

PRINCIPLES AND CRITERIA FOR OFF-SITE LEVIES REGULATION

BILD Alberta Recommendations

1. OVERVIEW

The following document highlights some broad principles and criteria that need to be included in the *Principles and Criteria for Off-Site Levies Regulation*. These changes are critical in ensuring the Province provides leadership on an issue that has substantial implications on housing markets across the Province. Specifically, changes to the regulation are required in order to:

1. Provide industry and municipalities with the necessary direction to implement these complex bylaws in a manner that is fair and accountable;
2. Establish safeguards surrounding the use of levy funds; and
3. Include necessary details to provide municipalities with the direction required to prepare a bylaw that is transparent, accountable, responsible and efficient to administer.

As currently proposed, the regulation is extremely broad in a number of areas including determining the area of benefit and degree of benefit. While it is important municipalities be provided with some level of flexibility, the broadness of the regulation opens the likelihood of multiple appeals being submitted to the MGB as neither the development industry nor municipalities will have the necessary guidance to understand the requirements for the preparation of a an offsite levy bylaw. Section 648.1 of the Act establishes the grounds for which an appeal can be made and ties it directly to the requirements of the regulation. With the broadness of the draft regulation there is very little guidance for an appeal body to consider when making its decision as to whether the offsite levy bylaw conforms to the legislation or the regulation.

The goal of our recommendations is not to increase the amount of appeals or make difficult, rigid standards that are overly cumbersome for municipalities. The goal is to establish flexible policies that require municipalities to work directly with industry in establishing levies that are accountable, responsible, transparent and efficient in order to meet the overall intent of everyone paying their fair share.

The attached appendix provides some recommended language to support the broad recommendations put forward below. The language has been crafted to provide flexibility while still providing enough detail to require fairness, transparency and accountability from all sides.

2. BROAD RECOMMENDATIONS

2.1 General Recommendations (all levies)

Under sections 3, 4, 5, 7 and 9 of the draft regulation we are proposing the following additional policies which would apply to all levies:

- Further clarify that the levy amount for any facility or infrastructure must equal the degree of benefit received.

- Components of infrastructure or facilities that do not benefit a development are not leviable.
- Transparency surrounding the calculation of all levies; including all formulas, data and other information so that they are reproducible and verifiable by stakeholders.
- Requiring municipalities to demonstrate that benefit will be provided to those who funded the levy within a reasonable timeframe based on negotiation with those funding the levy.
- Requiring municipalities to establish a payback structure for those who front-end the cost of infrastructure and facilities.
- Provide guidance on the determination of costs.
- Stipulate what happens to the money when there is surplus revenue collected from a levy or if a project is cancelled.
- Strengthen the engagement on levy bylaws through adding the term “collaborate”.
- Provide an appeal of period of 90 days versus the 30 presently proposed. 30 days is not a reasonable amount of time to provide the information required in the appeal. These exceedingly complex bylaws are only reviewed periodically and stakeholders should be provided with more than a month to challenge them.

2.2 Levies for Community Facilities

Additional methodology is required for levies associated with community facilities to ensure that they are funded in a fair and cost-effective manner:

- Provide specific criteria for determining the degree of benefit for facilities.
- Require that municipalities contribute a minimum of 10% to the cost of any community facility (increasing depending on their degree of benefit) to help promote the efficient and cost-effective design of facilities.

2.3 Provincial Transportation Levy

The Provincial transportation levy is extremely complex and while we are proposing a number of policies specific to this levy, additional work and consultation is required in order for this to become functional. The following outlines our preliminary recommendations:

- Include a similar broad policy that exists for infrastructure or facilities related to the calculation of the levy.
- Provide flexible yet clear methodology for determining benefitting area and degree of benefit. These can largely be determined based on technical studies such as Traffic Impact Assessments but this must include consultation and collaboration with stakeholders to ensure the assumptions used in the study are reasonable and fair.
- Require the Ministry of Transportation to consult and collaborate with stakeholders in the design of infrastructure.
- Modify the Ministry of Transportation prioritization of infrastructure projects to include consideration of the economic benefits accrued. While this may not function as a policy within the regulation, it is critical this becomes department policy.

