

**BYLAW 4-2019
OF THE
TOWN OF VERMILION
(hereinafter referred to as the "Municipality")
IN THE PROVINCE OF ALBERTA**

**BEING A BYLAW OF THE TOWN OF VERMILION TO
ESTABLISH AN OFF-SITE LEVY FOR LAND THAT IS TO
BE SUBDIVIDED OR DEVELOPED WITHIN THE TOWN
OF VERMILION**

WHEREAS the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time, permits a Council to impose a levy known as an Off-Site Levy in respect of land to be developed or subdivided within a municipality's limits, and to authorize an Agreement to be entered into for payment of the levy;

AND WHEREAS the Municipality has engaged in consultation with representatives of the development industry to address and define existing and future infrastructure requirements of the Municipality with respect to circumstances of the Municipality and the benefits of development;

AND WHEREAS the Council received advice and Reports respecting upgrades to Off-Site Infrastructure which set out a fair and equitable calculation of Off-Site Levies in accordance with the purpose of the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time;

AND WHEREAS Council has advertised its intention to consider the provision of this Bylaw pursuant to the requirements of the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time;

NOW THEREFORE the Council of the Municipality in the Province of Alberta, duly assembled, hereby enacts as follows:

1. **Bylaw Title**

1.1 This bylaw shall be cited as the Town of Vermilion's "Off-Site Levy Bylaw."

2. **Definitions**

2.1 The following terms shall have the following meanings in this Bylaw:

- a) **"Bylaw"** means this off-site levy bylaw established by the Municipality;
- b) **"Chief Administrative Officer"** means the Chief Administrative Officer for the Town, regardless of the specific title that may be conferred on that Officer by Council from time to time;
- c) **"Council"** means the Council for the Town of Vermilion;
- d) **"Developable Land"** shall mean all land contained within the Development Region:
 - i. upon which Development takes place after the date of passing of this Bylaw; or
 - ii. for which Subdivision approval is obtained after the date of passing of this Bylaw;

excluding all Developed Land.

- e) **“Developed Land”** shall mean land that has been subject to Development or a Subdivision prior to the date of passing of this Bylaw, and in respect of which off-site levies for the same services have been paid.
- f) **“Development”** means “development” as defined in the *Municipal Government Act*, R.S.A. 2000, c. M-26, s. 616, as amended or repealed and replaced from time to time.
- g) **“Development Agreement”** means “development agreement” as referred to in the *Municipal Government Act*, R.S.A. 2000, c. M-26, ss. 650 and 655, as amended or repealed and replaced from time to time.
- h) **“Development Region”** includes the area of land within the municipal boundaries of the Municipality identified in Schedule ‘B’, attached;
- i) **“Growth”** shall mean:
 - i. the creation of new lots through Subdivision; and
 - ii. the occurrence of Development.
- j) **“Municipality”** means the Town of Vermilion.
- k) **“Off-Site Infrastructure”** shall mean those components and projects referred to in the Reports, in relation to water facilities, sanitary sewer facilities, storm water facilities and arterial roadways;
- l) **“Off-Site Levy”** means the offsite levy imposed pursuant to this Bylaw under the authority of the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time;
- m) **“Off-Site Levy Framework Policy”** means the policy referred to as Schedule ‘C’ which outlines when and how levies are assessed.
- n) **“Off-Site Levy Model”** means the macro enabled excel workbook that generates the new off-site levy rates for each year.
- o) **“Off-Site Levy Report”** means the supporting document for the road, water, sanitary, and stormwater off-site levy infrastructure costs.
- p) **“Subdivision”** means “subdivision” as defined in the *Municipal Government Act*, R.S.A. 2000, c. M-26, s. 616, as amended or repealed and replaced from time to time.

3. **Imposition of Levy**

- 3.1 There is hereby imposed a levy which shall be known as an Off-Site Levy in respect of all Developable Land.
- 3.2 The amount of the Off-Site Levy imposed is as calculated in Schedule ‘A’.
- 3.3 The Off-Site Levy is comprised of the Off-Site Infrastructure, and pursuant to the calculation details contained in this Bylaw, the Off-Site Levy Model, and the Off-Site Levy Report.

