
OFFSITE LEVY POLICY

REFERENCE: Offsite Levy Bylaw 2135 APPROVED: Town Council, September 17, 2013
 Corvus Business Advisors
 Offsite Levy Policy Framework
 Version 4.0 Sept 9, 2013

SUPERSEDES: New
 Amended – July 18, 2017, Resolution 10
 Amended – September 18, 2018, Resolution 9

POLICY STATEMENT:

The Town of Edson has adopted levies to pay for all or part of the infrastructure required in respect of lands to be subdivided or developed (i.e. roads, water, sanitary sewer, and storm water). This document outlines the processes that the Town of Edson has adopted to guide when to assess levies to developers, when levy amounts are payable, when and how front-end infrastructure construction will be assigned to developers, and when and how developer front-end construction will be reimbursed.

DEFINITIONS:

Term	Description
Off-site Levy Exemption	Conditions that must be satisfied in order to have to an off-site levy assessment waived on a subdivision or development permit application.
Off-site Levy Offset	Front-end infrastructure costs incurred by the developer used to reduce the amount of off-site levy assessment payable by the developer.
Off-site Levy Deferral Agreement	An agreement between the developer and municipality that permits the developer to pay off-site levies on an installment basis.
Off-site Levy Down Payment	The amount of off-site levy that is immediately due upon the issuance of a subdivision or development permit.
Off-site Levy Installment	The amount of off-site levy assessment that is due annually.
“Qualified” Off-site Infrastructure	Developer front-ended infrastructure that is outlined in the Off-site Levy Bylaw and contained within the “qualified” portion of the Capital Plan (usually the first 5 years).
“Non-Qualified” Off-site Infrastructure	Developer front-ended infrastructure that is outlined in the Off-site Levy Bylaw and is contained within the “non-qualified” portion of the Capital Plan (usually beyond 5 years).
Capital Plan	Outlines Off-site infrastructure approved for construction and outlined in the Off-site Levy Bylaw. Note, items approved for construction do not necessarily mean that they are funded.
Annual Financial Plan	Outlines future anticipated disbursement / retention of off-site levy reserve funds. The plan considers front-ending claims, development infrastructure staging, Off-site levy reserve balances, future off-site levy receipts, municipal debt capacity etc.
Construction Completion Certificate	Issued by the municipality to signify that front-end off-site infrastructure has been constructed to standard.
Final Acceptance Certificate	Issued at the completion of a warrantee period and when front-end infrastructure is free of defects and deficiencies. The Final Acceptance Certificate signals the release of hold back on front-ended construction repayment.
Holdback	The amount of funds held-back after issuance of the Construction Completion Certificate during the warranty period. Holdback may be released upon issue of the Final Acceptance Certificate.



1. ASSESSMENT/COLLECTION PROCESS OVERVIEW

The first thing that must be determined is whether an application for subdivision or development is eligible or exempt from incurring an off-site levy obligation:

Guiding Principle

If a parcel of land was previously developed or subdivided, and an off-site levy was paid in accordance with Section 648 of the Municipal Government Act on that entire parcel, then any new development or subdivision is exempt from any future assessment and payment of off-site levies.

Guiding Principle

If a development or subdivision is, in the opinion of the Town, likely not to place a burden on the roads, and/or water, and/or sanitary, and/or storm water off-site infrastructure then the development or subdivision may, subject to the approved policies, be considered exempt from off-site levy assessment and payment obligation.

Threshold

Exemption / Exemption Threshold		Rationale
a)	Temporary Development / Land Uses Temporary land uses are exempt so long as the use or structure proposed will not be used beyond 1 year.	If a use is truly temporary in nature the impact on off-site levy infrastructure will also be temporary and therefore complies with the guiding principle. The timeframe threshold ensures that a temporary use is not extended to permanent use.
b)	Replacement of a Structure Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement is substantially completed within 1 year of the demolition or destruction of the prior structure are exempt.	This is intended to exempt residential rebuilding / commercial rebuilding in the event of a fire or similar catastrophic lost, etc. The replacement structure would not use off-site infrastructure to any greater extent than the previous structure. The threshold timeframe is intended to ensure that replacement of the structure occurs in a timely fashion.



