

*NEW REGULATION
(THIS REGULATION REPLACES THE [PRINCIPLES AND
CRITERIA FOR OFF-SITE LEVIES REGULATION](#))

FOR DISCUSSION PURPOSES ONLY

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, 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.

Links the term facilities to the expanded facilities (community recreation facilities, police stations, fire halls, libraries) that were included in the *Modernized Municipal Government Act (MMGA)*.

Links the term infrastructure to the infrastructure that is in the *MGA*.

References the section on off-site levies within the *MGA*.

Application generally

2 A municipality, in establishing an off-site levy,

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Provides clarity on the principles and criteria that municipalities must apply when determining levies for either the existing infrastructure or the expanded facilities of the *MMGA*.

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

Principles adjusted from the Principles and Criteria for Off-Site Levies Regulation.

General principles

Provide clarity that this refers to municipal responsibility to plan infrastructure needs.

3(1) The municipality is responsible for addressing and defining existing and future infrastructure and facility requirements.

Provide clarity that there needs to be meaningful consultation between municipalities and developers when determining costs.

(2) The municipality must consult in good faith with affected stakeholders in accordance with section 7.

This principle did not change from the original regulation.

(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.

This principle did not change from the original regulation.

(4) Where necessary and practicable, the municipality is to coordinate infrastructure and facilities provisions and services with neighbouring municipalities.

Off-site Levy Bylaws

Principles and criteria for determining methodology

Provides increased flexibility for municipalities on how they arrive at the levy, and introduces that the levy can be established by other means but not limited to geographical areas. Flexibility is required when calculating the levy related to expanded facilities in *MMGA*.

4(1) A municipality has the flexibility to determine the methodology upon 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.

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

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Principles and criteria for determining levy costs

This principle did not change from the original regulation but is separated from the negotiating piece as this statement pertains to determining the levy cost.

5(1) The municipality may establish the levy in a manner that involves or recognizes the unique or special circumstances of the municipality.

(2) In determining the basis upon which the levy is calculated, the municipality must at a minimum consider

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

This criteria did not change from the original regulation. It requires that the municipality both describe and justify how it arrives at calculating benefitting areas accrued to new development. Addresses flexibility and acknowledges construction costs may change over time

This criteria did not change from the original regulation.

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

Provides for review periods to determine if calculations remain relevant. No specific timeframe is set as it may vary between municipalities of various sizes depending on scope and complexity.

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

This criteria did not change from the original regulation.

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

Additional principles and criteria to apply to section 648(2.1) facilities

Section provides for the new principles and criteria related to the off-site levy costs for the expanded facilities in the *MMGA*. Recognizes that methodology for these facilities is unique from the other infrastructure in the *MGA*.

6(1) In addition to the principles and criteria set out in sections 3, 4 and 5, the additional criteria set out in subsection (2) shall apply when determining a levy for the facilities referred to in section 648(2.1) of the Act.

(2) The calculation of the levy for the purposes of section 648(2.1) must also include supporting statutory plans, policies or agreements that identify,

- (a) the need for and benefits from the new facilities,
- (b) the anticipated growth horizon,

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- (c) the portion of the estimated cost of the facilities that is proposed to be paid by
 - (i) the municipality,
 - (ii) the revenue raised by the levy, and
 - (iii) other sources of revenue.

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

Section provides clarity on what consultation means, who must be consulted with during the bylaw making process and when determining methodology to base costs for the existing and future infrastructure and facility requirements.

Consultation

7(1) The municipality must consult in good faith with affected 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 affected stakeholders when determining the methodology upon which to base the levy costs.

(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 affected stakeholders in the benefitting area where the levy will apply.

Section provides direction and clarity to ensure increased accountability and transparency in the levy collection and reporting.

Annual report

8(1) The municipality must provide full and open disclosure of all the levy costs and payments.

(2) The municipality shall 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.

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

Off-site Levy Bylaw Appeals

Appeal period

9 An appeal must be submitted to the Municipal Government Board not later than 30 days after the bylaw imposing the levy has been passed.

Section supports provisions in the *MMGA* for appeal of matters related to an off-site levy bylaw.

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Form of appeal

Section supports provisions in the *MMGA* for appeal of matters related to an off-site levy bylaw.

10(1) A notice of appeal must,

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

Section supports provisions in the *MMGA* for appeal of matters related to an off-site levy bylaw.

Consolidation of appeals

11 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.

Section supports provisions in the *MMGA* for appeal of matters related to an off-site levy bylaw.

No stay of levy

12(1) Submitting a notice of appeal under section 10 does not operate to stay the imposition and collection of a levy.

(2) Any levy that is received by the municipality during the appeal period or while an appeal of the levy is still to be determined by the Municipal Government Board, must be held in a separate account for each type of facility and the municipality shall refrain from the use of such levies received until the appeal has been determined by the Municipal Government Board.

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Repeal

This regulation replaces the Principles and Criteria for Off-Site Levies Regulation.

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

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