- 3.4 The Off-Site Levy will be assessed on all Developable Land within the Development Region on a per acre basis as provided in Schedule 'A' of this Bylaw, excluding those portions of Developable Land that are identified as:
- a) Environmental Reserve;
 - b) Municipal Reserve; and
 - c) Road right-of way; and
 - d) Town owned land used for municipal purposes.
- 3.5 Unless otherwise agreed upon, the Off-Site Levy is due prior to the endorsement of Subdivision approval for the Development Region or the issuance of a Development permit in relation to the subject parcel.

4. **Objects, Principles and Criteria**

- 4.1 The objects, principles and criteria of the Off-Site Levy shall be in accordance with the following:
- a) This Bylaw creates an Off-Site Levy to provide funds for the construction of Off-Site Infrastructure required for Growth.
 - b) Development in new growth areas through Off-Site Levies will provide the capital that will fund the infrastructure required for Growth. Those who benefit from the infrastructure, which is defined by all Developable Land in the Development Region, should share proportionally, on a per hectare basis, in related costs.
 - c) Provision of Off-Site Infrastructure by developers of Developable Land will not create an advantage or penalty due to the time or location of development.
 - d) Off-Site Infrastructure will be provided to maintain sustainable, cost effective and orderly Growth.
 - e) The calculation of the Off-Site Levy should be an open and transparent process.
 - f) All funds collected from the Off-Site Levy will be credited to a separate and distinct, identifiable Off-Site Levy account, which may be invested as per the Municipality's Investment Policy until used for the construction of the specified Off-Site Infrastructure. The management of the Off-Site Levy account should be an audited process, with reports available to the public and industry.
 - g) The Off-Site Levy will help allow the Municipality to recover the cost of infrastructure required for Growth:
 - i. Using financing strategies that remain sustainable;
 - ii. Facilitating development by reducing risk on early developers and ensuring future developers share the costs of the facilities from which they benefit; and
 - iii. Promoting cost effective and orderly development;

- h) The Off-Site Levy will help promote orderly development by:
 - i. Providing Off-Site Infrastructure, once the appropriate planning is in place, and when warranted in development; and
 - ii. Providing infrastructure for contiguous development;
- i) The Off-Site Levy will help create a transparent process by:
 - i. Providing opportunity for industry input into the levy, its definition and administration;
 - ii. Conforming with the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replace from time to time; and
 - iii. Providing reports on the Off-Site Levy;
- j) The Off-Site Levy will help create a clear process for calculation of the rate, levies and credits by:
 - i. Creating consistent and predictable levies and credits;
 - ii. Creating predictable and stable levies over time; and
 - iii. Documenting a process for establishing the levy rate.

5. **Development Agreements**

- 5.1 The entering into of a Development Agreement with respect to, amongst other things, the collection of an Off-Site Levy is hereby authorized.
- 5.2 Council delegates the authority to enforce and administer this Bylaw, including, but not limited to, the authority to enter into Development Agreements on behalf of the Municipality and to defer or waive collection of Off-Site Levies imposed pursuant to this Bylaw, to the Chief Administrative Officer.
- 5.3 Council may from time to time adopt policies or guidelines for the assistance and direction of the Chief Administrative Officer in determining which Development and Subdivision applications shall require a Development Agreement.
- 5.4 Where it is determined that a Development Agreement is appropriate for any application for Development or Subdivision, the applicant or the owner, as the case may be, shall enter into a Development Agreement with the Municipality and such Development Agreement shall ensure that:
 - a) provision be made for the payment of Off-Site Levies as specified in this Bylaw, or that provision may be made for the deferring of payment of the Off-Site Levies to a future time certain or uncertain; and
 - b) no further Off-Site Levies shall be required to be paid under Development Agreements for lands, which are the subject of the Development or Subdivision application, that have been previously imposed Off-Site Levies and which have been collected in full.

6. Accounting

6.1 All funds collected pursuant to this Bylaw shall be accounted for in a special fund and expended only as permitted under the provisions of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replace from time to time.