Exemption / Exemption Threshold		Rationale
c)	<p>Altering a Residential Structure</p> <p>Altering residential structures which will not impact the original use of the structure may be considered exempt. (i.e., single family residential once altered, remains single family use).</p>	<p>This is intended to exempt the various forms of residential alterations that may be applied for. Alterations that change the original use (e.g., moving from single family to multi-family) would be considered a development that would result in greater demand on off-site infrastructure and therefore not exempt from off-site levies.</p>
d)	<p>Ancillary improvements</p> <p>Includes but may not limited to fences, walls, berms and signs. These miscellaneous improvements are exempt.</p>	<p>This is intended to exempt various residential, commercial and industrial development applications that would not create any additional burden on off-site infrastructure.</p>
e)	<p>Division of Lands so that Further Subdivision Can Take Place</p> <p>Includes situations where lands are subdivided into blocks that in turn would require further subdivision of individual lots or blocks. A parcel size greater than 16ha. (40ac.) is exempt.</p>	<p>This allows large tracks of lands to be assembled and divided among developers. The parcel size threshold is established to help guide application of this exemption.</p>
f)	<p>Non-residential Farm Buildings</p> <p>Agricultural / farming structures are exempt. This would include bona fide farming operations encompassing barns, silos and other ancillary development for agricultural use.</p>	<p>Exempting non-residential farm buildings would permit existing farms to modernize without facing off-site levy assessments and payments.</p>
g)	<p>Division of Agricultural Lands</p> <p>Includes situations where a farm is subdivided. Subdivision of land in blocks greater than 16 ha. (40ac.) are exempt. An exemption is also permitted for the severance of a residential parcel of land from the agricultural lands for a residential site.</p>	<p>This would allow land owners to sell their farmland and create one residential site on the divided lands.</p>



Exemption / Exemption Threshold		Rationale
h)	<p>Enlargement of Existing Non-Residential Buildings</p> <p>Non-Residential buildings may be enlarged to 25% of the existing buildings floor size before off-site levies are assessed. Cumulative building enlargement in excess of 25% building threshold size will result in the assessment of off-site levies.</p>	<p>The floor plate % threshold is easy to administer. A cumulative threshold has been created to ensure that multiple / staged building enlargements do not bypass the payment of off-site levies.</p>
i)	<p>Intensified Land Development</p> <p>Non-building site development use (processing / production facilities, storage etc.) can be increased by 25% before off-site levies are assessed. Cumulative increased site use in excess of 25% use increase threshold will result in the assessment of off-site levies.</p>	<p>The site use % threshold is easy to administer. A cumulative threshold has been created to ensure that multiple / staged site developments do not bypass the payment of off-site levies.</p>
j)	<p>Alteration of a Non-Residential Structure That Does Not Change the Use or Size of the Structure</p> <p>This would permit any existing industrial or commercial structure to be modernized and be exempt from off-site levy assessment and payments provided that the improvement occurred within the existing floor plate size and the use of the structure did not change.</p>	<p>This would allow existing developments to make office renovations etc. within the existing development floor plate. However if a structures floor plate size were increased the exemption would be lost. Further, if an alteration changed the use of the structure then the exemption would also be lost.</p>
k)	<p>Demolition or Removing of a Structure</p> <p>This would permit any existing property to remove existing structures while remaining exempt from off-site levy assessments.</p>	<p>This would allow existing property owners to demolish older structures in readying the property for future development.</p>



	Exemption / Exemption Threshold	Rationale
l)	<p>Test of Burden</p> <p>If a review of a specific subdivision or development proposal by the Development Authority has determined the impact to municipal services is equivalent, less than, or of nominal impact to municipal services provided to a site, the Planning and Development Department Head may waive application of offsite levies to that specific approval.</p> <p>This determination is at the discretion of the Department Head or Chief Administrative Officer. An Offsite Levy may be differed entirely or for specific services.</p> <p>A Levy for a service waived under this policy does not prevent the Town from collection of the levy for that service in the future. The decision whether an offsite levy for a service is waived may not be appealed to the Subdivision and Development Appeals Board (SDAB). The SDAB may only consider if the Offsite Development Levy Bylaw is applicable to the proposal or not.</p>	<p>A Test of Burden review sheet will be prepared for any qualifying application. The review sheet will assess if the proposed development will result in an increase to municipal service provided to the site for qualified services which may include any service addressed under Section 648(2) or 648(2.1) of the <i>Municipal Government Act</i>.</p> <p>If the developed is deemed by the Department Head not to have an undue impact to services and waiver would not be deemed a granting of a special privilege*, offsite levies may be waived at their discretion. If the development will have only a partial impact (e.g. roads or water only) then the Department Head may apply all levies or choose to waive all but the impacted service.</p> <p><i>*For the purposes of this policy, a special privilege means a decision that is a benefit to a party to the exclusion of others and in derogation of common right.</i></p>



2. LEVY ASSESSMENT DEFERMENT AND INSTALLMENT PAYMENTS

Once an off-site levy is incurred, the next decision is “when should the levy be paid?” Off-site levy deferment allows the developer to pay their levy over a period of time. Eligibility for deferment must be considered.