2.4 Intermunicipal Levies

Similar to the Provincial transportation levy, intermunicipal levies are extremely complex and may require additional work from all stakeholders to establish a functional framework. The following outlines our preliminary recommendations:

- Stipulate that any intermunicipal levy for infrastructure or facilities must be calculated based on the specific requirements for the individual levy type as required under the regulation.
- Prior to approval of third reading of an intermunicipal off-site levy bylaw, require municipalities enter into a binding agreement that identifies the costs of the infrastructure, proportionate share of the costs, sources of revenue to fund the cost (levies, municipality and any other sources), the location of the infrastructure or facility and the parties responsible for the administration of the levy and management of the project.

3. SUMMARY

The attached provides more detail on the above recommendations including supporting rationale. The focus of this submission is to provide functional yet flexible modifications to the regulation that will encourage the cost-effective, transparent, efficient and accountable collection of levy revenue. We have refrained from being overly prescriptive with our recommendations but reiterate the need for the Province to address each of the items discussed in this submissions.

We understand the strict timelines that Municipal Affairs are dealing with, however, as an industry we fully encourage that the Province take the time to get this right. The costs associated with these levies is substantial and if the overly broad regulation remains in place there will be considerable implications on many housing markets across the Province.

Principles and Criteria for Off-Site Levies Regulation

Appendix: Policy Recommendations

Existing Policy	Rationale for Change	Suggested Change
Definitions		
<p>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;</p>	<ul style="list-style-type: none"> • Facility and facilities are used interchangeably throughout the document yet only “facilities” is defined. 	<p>1 In this Regulation, (a) “facility” or “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;</p>
<p>(b) “infrastructure” includes the infrastructure, facilities and the land necessary for the infrastructure or facilities referred to in section 648(2) of the Act;</p>		
<p>(c) “levy” means an off-site levy referred to in section 648(1) of the Act.</p>		
Application Generally		
<p>2 A municipality, in establishing an off-site levy, (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.</p>	<ul style="list-style-type: none"> • Includes references to the transportation levy and intermunicipal levy which were not in the draft regulation. • Sections referenced relate to the revised numbering proposed in this document. 	<p>2 A municipality, in establishing an off-site levy, (a) for the purposes of section 648(2) of the Act, shall apply the principles and criteria specified in sections 3, 4 and 5. (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, (c) for the purposes of section 648(2)(c.2) of the Act, shall apply the principles and criteria specified in sections 3,4 and 7, and (d) for the purposes of section 648.01(1) of the Act, shall apply the principles and criteria specified in sections 3, 4, 5, 6, 7 and 8 depending on the infrastructure or facility being levied.</p>

Existing Policy	Rationale for Change	Suggested Change
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 affected stakeholders in accordance with section 7.	<ul style="list-style-type: none"> • Consultation is a very broad term that does not require active dialogue between municipalities and stakeholders. By simply holding a single public open house, a municipality could be deemed to have satisfied its “consultation” requirement. This is not sufficient when dealing with something as complex and involved as levies. • We have proposed the inclusion of the term “collaborate” which is considered a core component of the public participation spectrum by the International Association for Public Participation. This term will promote the direct involvement of stakeholders and a partnership approach between industry and municipalities. • Sections referenced relate to the revised numbering proposed in this document. 	(2) The municipality must consult and collaborate in good faith with affected stakeholders in accordance with section 7.9 .
(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.	<ul style="list-style-type: none"> • The proposed change to the wording provides additional clarity that the levy amount is to equal the degree of benefit received. 	(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 based on the degree of benefit received relative to other beneficiaries.
3(4) New subsection clarifying that the levy can only include items that benefit a particular development.	<ul style="list-style-type: none"> • This change is a simple and broad solution to address municipalities who may try to fund regional elements of infrastructure / levies through local levies. • Rather than list off specific components that cannot be included, this should help achieve a similar result. 	(4) Components of infrastructure and facilities that do not benefit a development shall not be included as part of any off-site levy.
3(5) New subsection providing a principle related to transparency for formulas and calculations associated with levies.	<ul style="list-style-type: none"> • This broad principle correlates to a subsequent recommendation in Section 5 and echoes the 	(5) Municipalities shall prepare an Off-Site Levy Bylaw transparently and provide the public with