7. General

- 7.1 Nothing in this Bylaw precludes the Municipality from:
- a) imposing further or different levies, duly enacted by bylaw, on any portion of the Developable Lands in respect of which the Municipality has not collected Off-Site Levies;
 - b) deferring collection of the Off-Site Levy for the stated objects of this Bylaw, on any portion of Developable Lands in respect of which the Municipality imposed Off-Site Levies, including requiring security for payment of such deferred Off-Site levies; or
 - c) reducing or forgiving payment of the Off-Site Levies required pursuant to this Bylaw, or otherwise providing for credits for other Off-Site or oversize infrastructure constructed by a developer in calculating and/or collecting the Off-Site Levies that become payable pursuant to this Bylaw.

This Bylaw shall take effect and come into force effective after final reading and signature thereof by the Chief Elected Official and Chief Administrative Officer, or their authorized delegates.

Bylaw No. 7-2017 is hereby repealed.

READ A FIRST TIME IN COUNCIL THIS _____ DAY OF _____, A.D. 20_____.

Mayor

Chief Administrative Officer

PUBLIC HEARING HELD ON THIS ____ DAY OF _____, A.D. 20 _____.

READ A SECOND TIME IN COUNCIL THIS ____ DAY OF _____, A.D. 20_____.

Mayor

Chief Administrative Officer

READ A THIRD TIME IN COUNCIL THIS _____DAY OF _____, A.D. 20_____.

