



**EMERGING TRENDS IN MUNICIPAL LAW 2018**

Expansion, Accountability and Transparency  
Changes to Off-Site Levies for Alberta Municipalities



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- Summary of Legislative Changes
- Expansion
- Accountability Through Consultation & Reporting
- Transparency of Levies
- Potential Challenges

Overview



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### Summary of Legislative Changes

**MGA Amendments & New Regulation**

- Section 648(2.1) – Expansion of levies for soft services
- Section 648.01 – Intermunicipal Off-Site Levy
- Section 648.1 – Appeal to MGB
- Off-Site Levy Regulation, Alta. Reg. 353/2017



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### Expansion

**Section 648 of MGA**

- Off-site levies are a **cost recovery** mechanism, imposed by bylaw, to fund or reimburse the cost of new infrastructure required due to new development or subdivision
- Moving beyond the “big four”

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### Expansion

- New or expanded facilities for **water**
- New or expanded facilities for **sanitary sewage**
- New or expanded **storm sewer drainage** facilities
- New or expanded **roads** required for or impacted by a subdivision or development
- **Land** required for or in connection to the above

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### Expansion

**Section 648(2)(c.2) of MGA**

- Expanding levies to include new or expanded infrastructure required **to connect, or to improve the connection of, municipal roads to provincial highways** resulting from a subdivision or development
- *Expected to come into force April 1, 2018*



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**Expansion**

**NEW Soft Services – Section 648(2.1)**

-  New or expanded **community recreation facilities** (indoor public recreation)
-  New or expanded **fire hall** facilities
-  New or expanded **police station** facilities
-  New or expanded **libraries**

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**Expansion**

**Section 648.01 of MGA**

- Intermunicipal Off-Site Levy
- Two or more municipalities
- Imposed on an intermunicipal basis
- Passage of separate bylaws
- Agreement between municipalities such as ICF

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**Expansion**

**What Does This Mean for YOU?**

- Possibility of expanding scope of existing levies
  - i. Should future amendments include connections to provincial highways?
- Possible cost recovery of capital costs for NEW facilities
  - i. Will existing levies affect our ability to impose off-site levy for soft services in the future?

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## Expansion

**What Does This Mean for YOU?**

- Collaboration with neighbouring municipalities to address regional infrastructure and servicing needs
  - i. Should your ICF contemplate intermunicipal off-site levies?
  - ii. Is it a viable option?

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## Accountability - Consultation

**Off-Site Levy Regulation**

- Section 3(2):
  - *The municipality must consult in good faith with stakeholders in accordance with section 8.*
- Section 3(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.*

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## Accountability - Consultation

**Off-Site Levy Regulation**

- Section 8:
  - (1) *The municipality must consult in good faith with stakeholders prior to making a final determination on defining and addressing existing and future infrastructure and facility requirements.*
  - (2) *The municipality must consult in good faith with stakeholders when determining the methodology on which to base the levy.*

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## Accountability - Consultation

### Off-Site Levy Regulation

- Section 8 Con't:
  - (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 benefiting area where the levy will apply.
  - (4) During consultation under subsection (2), (3) and (4), the municipality must make available to stakeholders on request any assumptions, data or calculations used to determine the levy.

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## Accountability - Consultation

### What Does This Mean for YOU?



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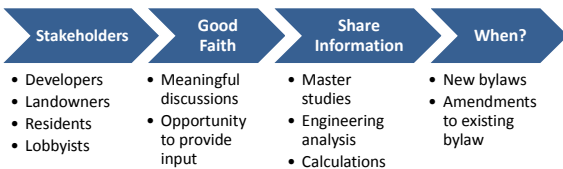
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## Accountability - Consultation

### What Does This Mean for YOU?



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## Accountability - Reporting

### Off-Site Levy Regulation

- Section 5(3):
  - *The information used to calculate the levy must be kept current.*
- Section 5(4):
  - *The municipality must include a requirement for a periodic review of the calculation of the levy in the bylaw imposing the levy.*

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## Accountability - Reporting

### Off-Site Levy Regulation

- Section 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 on all levies received and utilized for each type of facility and infrastructure within each benefiting area.*
  - (3) *Any report referred to in subsection (2) must be in writing and be publicly available in its entirety.*

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## Accountability - Reporting

### What Does This Mean to YOU?

- Regular updates of levy rates
  - i. *Annually*
- Annual reporting to Council and Public
  - i. *What you collected*
  - ii. *What you spent*
- Periodic review of offsite levy bylaws
  - i. *3 to 5 years*



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**Transparency of Levies**

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**Off-Site Levy Regulation**

- Section 5(1):
  - *In determining the basis on which the levy is calculated, the municipality must at a minimum consider and include or reference the following in the bylaw imposing the levy:*
    - (a) *a description of the specific infrastructure and facilities;*
    - (b) *a description of each of the benefiting areas and how those areas were determined;*

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**Transparency of Levies**

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**Off-Site Levy Regulation**

- Section 5(1) Con't:
  - (c) *supporting technical data and analysis;*
  - (d) *estimated costs and mechanisms to address variations in costs over time.*
- Section 5(5):
  - (5) *There must be a correlation between the levy and the benefits of new development.*

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**Transparency of Levies**

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**Off-Site Levy Regulation**

- Section 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*

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## Transparency of Levies

### Off-Site Levy Regulation

- Section 6(1) Con't:
  - (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.*
- Section 7(1)

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## Transparency of Levies

### What Does This Mean to YOU?

- Will existing bylaws need to be amended to satisfy regulation requirements?
  - i. Will amendments need to satisfy requirements?
- New bylaws will need to be more detailed and comprehensive
  - i. Engineering analysis
  - ii. Legal review to ensure compliance

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## Potential Challenges

### Court, SDAB & MGB

**Validity of Off-Site Levies Bylaws**


Section 536 - Court of Queen's Bench

**Appeal of conditions imposed on subdivision approvals and development permits**

Sections 678 & 685 - Subdivision and Development Appeal Board

**Appeal of Section 648(2.1) Off-Site Levy Bylaw**

Section 648.1 - Municipal Government Board

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## Potential Challenges

**What Does This Mean to YOU?**

- Potential for challenges to off-site levy bylaws on multiple fronts
- No additional risk due to Section 648.1 appeal
  - Appeal to MGB is only for soft services/facilities levies
- MGB Appeal does not affect collection of levies
  - Section 14 of Regulation – may continue to impose & collect levies but not use levies

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