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	<p>comments we have made throughout the consultation process.</p> <ul style="list-style-type: none"> Without requirements regarding the transparency of all aspects of a levy's calculation, municipalities will continue to hide important details which lead to mathematical errors and an overall lack of transparency. 	<p>access to all information used to calculate the levy.</p>
<p>3(6) New subsection related to the transparent accounting of levy funds.</p>	<ul style="list-style-type: none"> This provides a correlating principle to the criteria already provided in the draft regulation under Section 8 (Annual Report). 	<p>(6) Municipalities shall publicly provide detailed accounting on all aspects of the levies collected and used on an annual basis.</p>
<p>3(7) New subsection highlighting a requirement for municipalities to provide benefit within a timely fashion.</p>	<ul style="list-style-type: none"> In the past we have recommended infrastructure or facilities be constructed within a certain timeframe. We understand the challenges associated with this but believe a broad policy that stipulates benefit must be received in a "reasonable timeframe" or that construction will be stimulated by a specified trigger event such as a population target being reached or vehicle trips will at least provide industry with the ability to negotiate with and challenge (if need be) municipalities to follow through with the facilities the levy has paid for. 	<p>(7) Municipalities must demonstrate that they will provide the facility or infrastructure for which a levy was collected within a reasonable timeframe or as stimulated by a specified trigger event based on consultation and collaboration with contributing parties.</p>
<p>3(8) New subsection related to repayment of entities who provide the front-end funding for infrastructure or facilities.</p>	<ul style="list-style-type: none"> It is critical that the regulation speak to front-end costs and the requirement for repayment. There are currently instances where municipalities require a developer to front end the cost of the infrastructure while also levying them for that same infrastructure. This tool is ripe for abuse without a clause to address it. This has been left broad enough that it does not pin municipalities to strict repayment schedules while providing some assurance that a developer won't be hit twice for the same infrastructure. 	<p>(8) Municipalities shall establish a method and procedure to refund any private entity who provides the front-end cost of infrastructure or facilities so that the entity does not pay more than the established degree of benefit.</p>
<p>(4) Where necessary and practicable, the municipality is to coordinate infrastructure and</p>		<p>Re-number to subsection 9.</p>

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facilities provisions and services with neighbouring municipalities.		
Offsite Levy Bylaws – Principles and Criteria for Determining Methodology		
<p>4(1) A municipality has the flexibility to determine the methodology upon which to base the calculation of the levy, provided that such methodology</p> <ul style="list-style-type: none"> (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. 		
<p>(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.</p>	<ul style="list-style-type: none"> • Modify this subsection so it also references the provincial transportation levy. 	<p>(2) Notwithstanding subsection (1)(c), the methodology for determining a levy for the purposes of section 648(2.1) and 648(2)(c.2) may be distinct and unique from the methodology used to calculate any other levy established by the municipality.</p>
<p>4(3) New subsection to require a clear determination of the degree of benefit.</p>	<ul style="list-style-type: none"> • This provides clarity for determining degree of benefit while remaining sufficiently flexible for municipalities to use individual methodologies. This will function effectively for the hard infrastructure levies along with soft levies (recreations centres, fire halls, police stations and libraries). • This criteria is necessary to push municipalities and industry to collaborate in determining degree of benefit while allowing industry to hold them accountable (when necessary) through the appeal provisions of 648.1(1) of the Act. 	<p>(3) In determining the degree of benefit for individual infrastructure or facilities municipalities must develop methodology that considers:</p> <ul style="list-style-type: none"> (a) the amount the leviable users will benefit from the infrastructure or facility; (b) the amount other users and the municipality as a whole will benefit from the infrastructure or facility based on: <ul style="list-style-type: none"> (i) portions of the infrastructure or facility that will serve persons outside of the benefitting area; and (ii) ancillary components or uses of the infrastructure or facility that will generate revenue for the municipality.