Mayor

Chief Administrative Officer

OFF-SITE LEVY RATES

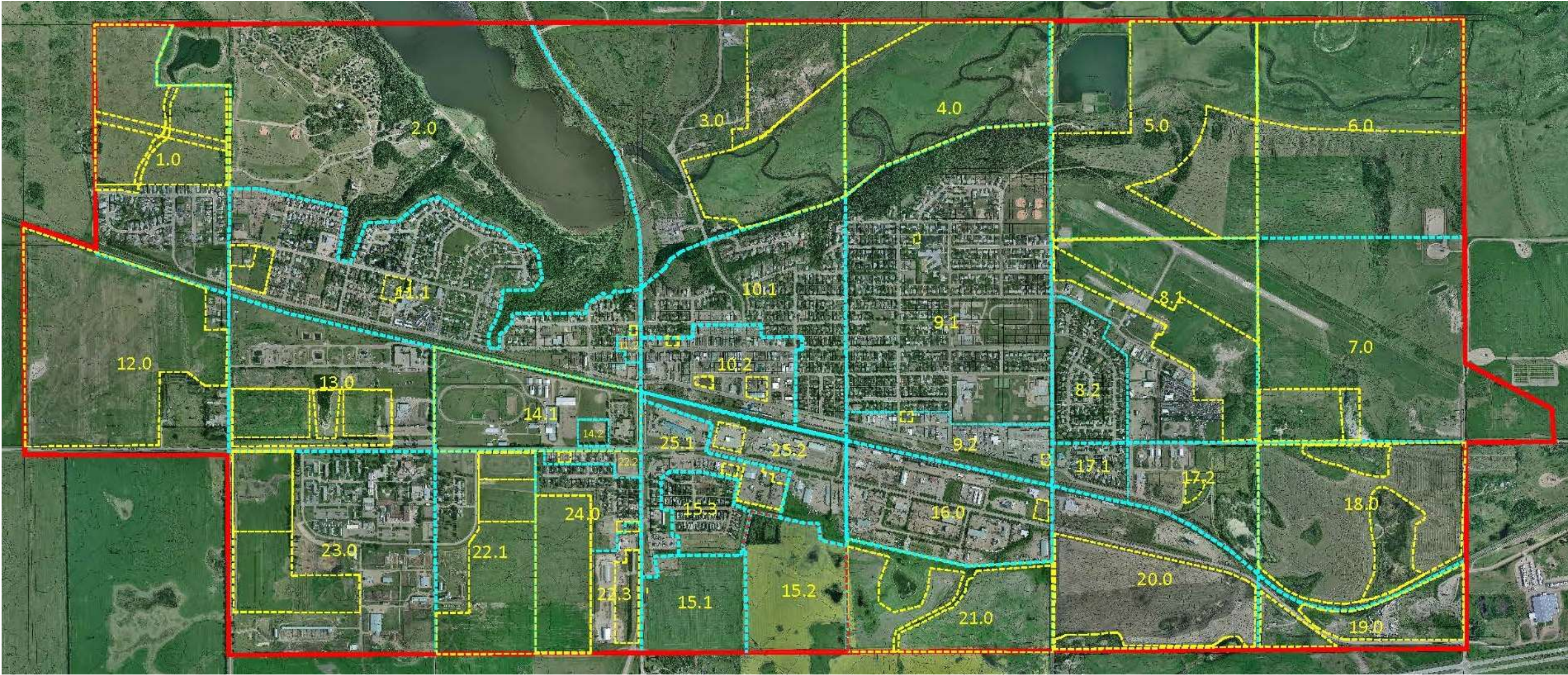
2019 Rates - Cost Per Acre

Area Ref. #	Transportation Charges	Water Charges	Sanitary Charges	Storm Charges	Total
1.0	\$ -	\$ 3,114	\$ 16,471	\$ -	\$ 19,585
2.0					
3.0	\$ -	\$ 3,114	\$ -	\$ -	\$ 3,114
4.0	\$ -	\$ 3,114	\$ -	\$ -	\$ 3,114
5.0	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
6.0	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
7.0	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
8.1	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
8.2					
9.1	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
9.2	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
10.1	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
10.2	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
11.1	\$ -	\$ 3,114	\$ 16,471	\$ -	\$ 19,585
11.2	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
12.0	\$ -	\$ 3,114	\$ 16,471	\$ -	\$ 19,585
13.0	\$ -	\$ 3,114	\$ 7,892	\$ -	\$ 11,006
14.1					
14.2	\$ -	\$ 3,114	\$ 9,088	\$ 2,990	\$ 15,193
15.1	\$ -	\$ 3,114	\$ 9,725	\$ 2,990	\$ 15,830
15.2	\$ -	\$ 3,114	\$ 9,725	\$ 2,990	\$ 15,830
15.3	\$ -	\$ 3,114	\$ 7,892	\$ 2,990	\$ 13,997
16.0	\$ 3,619	\$ 4,562	\$ 5,271	\$ 2,990	\$ 16,444
17.1					
17.2	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
18.0	\$ -	\$ 3,114	\$ 5,271	\$ -	\$ 8,386
19.0	\$ -	\$ 4,562	\$ -	\$ -	\$ 4,562
20.0	\$ 3,619	\$ 4,562	\$ 5,271	\$ -	\$ 13,453
21.0	\$ 3,619	\$ 4,562	\$ 5,271	\$ 2,990	\$ 16,444
22.1	\$ -	\$ 3,530	\$ 9,088	\$ 2,990	\$ 15,609
22.2	\$ -	\$ 3,114	\$ 7,892	\$ 2,990	\$ 13,997
22.3	\$ -	\$ 3,530	\$ 17,913	\$ 2,990	\$ 24,434
23.0	\$ -	\$ 3,114	\$ 9,088	\$ -	\$ 12,203
24.0	\$ -	\$ 3,530	\$ 17,913	\$ 2,990	\$ 24,434
25.1	\$ -	\$ 3,114	\$ 7,892	\$ 2,990	\$ 13,997
25.2	\$ -	\$ 3,114	\$ 7,892	\$ 2,990	\$ 13,997

Legend:
Residential
Commercial
Industrial
No Development Area Available
Development >25 years

DEVELOPMENT AREA

The Town's off-site levy development area is divided into several basins and sub-basins as shown in the map below.





Prepared By: Allan Wilson

Effective Date: June 21, 2017

Policy Name: Off-Site Levy Framework Policy

Policy Number: 17/06/119 & 17/06/120

Council Approval Date: June 20, 2017

Council Resolution No.: 17/06/119 & 17/06/120

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INTRODUCTION

Charges on land development and how they are levied will affect not only land and housing prices (and hence housing affordability), but also the demand for developed land, urban growth rates and development patterns, and ultimately, the viability of the development industry and general health of Town of Vermilion’s economy. The Town is adopting 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 policies and procedures that Town of Vermilion will adopt to help guide when to assess levies to developers, when levy amounts are payable (deferrals), when and how front-end infrastructure construction will be assigned to developers, when and how developer front-end construction will be reimbursed.

