of the servicing may be limited, the Municipality may consider utilizing section 27 of the D.C.A. to enter into delayed payment agreements with the property owners. This would allow the Municipality to maintain the D.C. calculations and allow the property owners to pay their D.C.s at a later date. This can be a specific date determined through the agreement (e.g. the date servicing is available). This approach does come with additional administrative burden however, as staff will be responsible for creating the agreements and monitoring the agreements until the D.C.s are paid for this area.

5.5 Updating the D.C. Forecast Periods

There is no required time horizon to include in the D.C. when planning for development. The Municipality may also consider updating the D.C. study to utilize a smaller time horizon for conveyance services. Since the conveyance project for the Belle River Strip is not anticipated for a number of years, Council may consider using a shorter time horizon which would exclude this project and the development from the calculations. As the Municipality gets closer to the date of servicing, this area and the capital needs can be added into the calculations. However, if the forecast period for sanitary sewers is shortened, the charges for treatment would still be payable, unless that forecast was shortened as well. If the forecast for treatment was shortened as well, the share of the costs for the Denis St. Pierre plant (and potentially other projects) would be increased, increasing the amount that would have to be financed with wastewater rates.

This approach would result in the removal of growth studies from the by-law, as well as trigger a review of the level of service calculations on a 15-year period and trigger the mandatory phase-in required by Bill 23.

Based on Council's consideration of the above, we would be pleased to undertake any refinements required to the Municipality's D.C. by-law.



Appendix A

Bill 23, More Homes Built Faster Act – Impacts to D.C.A.



Bill 23, More Homes Built Faster Act

On November 28, 2022, Bill 23 received Royal Assent. This Bill amends a number of pieces of legislation including the Planning Act and the D.C.A. The following provides a summary of the changes to the D.C.A.:

Additional Residential Unit Exemption

The rules for these exemptions are now provided in the D.C.A., rather than the regulations and are summarized as follows:

- Exemption for residential units in existing rental residential buildings – For rental residential buildings with four or more residential units, the creation of the greater of one unit or 1% of the existing residential units will be exempt from a D.C.
- Exemption for additional residential units in existing and new residential buildings – The following developments will be exempt from a D.C.:
 - A second unit in a detached, semi-detached, or rowhouse if all buildings and ancillary structures cumulatively contain no more than one residential unit;
 - A third unit in a detached, semi-detached, or rowhouse if no buildings or ancillary structures contain any residential units; and
 - One residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-detached, or rowhouse contains no more than two residential units and no other buildings or ancillary structures contain any residential units.

Removal of Housing as an Eligible D.C. Service

Housing services is removed as an eligible service. Municipalities with by-laws that include a charge for housing services can no longer collect for this service.

New Statutory Exemption for Non-Profit Housing

Non-profit housing units are exempt from D.C.s and D.C. instalment payments due after November 28, 2022.

New Statutory Exemptions for Affordable Units, Attainable Units, and Affordable Inclusionary Zoning Units

Affordable units, attainable units, and inclusionary zoning units (affordable) are exempt from the payment of D.C.s, as follows:

- **Affordable Rental Units:** Where rent is no more than 80% of the average market rent as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.



- **Affordable Owned Units:** Where the price of the unit is no more than 80% of the average purchase price as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.
- **Attainable Units:** Excludes affordable units and rental units; will be defined as prescribed development or class of development and sold to a person who is at “arm’s length” from the seller.
 - Note: for affordable and attainable units, the municipality shall enter into an agreement that ensures the unit remains affordable or attainable for 25 years.

The above exemptions are not currently in force. These exemptions will be in force upon proclamation and revisions to the regulations. The bulletin has yet to be published as at the time of writing this report.

- **Inclusionary Zoning Units:** Affordable housing units required under inclusionary zoning by-laws are exempt from a D.C.

Historical Level of Service extended to previous 15-year period

Prior to Bill 23, the increase in need for service was limited by the average historical level of service calculated over the 10-year period preceding the preparation of the D.C. background study. This average is now extended to the historical 15-year period.

Revised Definition of Capital Costs

The definition of capital costs has been revised to remove studies. Further, the regulations to the Act may prescribe services for which land or an interest in land will be restricted. As at the time of writing, no services have been prescribed.

Mandatory Phase-in of a D.C.

For all D.C. by-laws passed after January 1, 2022, the charge must be phased-in annually over the first five years the by-law is in force, as follows:

- Year 1 – 80% of the maximum charge;
- Year 2 – 85% of the maximum charge;
- Year 3 – 90% of the maximum charge;
- Year 4 – 95% of the maximum charge; and
- Year 5 to expiry – 100% of the maximum charge.

D.C. By-law Expiry

A D.C. by-law now expires 10 years after the day it comes into force (unless the by-law provides for an earlier expiry date). This extends the by-law’s life from five (5) years, prior to Bill 23.



Installment Payments

Non-profit housing development has been removed from the instalment payment section of the Act (section 26.1), as these units are now exempt from the payment of a D.C.

Rental Housing Discount

The D.C. payable for rental housing development will be reduced based on the number of bedrooms in each unit as follows:

- Three or more bedrooms – 25% reduction;
- Two bedrooms – 20% reduction; and
- All other bedroom quantities – 15% reduction.

Maximum Interest Rate for Instalments and Determination of Charge for Eligible Site Plan and Zoning By-law Amendment Applications

No maximum interest rate was previously prescribed. As per Bill 23, the maximum interest rate is set at the average prime rate plus 1%. This maximum interest rate provision would apply to all instalment payments and eligible site plan and zoning by-law amendment applications occurring after November 28, 2022.

Requirement to Allocate Funds Received

Annually, beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the regulation.