Guiding Principle

A development or subdivision that is assessed cumulative off-site levies in excess of \$800,000 may elect to defer Off-site levy payments.

Threshold

Deferment Threshold		Rationale
a)	Off-site Levy Deferment Threshold The option to defer payment of levies would be extended to any subdivision or development application with off-site levies greater than \$800,000. The maximum deferment period is 2 years.	The dollar value threshold provides the developer with a clearly understood threshold for payment deferment. Off-site levies below the threshold are payable as a condition of approving a development or subdivision application.



3. REPAYMENT PERIOD AND TERMS

Guiding Principle

Developers that are eligible and elect to defer off-site levy payments must enter into agreement with the Town (execute a Deferral Agreement). The Deferral Agreement with the Town outlines the terms and conditions upon which off-site levy payments will be made. Non-qualified infrastructure is not eligible for deferral.

	Installment Terms	Rationale
a)	<p>Initial Off-site Levy Down Payment</p> <p>A portion of the off-site levy assessment is payable as a condition of the subdivision or development permit being issued. The down payment must be 33.33% of the off-site levy assessment. The balance to be paid in installments.</p>	<p>The payment of a portion of the Off-site levy ensures that some level of funding will immediately flow into the off-site levy reserves.</p>
b)	<p>Installment Payments</p> <p>The balance owing would be paid within a maximum period of 2 years as follows:</p> <ul style="list-style-type: none"> • 1st Year Anniversary Date - 50% of the balance owing will be paid. The balance owing is adjusted to reflect the approved off-site levy rates as at date of payment. • 2nd Year Anniversary Date - payment of the remaining balance. The balance owing will be adjusted to reflect the approved off-site levy rates as at the time of payment. 	<p>The payment installment period is intended to provide a cash flow outlet to the developer. Deferral however does not lock in the amount to be paid by the developer. A developer would be required to adjust amounts due to the Town as a result of any levy rate changes that occurred over the deferral period.</p>
c)	<p>Early Repayment</p> <p>Developers have the ability to pay off any off-site levy balances earlier than the repayment date terms.</p>	<p>This would accommodate situations where a developer wishes to pay out all levy obligations. Early payment may be desired to avoid off-site levy rate increase adjustments.</p>



4. REPAYMENT INDEMNIFICATION

Guiding Principle

Developers that elect to defer off-site levy payments must provide the Town with indemnification in the event of payment default.

Failure of the developer to pay an off-site levy installment will result in the indemnification held by the Town to be exercised and applied against amounts owed by the developer.

Indemnification Terms		Rationale
a)	Irrevocable Letter of Credit An irrevocable letter of credit in the amount of the balance owing will be provided by the developer to the Town. As installments are provided to the Town a new letter of credit for the remaining balance owing will be provided. This balance may be adjusted as a result of any off-site levy rate changes that have occurred.	The irrevocable letter of credit provided through a bank or lending institution may be readily converted in the case of payment default.

5. INCREASING AMOUNTS DUE FOR ANY INCREASE IN OFF-SITE LEVY RATES

Guiding Principle

Developers that elect to defer off-site levy payments will be assessed their off-site levy obligation based upon the off-site levy rate in effect at time of payment.

Assessment Adjustment Terms		Rationale
a)	Assessment at Time of Payment Off-site levy balances owing are “floating” and subject to adjustment for off-site levy rates in effect at the time of payment.	Off-site infrastructure is subject to changes for cost changes, interest rate changes etc. These changes will be considered in off-site levy rate changes annually.



6. OFF-SITE LEVY INFRASTRUCTURE FRONT-ENDING

The timing of off-site infrastructure is such that all off-site levy funds will not be in place prior to construction. In order to attract developers to front-end construction, certain policy incentives have been implemented by the Town of Edson.

Guiding Principle

Off-site infrastructure constructed by a developer will be constructed to the standards and specifications of the Town.

Developers are required to enter into an agreement with the Town on all off-site infrastructure constructed (qualified or non-qualified infrastructure).