This document is laid out in chronological fashion outlining policies and procedures associated from initial assessment of off-site levies through to those involving construction of off-site infrastructure and the ultimate disbursement of levy funds. Each section within the report is laid out in a consistent fashion with the introduction of the scope of the section, an overview of the typical steps and flow of decisions that Town staff would follow, the fundamental principles that are used to support policy choices and then procedural workings and other information that will assist Town to administer and the applicant understand the policy statements.

DOCUMENT INFORMATION

REVISION HISTORY

Version Number	Revision Date	Summary of Changes and Author
1	August 8, 2012	DRAFT: created by CORVUS Business Advisors
2	September 24, 2012	FINAL: Reviewed and validated by Administration and Council
3	December 16, 2014	REVISION: Section 1.2(l) Town Exemptions – Un-serviced Developments/Properties
4	June 20, 2017	REVISION: Section 1.2(d) Town Exemptions – Ancillary Improvements REVISION: Section 1.2(h) Town Exemptions – Enlargement of Existing Non-Residential Buildings



GLOSSARY

At the outset, it is critical to have a common understanding of the terminology. The following terms and acronyms have been used throughout the document.

“Off-site Levy Exemption” is the condition 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” is the 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” is 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” is the amount of off-site levy that is immediately due upon the issuance of a subdivision or development permit.

“Off-site Levy Installment” is the amount of off-site levy assessment that is due annually.

“Qualified Off-site Infrastructure” is 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” is 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” is issued by the municipality to signify that front-end off-site infrastructure has been constructed to standard.

“Final Acceptance Certificate” is 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.

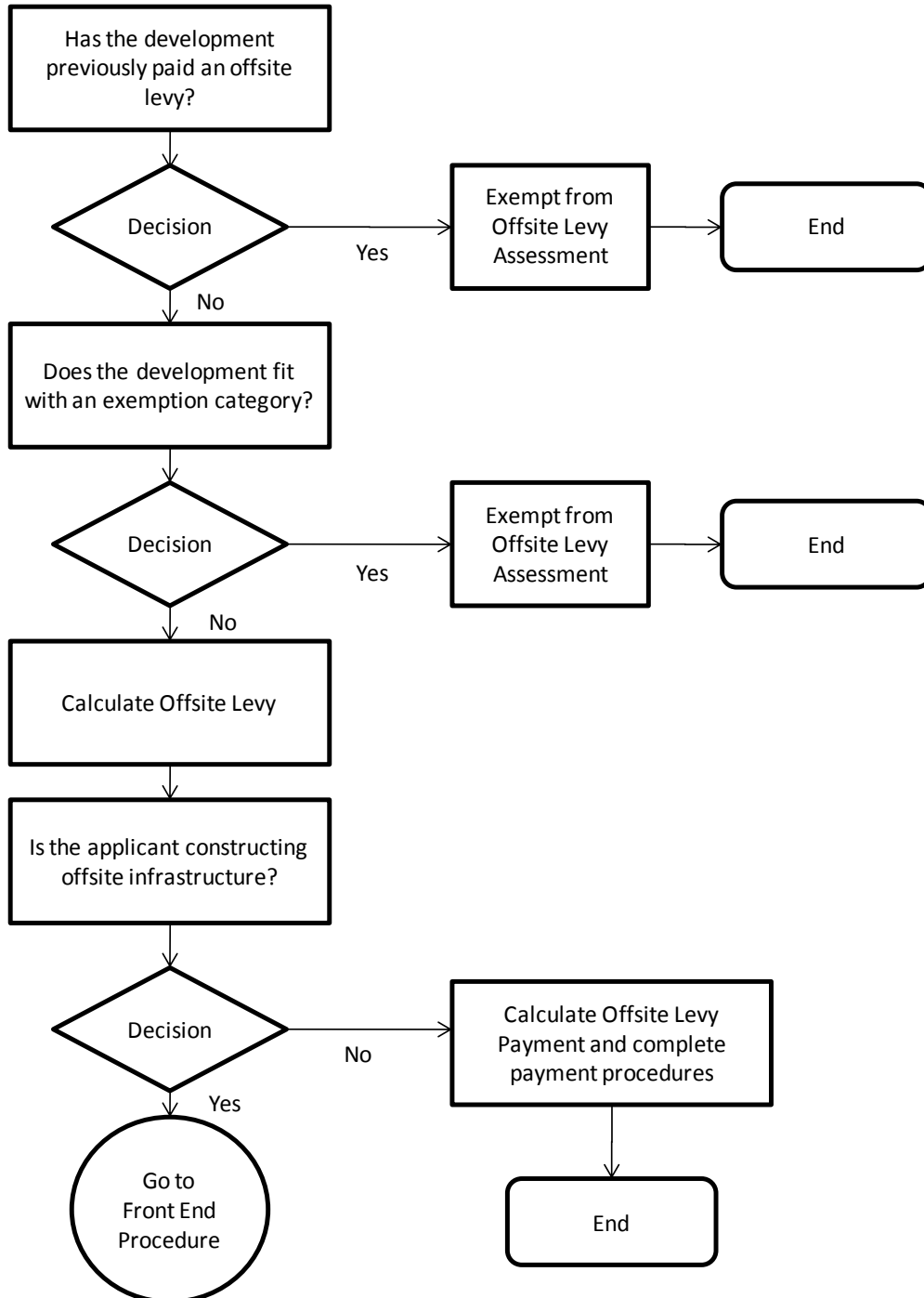
“Holdback” is the amount of funds held-back after issuance of the Construction Completion Certificate during the warranty period. Holdback may be released upon issue of the Final Acceptance Certificate.