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Offsite Levy Bylaws – Principles and Criteria for Determining Levy Costs		
5(1) The municipality may establish the levy in a manner that involves or recognizes the unique or special circumstances of the municipality.		
<p>(2) In determining the basis upon which the levy is calculated, the municipality must at a minimum consider</p> <p>(a) a description of the specific infrastructure and facilities,</p> <p>(b) a description of the benefitting areas and how those areas were determined,</p> <p>(c) supporting technical data and analysis, and</p> <p>(d) estimated costs and mechanisms to address variations in cost over time.</p>	<ul style="list-style-type: none"> • Tie this section to requirements for consultation and collaboration with stakeholders. • (a)The change in definition of “facilities or facility” allows for more clarity in this part of the Regulation. • (b) The change provides more clarity in determining the benefitting area and what it supports. • (d) Change provides more clarity to municipalities as to what is included in determining the cost of a facility • 2 (e) this change allows municipalities to be able to update their levies on an annual basis based on an agreed upon formula provided for in the bylaw and separates the escalation clause from the cost clause. 	<p>(2) Subject to section 9(3), in determining the basis upon which the levy is calculated, the municipality must at a minimum consider</p> <p>(a) a description of the specific infrastructure and facilities or facility,</p> <p>(b) a description of the benefitting areas for the infrastructure or facility described in (2)(a) and how those areas were the area was determined,</p> <p>(d) estimated costs and mechanisms to address variations in cost over time. estimated total cost of the infrastructure or facility, cost to-date of the infrastructure or facility including:</p> <ul style="list-style-type: none"> (i) any interest or carrying charges, (ii) any payments received for the levy, (iii) the estimated cost to complete the infrastructure or facility <p>(e) mechanisms to adjust the levy annually prior to the periodic review as per 5(4)</p>
(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 is to be a correlation between the levy and the benefits of new development.	<ul style="list-style-type: none"> • 	
5(6) Additional subsection which will provide additional guidance to municipalities on levy calculations and costs.	<ul style="list-style-type: none"> • The proposed change focusses on ensuring municipalities are reasonable and fair with their estimates for facilities and infrastructure. • There have been many instances where municipalities increase levy amounts because they include 20% contingencies (well above industry average) simply because they know 	<p>(6) In determining a levy and the cost of infrastructure or facilities, municipalities shall ensure cost estimates:</p> <ul style="list-style-type: none"> (a) are reasonable and based on verifiable construction costs; (b) include reasonable contingency amounts; and (c) do not include inflation.

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	they can levy it. With no existing mechanism requiring repayment of surplus funds, this money simply gets placed back into general revenue. This in fact provides incentives for municipalities to inflate costs.	
5(7) Additional subsection related to the transparency of all aspects of the levy calculation.	<ul style="list-style-type: none"> This proposed requirement is associated with the principle we proposed under subsection 3(5). Without requirements regarding the transparency of all aspects of a levy's calculation, municipalities will continue to hide important details which lead to mathematical errors and an overall lack of transparency. 	(7) Any levy shall be based on a formula that is clearly stated with the calculations and input data being easily reproducible and verifiable by outside parties.
5(8) Additional subsection to require municipalities disclose any surplus levy revenue and use it to the benefit of those who funded the levy.	<ul style="list-style-type: none"> This proposed requirement remains broad but ensures that municipalities must transparently dispose of surplus levy funds in a responsible manner. This also helps address concerns raised for intermunicipal off-site levies where one municipality may opt out or cancel its involvement in a project that is being levied. 	(8) Any levy bylaw shall include policies requiring any surplus or unused levy funds to be properly accounted for and either used to the benefit of those who funded the levy or returned to the contributing party in instances where the infrastructure or facility was not constructed or constructed to a lesser degree (size, scope or standard) from what was originally planned.
Offsite Levy Bylaws – Additional Principles and Criteria to Apply to Section 648(2.1) Facilities		
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.	<ul style="list-style-type: none"> Clarify that all subsections apply to levies for community facilities. Stakeholders all agreed that the regulation should stipulate the requirements for levy bylaws. The proposed change is a simple way of tying the regulation policies into bylaw requirements. 	6(1) In addition to the principles and criteria set out in sections 3, 4 and 5, the additional criteria set out in subsections (2), (3), (4) and (5) shall apply when determining a levy and preparing a levy bylaw 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, <ul style="list-style-type: none"> (a) the need for and benefits from the new facilities, (b) the anticipated growth horizon, (c) the portion of the estimated cost of the facilities that is proposed to be paid by 	<ul style="list-style-type: none"> (b) There appears to be some confusion as to what is meant by a growth horizon which can vary drastically. It is important for accountability purposes that benefit be correlated with time so we have proposed that municipalities and stakeholders determine an appropriate trigger mechanism through 	(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, <ul style="list-style-type: none"> (a) the need for and benefits from the new facilities, (b) the anticipated growth horizon trigger mechanism to stimulate the construction of the facility,