“Qualified” Off-site infrastructure is outlined within Town of Edson’s off-site Levy Bylaw and is contained within the next 5 years of the Town’s Capital Plan.

“Non-qualified” Off-site infrastructure is outlined with Town of Edson’s Off-site Levy Bylaw but is contained beyond the next 5 years of the Town’s Capital Plan.

Developers that construct “Qualified” or “Non-qualified” Off-site infrastructure are permitted to offset off-site levies up to the cost of infrastructure being constructed (see offsetting off-site levies).

Developers that construct “qualified” off-site infrastructure will be reimbursed infrastructure construction costs and interest will accrue on unpaid balances.

Developers that construct “non-qualified” off-site infrastructure will not be reimbursed costs and will not receive interest on unpaid balances until such time as the infrastructure becomes “qualified” (i.e., contained in the next 5 years of the Town’s Capital Plan).

	Qualified Infrastructure	Non-qualified Infrastructure
Relationship to Off-site Levy Bylaw and Capital Plan	Is contained in the Town’s Off-site Levy Bylaw and the next 5 years of the Town’s Capital Plan.	Is contained in the Town’s Off-site Levy Bylaw but is contained beyond the next 5 years of the Town’s Capital Plan.
Standards & Specifications	Constructed to the standards and specifications of the Town.	Constructed to the standards and specifications of the Town.
Front-end Agreement	Developers are required to enter into an agreement with the Town.	Developers are required to enter into an agreement with the Town
Offset Off-site Levies	Developers may offset the value of off-site levies being collected by the cost of construction. Offset may only be applied to levies in the same category as infrastructure being constructed.	Developers may offset the value of off-site levies being collected by the cost of construction. Offset may only be applied to levies in the same category as infrastructure being constructed.
Interest on Unpaid Balance	Developers will receive interest on the balance of off-site infrastructure amounts due to the developer.	No Interest Payment Until Qualified – Developers will not receive interest on non-qualified infrastructure constructed. Interest will only accrue once the infrastructure is “qualified”.



7. OFFSETTING OFF-SITE LEVIES FOR FRONT END INFRASTRUCTURE COSTS

Developers who front end the construction of off-site levy infrastructure may apply the cost of this infrastructure against off-site levies due to the Town of Edson.

Guiding Principle

Developers that front end the construction of off-site infrastructure may offset the Off-site levy assessments on this category of off-site infrastructure up to the cost of infrastructure construction.

Front-end infrastructure costs may only be applied against the same off-site levy category as the infrastructure being front-ended.

	Front-end Construction Amount / Offset Credits	Rationale
a)	<p>Offset Based Upon Professional Estimate / Adjusted for Actual</p> <p>The offset credit will be based upon the Town approved construction estimates. The developer will provide this estimate. The developer estimate must be certified by a professional architect or engineer or based on a fixed price bid from a contractor.</p> <p>When the infrastructure is ultimately constructed the actual cost of construction, approved by the Town, may be applied to adjust any off-site levies still owing.</p> <p>The developer must advise the Town of any change orders that impact the cost of the approved infrastructure and the change order must be approved in writing by the Town to be eligible for reimbursement or levy assessment offset.</p>	<p>Obtaining external pricing ensures that all parties understand the potential cost of the project.</p> <p>Final actual construction cost is required to finalize amounts that may be due to the developer and / or the Town.</p> <p>The notification and approval of change orders will keep the Town and developer apprised of the cost changes and potential impact on levy assessments outstanding.</p>



8. INFRASTRUCTURE FRONT END CLAIM REIMBURSEMENT

Construction and Acceptance

Guiding Principle

Developers will be responsible to construct Off-site infrastructure to the standards and specifications of the Town.

Inspection / Acceptance Terms		Rationale
a)	<p>Inspection, Correction of Deficiencies, Acceptance</p> <p>Developer constructed infrastructure will be built to Town standards and specification.</p> <p>At completion, infrastructure will be subject to Town inspection. The developer will remedy construction deficiencies.</p> <p>A Construction Completion Certificate will be issued by the Town to signify that infrastructure conforms to Town standards.</p>	<p>The developer is accountable for the infrastructure constructed. The inspection process will ensure that standards have been met and that deficiencies are noted and subject to future correction by the developer. The Construction Completion Certificate starts the “interest clock”.</p>
b)	<p>Hold Back on Deficiencies, Issuance of Final Acceptance Certificate</p> <p>The Town will withhold a minimum of 20% of the cost of front-end off-site infrastructure repayment amounts, up to the value of deficiency, to expedite correction of deficiencies.</p> <p>At the conclusion of the warranty period and after construction deficiencies are completed a final acceptance inspection will be undertaken, a Final Acceptance Certificate will be issued and holdback on reimbursement may be released (should funds be available in the off-site levy reserve).</p>	<p>To ensure that a developer corrects any off-site infrastructure deficiencies a hold back amount will be established.</p> <p>The issue of a Final Acceptance Certificate by the Town will be used to signal release of holdback on payment to the developer (should funds be available in the off-site levy reserve).</p>