ASSESSMENT/COLLECTION PROCESS OVERVIEW

The flow chart below outlines the various process steps and decisions that will be used to guide off-site levy assessment and collection.

Figure 1: Off-site Levy Assessment and Collection



LEVY ASSESSMENT, ASSESSMENT EXEMPTIONS AND THRESHOLDS

The obligation to pay off-site levies occurs in two steps: (1) the levy is “incurred” upon application for a subdivision agreement or development permit, and (2) the levy is paid upon issuance of the subdivision or development permit or may be deferred to a future time of payment. This section of the Policy and Procedure document focuses on the principles that will guide the Town in determining “when” the submission of an application for a subdivision agreement or development permit would result in a levy obligation being “incurred”.

1.1 LEGISLATED EXEMPTION

The first criteria to be considered in determining if an application for a subdivision agreement or development permit is eligible or exempt from incurring an off-site levy obligation is outlined in legislation. Town guiding policies are consistent with these legislative requirements.

Municipal Government Act, Section 648(4) states:

“An off-site levy imposed under this Part of the former Act may be collected once only in respect of land that is the subject of a development or subdivision.”

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.

1.2 TOWN EXEMPTIONS

Except for exemption conditions outlined in legislation, off-site levies would apply to all “development” or “subdivision” situations within the Town of Vermilion off-site levy development area unless such development or subdivision is explicitly exempted.

According to Section 616 (b) of the Municipal Government Act “Development” means (i) an excavation or stockpile and the creation of either of them, (ii) a building or an addition to or replacement of a building and construction or placing of any of them on, in over or under land, (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building or (iv) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.

According to Section 616 (ee) of the Municipal Government Act “Subdivision” means the division of a parcel of land by an instrument.



As such, all improvements on a site including: buildings, other structures, parking and loading areas, landscaping, paving or graveling areas, devoting areas to exterior display, etc. might be considered development. Further, the placement of any land instrument that divides land might be considered subdivision.

The broad application of these definitions to the assessment of off-site levies would result in obligations due where there may be no intent to develop or where the nature and size of the development would not warrant payment of an off-site levy. Whereas the intent of the off-site levy assessment is clearly to pay for the construction of off-site levy road, water, sanitary and storm management infrastructure that supports the development. Clearly then, a subdivision or a development application that does not place any or little burden on road, water, sanitary and/or storm management off-site infrastructure might be considered exempt from off-site levy assessment and payment obligation.

GUIDING PRINCIPLE

IF A DEVELOPMENT OR SUBDIVISION IS, IN THE OPINION OF THE TOWN, LIKELY NOT TO PLACE A BURDEN ON THE 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. NOTWITHSTANDING THE FOREGOING, IN THE EVENT FURTHER DEVELOPMENT AND/OR SUBDIVISION REQUIRES INFRASTRUCTURE, OFF-SITE LEVY ASSESSMENTS AND PAYMENT OBLIGATIONS WILL BE CHARGED.