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(i) the municipality, (ii) the revenue raised by the levy, and (iii) other sources of revenue.	<p>agreement. This is a clearer way to achieve the same desired result.</p> <ul style="list-style-type: none"> • (c) Minor change to eliminate the word “proposed”. • (c) Minor change to stipulate that the calculation of the levy must also include any portion of the cost that will be funded through an intermunicipal off-site levy. 	(c) the portion of the estimated cost of the facilities that is proposed to be paid by <ul style="list-style-type: none"> (i) the municipality, (ii) the revenue raised by the levy, and (iii) intermunicipal levies, and (iv) other sources of revenue.
(3) The municipality has the discretion to establish service levels, minimum building and base standards for the proposed facilities.	<ul style="list-style-type: none"> • Added a minimum 10% municipal funding requirement to the cost of each facility and tied it to the consultation requirements of the regulation. This would go beyond 10% if their degree of benefit is greater. • This is a simple yet critical change to help ensure that facilities are built reasonably and in a cost effective manner. This still provides municipalities flexibility in determining the design while also serving as a mechanism to prevent “gold-plated” facilities that go beyond their intent. This same approach is used in British Columbia. 	(3) Subject to (9)(3) , the municipality has the discretion to establish service levels, minimum building and base standards for the proposed facilities but shall contribute a minimum of 10% of the cost of the individual facilities escalating based on the municipality’s degree of benefit.
6(4) New subsection to require a clear determination of benefitting area.	<ul style="list-style-type: none"> • This provides additional clarity on what must be considered for benefitting area while remaining broad and providing some flexibility. • This is needed to provide general direction to municipalities while providing industry with the necessary criteria to work with municipalities and hold them accountable (when necessary) through the appeal provision of 648.1(1) of the MGA. 	(4) The municipality must establish the benefitting area for specific facilities under Section 648(2.1) of the Act based on the type of facility and specific users of the facility as identified by: <ul style="list-style-type: none"> (a) best practices provincially and nationally; (b) background reports or assessments for the proposed facility; and (c) empirical evidence through assessing other similar facilities in the province.
Offsite Levy Bylaws – Additional Principles and Criteria to Apply to Section 648(2)(c.2) Provincial Transportation Infrastructure		
7(1) Additional Section to provide specific requirements for levies associated with provincial highway infrastructure.	<ul style="list-style-type: none"> • Included a subsection similar to that of 6(1). 	7(1) In addition to the principles and criteria set out in sections 3, 4 and 5, the additional criteria set out in subsections (2), (3), (4), (5) and (6) shall apply when determining a levy and preparing a

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<p>7(2) New subsection related to the calculation of levies associated with provincial transportation infrastructure.</p>	<ul style="list-style-type: none"> • Similar subsection that of 6(2) under the existing regulation with modifications to tie it to provincial highway infrastructure. • Includes a reference to intermunicipal levies. 	<p>levy bylaw for the infrastructure referred to in section 648(2)(c.2) of the Act.</p> <p>(2) The calculation of the levy for the purposes of section 648(2)(c.2) of the Act must also include supporting statutory plans, policies or agreements that identify,</p> <ul style="list-style-type: none"> (a) the need for and benefits from the new infrastructure to all parties, (b) the anticipated trigger mechanism to stimulate construction of the infrastructure, (c) the portion of the estimated cost of the infrastructure that is proposed to be paid by <ul style="list-style-type: none"> (i) the municipality, (ii) the revenue raised by the levy (iii) intermunicipal levies, and (iv) other sources of revenue.
<p>7(3) New subsection related to determining benefitting area.</p>	<ul style="list-style-type: none"> • Similar to the rationale behind our proposed policy under 6(4), it is important that the regulation speak to what benefitting area must be based on. • As discussed in the consultation sessions, a Traffic Impact Assessment is a functional and scientific tool that should be used to determine benefitting area. • The inclusion of a consultation / collaboration requirement will help ensure that the TIA is prepared fairly and based on agreed upon assumptions. 	<p>(3) The municipality must establish the benefitting area for infrastructure specific to 648(2)(c.2) of the Act based on:</p> <ul style="list-style-type: none"> (a) a traffic impact assessment; and (b) consultation and collaboration in good faith with affected stakeholders.
<p>7(4) New subsection to require a clear determination of the degree of benefit.</p>	<ul style="list-style-type: none"> • Similar to our recommendation under 6(5), this provides clarity for determining degree of benefit while remaining sufficiently flexible for municipalities to use individual methodology. • This criteria is necessary to push municipalities and industry to determine degree of benefit 	<p>(4) In determining the degree of benefit for infrastructure under Section 648(2)(c.2) of the Act, municipalities must develop methodology that considers:</p> <ul style="list-style-type: none"> (a) the amount the leviable users will benefit from the facility based on a traffic impact assessment;