9. INTEREST ON UNPAID BALANCE

Guiding Principle

Balances due to developers as a result of front-ending the construction of “qualified” Off-site infrastructure will earn interest at the nominal cost of capital as outlined in the Off-site levy model.

Inspection / Acceptance Terms		Rationale
a)	Interest on Outstanding Balance at Town Cost of Capital Developer constructed off-site infrastructure will earn interest on any outstanding balance as outlined in the off-site levy model. Interest will be credited to developer accounts annually and at time of final payment to the developer.	Developers who construct “qualified” infrastructure will receive credit for the working capital invested in constructing front-ending off-site infrastructure. The MGA indicates that parties that front end infrastructure construction will be entitled to interest on their investment.



10. PAYMENTS ON DEVELOPER FRONT END DEBTS

Any Off-site levy reserve funds that are assigned to the draw-down of obligations related to “qualified” front-end construction will be distributed to front-ending parties (Town and / or private developers) in an equitable fashion. Equity will be achieved by prorating repayment funds across the outstanding balance of all amounts owed.

Guiding Principle

The Town will develop annually a financial plan as to how off-site levy funds will be disbursed.

Funds drawn from the off-site levy reserve to pay down “qualified” front end obligations will be prorated across all outstanding loan balances.

When an amount owed on “qualified” front-ending obligation is less than \$50,000, the amount due will be paid out in its entirety.

Repayment of “Qualified” Debts		Rationale
a)	Payments on Amounts will be Prorated on All Balances Due The Town will determine the amount of funding to be applied to the pay down of front ending obligations for “qualified” balances. Such funding will be prorated across all debts.	The Town will determine the amount of off-site levy reserve funding to be applied against debt draw-downs. This amount will be distributed equally to all debts, Town and private developer alike.
b)	Payments on Amounts Below \$50,000 will be paid out When the balance of a “qualified” front-end obligation falls below \$50,000, the balance will be paid out in its entirety.	Small outstanding balances will be paid out to reduce the administrative efforts associated with these amounts.





APPENDIX I—TEST OF BURDEN FORM

OFFSITE LEVY TEST OF BURDEN

Legal Description:	
Development Permit Number:	
Subdivision Number:	
Tax Roll Number:	
Street Address:	
Basin Number:	
Total Area (Hectares):	
Levy Amount:	

Is this property otherwise exempt under the Town of Edson Offsite Levy Policy? (if YES, no offsite levy to be charged)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this property a Public Building, such as a Hospital or School, whose main source of income is taxation? (if YES, consult Planning Department Head for review)	<input type="checkbox"/> Yes <input type="checkbox"/> No

Will the proposal increase the impacts from the site on a qualifying municipal service once completed?	If No: Check Box If Yes: Insert Amount Details of Assessment
1. Municipal storage, transmission, treatment or supplying of water	
<<Insert Brief Justification/Quantification to above>>	
2. Municipal treatment, movement or disposal of sanitary sewage	
<<Insert Brief Justification/Quantification to above>>	
3. Town Service Road or Arterial Roads Network	
<<Insert Brief Justification/Quantification to above>>	
4. Will the proposal require the Town to purchase lands to accommodate future projects related to the above?	

Preliminary test results:

Date:	
Reviewed by:	Keri Mitchell, Development Officer

Review and approval of Preliminary test results:

Date:			
Approved by:	Planning and Development Department Head / CAO		
Results:	<input type="checkbox"/> Apply Offsite Levy	<input type="checkbox"/> Partial Waiver	<input type="checkbox"/> Waive Offsite levy
Check all Levies that Apply to Approval:	<input type="checkbox"/> Water	<input type="checkbox"/> Sanitary	<input type="checkbox"/> Roads <input type="checkbox"/> ----

Notes/Details/Attachments:

Last Updated, September 18, 2018

