



Province of Alberta
Order in Council

O.C. 353 /2017

OCT 26 2017

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Off-Site Levies Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT

as ALBERTA REGULATION 187/2017

ON October 26 20 17

DEPUTY REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Municipal Affairs

Authority: Municipal Government Act
(section 694)

APPENDIX
Municipal Government Act
OFF-SITE LEVIES REGULATION

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Definitions

- 1 In this Regulation,
 - (a) “facilities” includes the facility, the associated infrastructure, the land necessary for the facility and related appurtenances referred to in section 648(2.1) of the Act;
 - (b) “infrastructure” includes the infrastructure, the facilities and the land necessary for the infrastructure or facilities referred to in section 648(2) of the Act;
 - (c) “levy” means an off-site levy referred to in section 648(1) of the Act;

- (d) “stakeholder” means any person that will be required to pay the levy when the bylaw is passed, or any other person the municipality considers is affected.

Application generally

2 A municipality, in establishing a levy

- (a) for the purposes of section 648(2) of the Act, must apply the principles and criteria specified in sections 3, 4 and 5,
- (b) for the purposes of section 648(2.1) of the Act, must apply the principles and criteria specified in sections 3, 4, 5 and 6, and
- (c) for the purposes of section 648.01 of the Act, must apply the principles and criteria specified in sections 3, 4, 5 and 7.

General principles

- 3(1)** The municipality is responsible for addressing and defining existing and future infrastructure and facility requirements.
- (2)** The municipality must consult in good faith with stakeholders in accordance with section 8.
- (3)** All beneficiaries of development are to be given the opportunity to participate in the cost of providing and installing infrastructure and facilities in the municipality on an equitable basis related to the degree of benefit.
- (4)** Where necessary and practicable, the municipality is to coordinate infrastructure and facilities provisions and services with neighbouring municipalities.

Levy Bylaws

Principles and criteria for determining methodology

- 4(1)** A municipality has the flexibility to determine the methodology on which to base the calculation of the levy, provided that such methodology
 - (a) takes into account criteria such as area, density or intensity of use,
 - (b) recognizes variation among infrastructure types,

- (c) is consistent across the municipality for that type of infrastructure or facility, and
- (d) is clear and reasonable.

(2) Notwithstanding subsection (1)(c), the methodology for determining a levy for the purposes of section 648(2.1) of the Act may be different from the methodology used to calculate any other levy established by the municipality.

Principles and criteria for determining levy costs

5(1) In determining the basis on which the levy is calculated, the municipality must at a minimum consider and include or reference the following in the bylaw imposing the levy:

- (a) a description of the specific infrastructure and facilities;
- (b) a description of each of the benefitting areas and how those areas were determined;
- (c) supporting technical data and analysis;
- (d) estimated costs and mechanisms to address variations in cost over time.

(2) The municipality may establish the levy in a manner that involves or recognizes the unique or special circumstances of the municipality.

(3) The information used to calculate the levy must be kept current.

(4) The municipality must include a requirement for a periodic review of the calculation of the levy in the bylaw imposing the levy.

(5) There must be a correlation between the levy and the benefits to new development.

Additional principles and criteria to apply to s648(2.1) facilities

6(1) In calculating a levy imposed pursuant to section 648(2.1) of the Act, the municipality must take into consideration supporting statutory plans, policies or agreements and any other relevant documents that identify

- (a) the need for and anticipated benefits from the new facilities,
- (b) the anticipated growth horizon, and
- (c) the portion of the estimated cost of the facilities that is proposed to be paid by each of
 - (i) the municipality,
 - (ii) the revenue raised by the levy, and
 - (iii) other sources of revenue.

(2) In addition to the criteria set out in subsection (1), the principles and criteria set out in sections 3, 4 and 5 apply when determining a levy for the facilities referred to in section 648(2.1) of the Act.

(3) The municipality has the discretion to establish service levels and minimum building and base standards for the proposed facilities.