Town off-site levy **assessment exemptions** and **exemption thresholds** are as follows:

Exemption / Exemption Threshold	Rationale
<p>a) Temporary Development / Land Uses – Temporary land uses may be considered exempt so long as the use or structure proposed will not be used beyond 1 year.</p>	<p>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.</p>
<p>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 may be considered exempt.</p>	<p>This is intended to exempt residential rebuilding / commercial rebuilding in the event of a fire or similar catastrophic loss, 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.</p>



<p>c) Altering a Residential Structure – Altering residential structures up to creation of a 4-plex may be considered exempt.</p>	<p>This is intended to exempt the various forms of residential alterations that may be applied for ranging from a room addition through to creation of a 4-plex. Alterations beyond a 4-plex would be considered a development that would result in greater demand on off-site infrastructure and therefore not exempt from off-site levies.</p>
<p>d) Ancillary Improvements – includes but may not be limited to fences, walls, berms, signs, garages and sheds. These miscellaneous improvements may be considered 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>
<p>e) Division of Lands so that Further Subdivision Can Take Place – includes situations where lands are subdivided into blocks that in turn would require further subdivision of individual lots or blocks. A parcel greater than 16ha. (40ac.) may be considered exempt.</p>	<p>This allows large tracks of lands to be assembled and divided among developers. The minimum parcel size threshold is established to help guide application of this exemption.</p>
<p>f) Non-residential Farm Buildings – agricultural / farming structures may be considered as 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>
<p>g) Division of Agricultural Lands – includes situations where a farm is subdivided. Subdivision of land in blocks of 16 ha. (40ac.) or greater are considered 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>
<p>h) Enlargement of Existing Non-Residential Buildings – Non-Residential buildings may be enlarged to 50% (cumulatively) of the existing buildings floor size before off-site levies are assessed. Cumulative building enlargement in excess of 50% 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>



<p>i) Intensified Land Development – Non-building site development use (processing / production facilities, storage etc.) can be increased by 25% (cumulatively) 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>
<p>j) Alteration of a Non-Residential Structure That Does Not Change the Use or Size of the Structure – 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>
<p>k) Demolition or Removing of a Structure – 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>
<p>l) Un-serviced Developments/Properties – This is intended to exempt various types of developments/properties that are currently not connected to Town water/sewer services.</p>	<p>Should the land be further subdivided or developed, current offsite levies shall apply and will be a condition of the Development Agreement and/or Development Permit providing off site levies for water and sewer have never been paid on that property in the past.</p> <p>This exemption does not apply to Transportation and Storm off-site levies.</p>



LEVY ASSESSMENT DEFERMENT AND INSTALLMENT PAYMENTS

2.1 ELIGIBILITY FOR PAYMENT DEFERMENT

Off-site Levy payment deferment criterion does not consider the financial capacity of developers—all developers are considered to have equivalent financial capacity and an equal right to payment deferment. Off-site Levy payment deferment criterion is focused on the amount of off-site levy that is to be paid by the developer. Developments below the off-site levy deferment threshold amount are required to pay off-site levy amounts as a condition of subdivision or development permit approval. Developments above the deferment threshold amount may “elect” to defer off-site levy payment over a two-year period by entering into agreement (executing a Deferral Agreement) with the Town for off-site levy deferred payment.

GUIDING PRINCIPLE

A DEVELOPMENT OR SUBDIVISION THAT IS ASSESSED CUMULATIVE OFF-SITE LEVIES IN EXCESS OF \$400,000 MAY ELECT TO DEFER OFF-SITE LEVY PAYMENTS.