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	<p>while allowing industry to hold them accountable (when necessary).</p>	<p>(b) the amount other users and the municipality as a whole will benefit from the facility based on:</p> <ul style="list-style-type: none"> (i) a traffic impact assessment; and (ii) economic benefits to the municipality through the increased access and traffic flow created by the infrastructure.
<p>7(5) New subsection related to the collaboration of all parties on the design of provincial highway infrastructure that will be levied.</p>	<ul style="list-style-type: none"> • While it is understood that province will ultimately determine the design standard of provincial highway infrastructure, they should be required to consult and collaborate with stakeholders who will, in many cases, be paying the majority of the costs. This has the benefit of potentially reducing the costs for all levels of government and the private sector. 	<p>(5) The province shall establish the design standards for the proposed infrastructure through consultation and collaboration with affected stakeholders.</p>
<p>7(6) New subsection related to the provincial prioritization of highway infrastructure projects.</p>	<ul style="list-style-type: none"> • Through discussions with the Ministry of Transportation it appears there is an interest in modifying how highway projects are prioritized by the province. • Historically the province prioritizes based on safety and operation. There is an increased understanding that it would be beneficial to consider the economic benefits derived from individual projects as part of determining the priority list. • While this “requirement” may not be best suited for this regulation it is important that this item remains top of mind for the Ministry of Transportation and we recommend it become policy. 	<p>(6) In determining the priority of infrastructure projects under section 648(2)(c.2) of the Act, the Minister of Transportation and Infrastructure shall consider the economic benefits that result from the individual projects.</p>
Offsite Levy Bylaws – Additional Principles and Criteria to Apply to Section 648.01(1) Intermunicipal Off-Site Levies		
<p>8(1) Additional Section to provide specific requirements for intermunicipal off-site levies.</p>	<ul style="list-style-type: none"> • Included a subsection similar to that of 6(1). 	<p>8(1) In addition to the principles and criteria set out in sections 3, 4 and 5, the additional criteria set out in subsections (2), (3) and (4) shall apply when determining an intermunicipal levy and preparing a levy bylaw as permitted under section 648.01 of the Act.</p>

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<p>8(2) New subsection that stipulates the calculation of benefitting area and degree of benefit outlined in any intermunicipal off-site levy must be consistent with the provisions of the regulation.</p>	<ul style="list-style-type: none"> The proposed requirement ensures that the municipalities use the requirements of this regulation in determining the degree of benefit and benefitting area for the specific infrastructure or facility being levied. Without the correlation there is the possibility of municipalities simply using the broader requirements of Section 5 to determine levies for facilities and provincial highway infrastructure. 	<p>(2) The individual municipalities shall establish the benefitting area and degree of benefit for the specific infrastructure and facilities associated with the intermunicipal off-site levy in accordance with the provisions of this regulation.</p>
<p>8(3) New subsection requiring a binding agreement between municipalities prior to administering an intermunicipal off-site levy.</p>	<ul style="list-style-type: none"> Through the consultation sessions a number of key issues arose related to the management of the levy and commitment of the individual municipalities to follow through on the funding in the long-term. The proposed policy remains flexible while stipulating the municipalities must come to some form of binding agreement related to the intermunicipal off-site levy. This agreement must include a number of important details which would alleviate a number of the concerns raised in the consultation sessions. 	<p>(3) Prior to third reading of an intermunicipal off-site levy, the municipalities shall come to a binding agreement which stipulates:</p> <ul style="list-style-type: none"> (a) the overall cost of the infrastructure or facility; (b) the proportionate share of the overall cost borne by each municipality; (c) the sources and amount of revenue to fund the infrastructure or facility from: <ul style="list-style-type: none"> (i) the individual municipalities, (ii) the revenue raised by the levy, (iii) other sources of revenue. (d) the location of the infrastructure or facility; and (e) parties responsible for managing the levy revenue and construction of the project.
<p>8(4) New subsection requiring consultation and collaboration with stakeholders.</p>	<ul style="list-style-type: none"> Consultation and collaboration with key stakeholders at the early stages in the process is critical to ensure the agreement and eventual levy functions like all other levies. 	<p>(4) The preparation of an agreement under subsection 8(3) shall be done in consultation and collaboration in good faith with affected stakeholders.</p>
<p>Offsite Levy Bylaws - Consultation</p>		
<p>7(1) The municipality must consult in good faith with affected stakeholders prior to making a final determination on defining and addressing existing</p>	<ul style="list-style-type: none"> Consultation is a very broad term that does not require active dialogue between municipalities and stakeholders. By simply holding a single public open house, a municipality could be 	<p>9(1) The municipality must consult and collaborate in good faith with affected stakeholders prior to making a final determination</p>

