



Province of Alberta

MUNICIPAL GOVERNMENT ACT

OFF-SITE LEVIES REGULATION

Alberta Regulation 187/2017

With amendments up to and including Alberta Regulation 53/2018

Current as of May 1, 2018

Office Consolidation

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(Consolidated up to 53/2018)

ALBERTA REGULATION 187/2017

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” means the infrastructure, facilities and land required for the purposes referred to in section 648(2)(a) to (c.1) 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;
- (e) “transportation infrastructure” means the infrastructure and land referred to in section 648(2)(c.2) required to connect or improve the connection of a municipal road to a provincial highway.

AR 187/2017 s1;53/2018

Application generally

2 A municipality, in establishing a levy

- (a) for the purposes of section section 648(2)(a) to (c.1) of the Act and any land required for or in connection with these purposes, must apply the principles and criteria specified in sections 3, 4 and 5,
- (a.1) for the purposes of section 648(2)(c.2) of the Act and any land required for or in connection with these purposes, must apply the principles and criteria specified in sections 3, 3.1, 4, 5 and 5.1,
- (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.

AR 187/2017 s2;53/2018

General principles

- 3(1)** Subject to section 3.1, the municipality is responsible for addressing and defining existing and future infrastructure, transportation 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, transportation 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, transportation infrastructure and facilities provisions with neighbouring municipalities.
- (5)** Notwithstanding anything to the contrary in this Regulation, the levy is of no effect to the extent it directs the Government of Alberta to expend funds, to commit to funding transportation infrastructure or arrangements to undertake particular actions or to adopt particular policies or programs.
- (6)** A municipality cannot compel an applicant for a development permit or subdivision approval to fund the cost of the construction of infrastructure, transportation infrastructure or facilities to be funded by a levy beyond the applicant's proportional benefit.
- (7)** A municipality and an applicant for a development permit or subdivision approval may enter into an agreement whereby the applicant agrees to fund the entire cost of the construction of infrastructure, transportation infrastructure or facilities to be funded by a levy, subject to terms and conditions agreed to by both parties.
- (8)** An agreement made under subsection (7) may include provisions for the reimbursement of the cost incurred or payment made in excess of the applicant's proportional benefit of the infrastructure, transportation infrastructure or facilities together with interest calculated at a rate fixed by the municipality for the amount of the cost of the infrastructure, transportation infrastructure or facilities until all land in the benefiting area for the specific infrastructure, transportation infrastructure or facilities is developed or subdivided.

AR 187/2017 s3;53/2018

Transportation infrastructure — general principles

- 3.1(1)** The municipality, in consultation with the Minister responsible for the *Highways Development and Protection Act*, is

responsible for defining the need, standards, location and staging for new or expanded transportation infrastructure.

(2) All transportation infrastructure constructed must adhere to the standards, best practices and guidelines acceptable to the Minister responsible for the *Highways Development and Protection Act* and are subject to that Minister's approval.

AR 53/2018 s5

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

(2) Notwithstanding subsection (1)(c), the methodology used in determining the calculation of a levy may be different for each specific type of infrastructure, transportation infrastructure or facility.

AR 187/2017 s4;53/2018

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, facilities and transportation infrastructure;
- (b) a description of each of the benefitting areas and how those areas were determined;
- (c) supporting studies, 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.

AR 187/2017 s5;53/2018

Additional principles and criteria to apply to transportation infrastructure

5.1(1) In calculating a levy imposed pursuant to section 648(2)(c.2) of the Act, the municipality must take into consideration the following:

- (a) supporting traffic impact assessments or other applicable technical studies;
- (b) statutory plans;
- (c) policies;
- (d) agreements that identify
 - (i) the need for and benefits from the new transportation infrastructure,
 - (ii) the anticipated growth horizon, and
 - (iii) the portion of the estimated costs of the transportation infrastructure that is not covered by the Crown that is proposed to be paid by
 - (A) the municipality,
 - (B) the revenue raised by the levy, and
 - (C) other sources of revenue;
- (e) any other relevant documents.

(2) In addition to the principles and criteria set out in sections 3, 3.1, 4 and 5, the additional criteria set out in subsections (1), (3) and (4) apply when determining a levy for transportation infrastructure.

(3) Once the need for transportation infrastructure has been identified by a municipality in consultation with the Minister responsible for the *Highways Development and Protection Act*, the municipality

- (a) must determine the benefitting area, and
- (b) must base the benefitting area on a reasonable geographic area for the use of the transportation infrastructure.

(4) A levy under this section must apply proportionally to a benefitting area determined under subsection (3).

AR 53/2018 s8

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, transportation infrastructure and facilities,
- (b) identify the same benefitting area across participating municipalities for the specific infrastructure, transportation 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.

(2.1) In addition to the criteria set out in subsection (1), the principles and criteria set out in sections 3.1 and 5.1 apply when determining an intermunicipal levy for transportation infrastructure referred to in section 648(2)(c.2) 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.

AR 187/2017 s7;53/2018

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, transportation 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 (1), (2) and (3), the municipality must make available to stakeholders on request any assumptions, data or calculations used to determine the levy.

AR 187/2017 s8;53/2018

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 for a purpose referred to in section 648(2.1) of the Act may submit a notice of appeal to the Municipal Government Board.

AR 187/2017 s10;53/2018

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*.



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