Additional principles and criteria to apply to s648.01 intermunicipal off-site levies

7(1) In calculating a levy imposed on an intermunicipal basis pursuant to section 648.01 of the Act, each participating municipality must use a consistent methodology to calculate the levy and each bylaw imposing the levy must

- (a) identify the same specific infrastructure and facilities,
- (b) identify the same benefitting area across each participating municipality for the specific infrastructure and facilities, and
- (c) identify the portion of benefit attributable to each participating municipality within that benefitting area.

(2) In addition to the criteria set out in subsection (1), the principles and criteria set out in sections 3, 4 and 5 apply when determining an intermunicipal levy referred to in section 648.01 of the Act.

(3) In addition to the criteria set out in subsection (1), when determining an intermunicipal levy referred to in section 648.01 of

the Act for facilities referred to in section 648(2.1) of the Act, the principles and criteria set out in section 6 apply.

Consultation

8(1) The municipality must consult in good faith with stakeholders prior to making a final determination on defining and addressing existing and future infrastructure and facility requirements.

(2) The municipality must consult in good faith with stakeholders when determining the methodology on which to base the levy.

(3) Prior to passing or amending a bylaw imposing a levy, the municipality must consult in good faith on the calculation of the levy with stakeholders in the benefitting area where the levy will apply.

(4) During consultation under subsections (2), (3) and (4), the municipality must make available to stakeholders on request any assumptions, data or calculations used to determine the levy.

Annual report

9(1) The municipality must provide full and open disclosure of all the levy costs and payments.

(2) The municipality must report on the levy annually and include in the report the details of all levies received and utilized for each type of facility and infrastructure within each benefitting area.

(3) Any report referred to in subsection (2) must be in writing and be publicly available in its entirety.

Levy Bylaw Appeals

Who may appeal

10 Pursuant to section 648.1 of the Act, any person who is directly affected by a bylaw imposing a levy may submit a notice of appeal to the Municipal Government Board.

Appeal period

11 An appeal must be submitted to the Municipal Government Board within 30 days of the day on which the bylaw imposing the levy was passed.

Form of appeal

12(1) A notice of appeal under section 10 must

- (a) identify the municipality or municipalities that passed the bylaw that is objected to,
- (b) identify how the appellant is directly affected by the bylaw that is objected to,
- (c) set out the grounds on which the appeal is made,
- (d) contain a description of the relief requested by the appellant,
- (e) where the appellant is an individual, be signed by the appellant or the appellant's lawyer,
- (f) where the appellant is a corporation, be signed by an authorized director or officer of the corporation or by the corporation's lawyer, and
- (g) contain an address for service for the appellant.

(2) If a notice of appeal does not comply with subsection (1), the Municipal Government Board must reject it and dismiss the appeal.

Consolidation of appeals

13 Where there are 2 or more appeals commenced in accordance with section 10, the Municipal Government Board may

- (a) consolidate the appeals,
- (b) hear the appeals at the same time,
- (c) hear the appeals consecutively, or
- (d) stay the determination of the appeals until the determination of any other appeal.

No stay of levy

14(1) The municipality may continue to impose and collect a levy even if the bylaw imposing the levy is subject to an appeal under section 10.

(2) During the appeal period or pending the determination of an appeal of the bylaw imposing the levy by the Municipal Government Board, any levy received under that bylaw by the municipality must be held in a separate account for each type of facility.

(3) The municipality must not use levy funds received while the bylaw imposing the levy is subject to an appeal under section 10 until the appeal has been determined by the Municipal Government Board.

Sale of Facilities

Consultation on proposed sale

15 The municipality must engage in public consultation prior to the sale of any facilities constructed using levy funds.

Proceeds of sale

16 The proceeds of the sale of a facility constructed using levy funds must be used for the purpose for which the levy was originally collected.

Repeal

17 The *Principles and Criteria for Off-site Levies Regulation* (AR 48/2004) is repealed.

Coming into force

18 This Regulation comes into force on the coming into force of sections 104, 105 and 131(b) of the *Modernized Municipal Government Act* and section 1(60)(a) of *An Act to Strengthen Municipal Government*.