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and future infrastructure and facility requirements.	<p>deemed to have satisfied its consultation requirement. This is not sufficient when dealing with something as complex and involved as levies.</p> <ul style="list-style-type: none"> We have proposed the inclusion of the term “collaborate” which is considered a core component of the public participation spectrum by the International Association for Public Participation. This term will promote the direct involvement of stakeholders and a partnership approach between industry and municipalities. The inclusion of the proposed phrasing along with a referenced “agreement” under section 6(2) and 7(2) will help ensure municipalities work directly with stakeholders. Re-number to Section 9. 	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.	<ul style="list-style-type: none"> See comments for 7(1). Re-number to Section 9. 	(2) The municipality must consult and collaborate 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.	<ul style="list-style-type: none"> See comments for 7(1). Re-number to Section 9. 	(3) Prior to passing or amending a bylaw imposing a levy, the municipality must consult and collaborate in good faith on the calculation of the levy with affected stakeholders in the benefitting area where the levy will apply.
9(4) New subsection requiring consultation and collaboration with stakeholders on the design of facilities and infrastructure.	<ul style="list-style-type: none"> New clause which requires municipalities to work with stakeholders in determining the standards required for the infrastructure or facilities. 	(4) The municipality must consult and collaborate in good faith when establishing servicing levels, minimum building and base standards for the proposed infrastructure or facilities.
Offsite Levy Bylaws – Annual Report		
8(1) The municipality must provide full and open disclosure of all the levy costs and payments.	<ul style="list-style-type: none"> Re-number to Section 10. 	
(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.	<ul style="list-style-type: none"> Re-number to Section 10. 	

Existing Policy	Rationale for Change	Suggested Change
(3) Any report referred to in subsection (2) must be in writing and be publicly available in its entirety.	<ul style="list-style-type: none"> • ReNUMBER to Section 10. 	
Off-site Levy Bylaw Appeals – Appeal Period		
<p>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.</p>	<ul style="list-style-type: none"> • A 30 day appeal period for an off-site levy bylaw is not a reasonable expectation for stakeholders and the public to have reviewed and assessed these exceedingly complex bylaws. As the notice of appeal must also include the “relief requested by the applicant”, it is unreasonable to require that an applicant would be able to provide a recalculation of the levy within the 30 day period. • Given the province’s reluctance to impose timelines for municipalities to review their off-site levy bylaws, industry could only have 30 days to potentially launch an appeal of a bylaw they could be stuck with for 5 or more years. The only other alternative is for a developer to take the matter to the Court of Queen’s Bench which requires significant time and resources both from the municipality and the developer. • A 90 day appeal period as proposed would provide a reasonable amount of time for industry to assess a levy bylaw, work with the municipality to potentially correct it or, if necessary, launch an appeal. Ultimately providing more time should limit the number of appeals in the long term. • ReNUMBER to Section 11. 	<p>11 An appeal must be submitted to the Municipal Government Board not later than 90 days after the bylaw imposing the levy has been passed.</p>
Off-site Levy Bylaw Appeals – Form of Appeal		
<p>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,</p>	<ul style="list-style-type: none"> • ReNUMBER to Section 12. 	

Existing Policy	Rationale for Change	Suggested Change
(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.	<ul style="list-style-type: none"> • Renumber to Section 12. 	
Off-site Levy Bylaw Appeals – 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.	<ul style="list-style-type: none"> • Renumber to Section 13. 	
Off-site Levy Bylaw Appeals – 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.	<ul style="list-style-type: none"> • Renumber to Section 14. 	
(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.	<ul style="list-style-type: none"> • Renumber to Section 14. 	