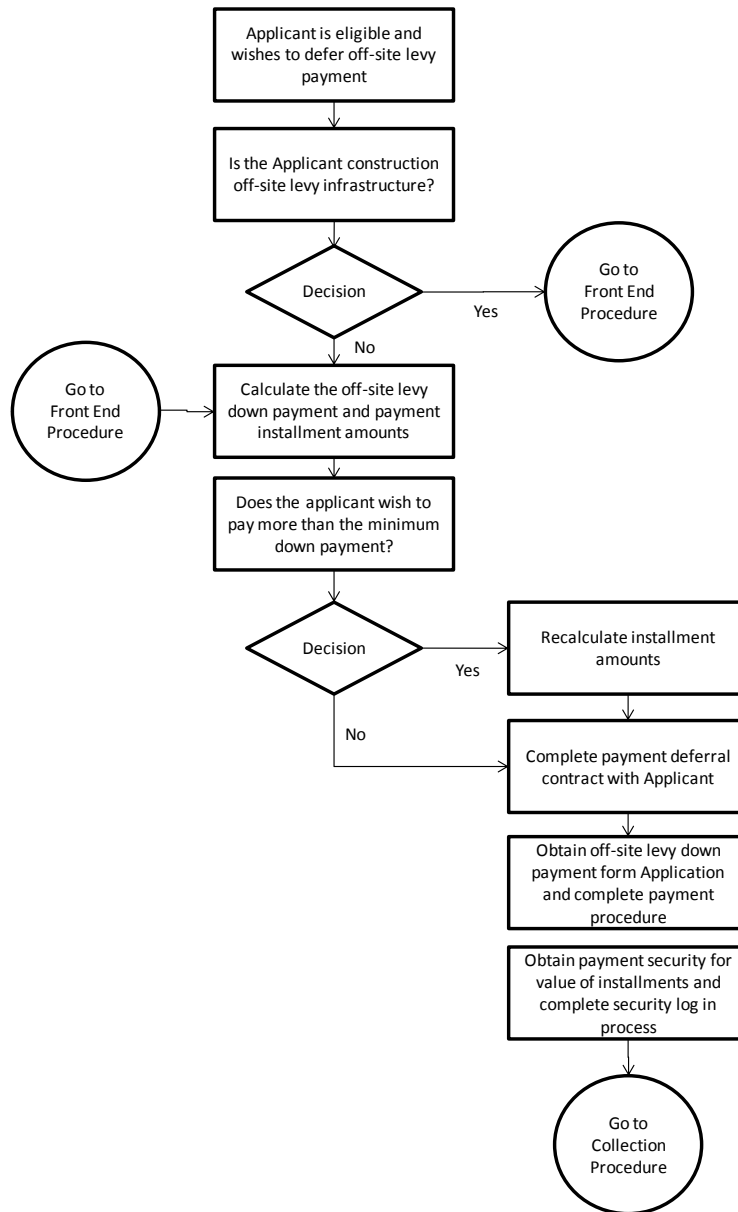
Off-site levy deferment includes:

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 \$400,000. 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.

The following flow chart outlines the payment deferment process:



Figure 2: Off-site Levy Deferment



2.2 REPAYMENT PERIOD AND TERMS

The repayment period is akin to the terms established in a credit agreement whereby the lender (the Town) determines the term of the agreement and the creditor (developer) must meet the terms of the agreement. The creditor has the ability to pay out amounts owing any time prior to the terms of the agreement.

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.

Off-site levy payment (installment) terms:

Installment Terms	Rationale
<p>a) Initial Off-site Levy Down Payment – 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 25% 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>
<p>b) Installment Payments – 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 deferment period.</p>
<p>c) Early Repayment – 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>



2.3 REPAYMENT INDEMNIFICATION

Off-site levies are required to be paid as a condition of issuing a subdivision or development permit. However, if eligible, the applicant may elect to pay the off-site levy in installments as outlined earlier. In order to secure the position of the Town in the case of non-payment of an installment the applicant will provide the Town with indemnification that can be easily converted to cash by the Town in the case of payment default by the developer.

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.

Off-site levy indemnification:

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.

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

Off-site levy monies owed to the Town on deferred payment schemes will be adjusted by off-site levy rate changes that occur prior to payment of levies. Off-site levy assessments are in effect “floating” and subject to adjustment as rates change. Deferral applicants are liable for increases in levy rates that occur after they elect to defer payment to the date that payment is actually made. Should the developer elect to pay an installment or any amount owing prior to a scheduled installment date the off-site levy assessment will be determined based upon the off-site levy rates in effect at the time of payment.

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.

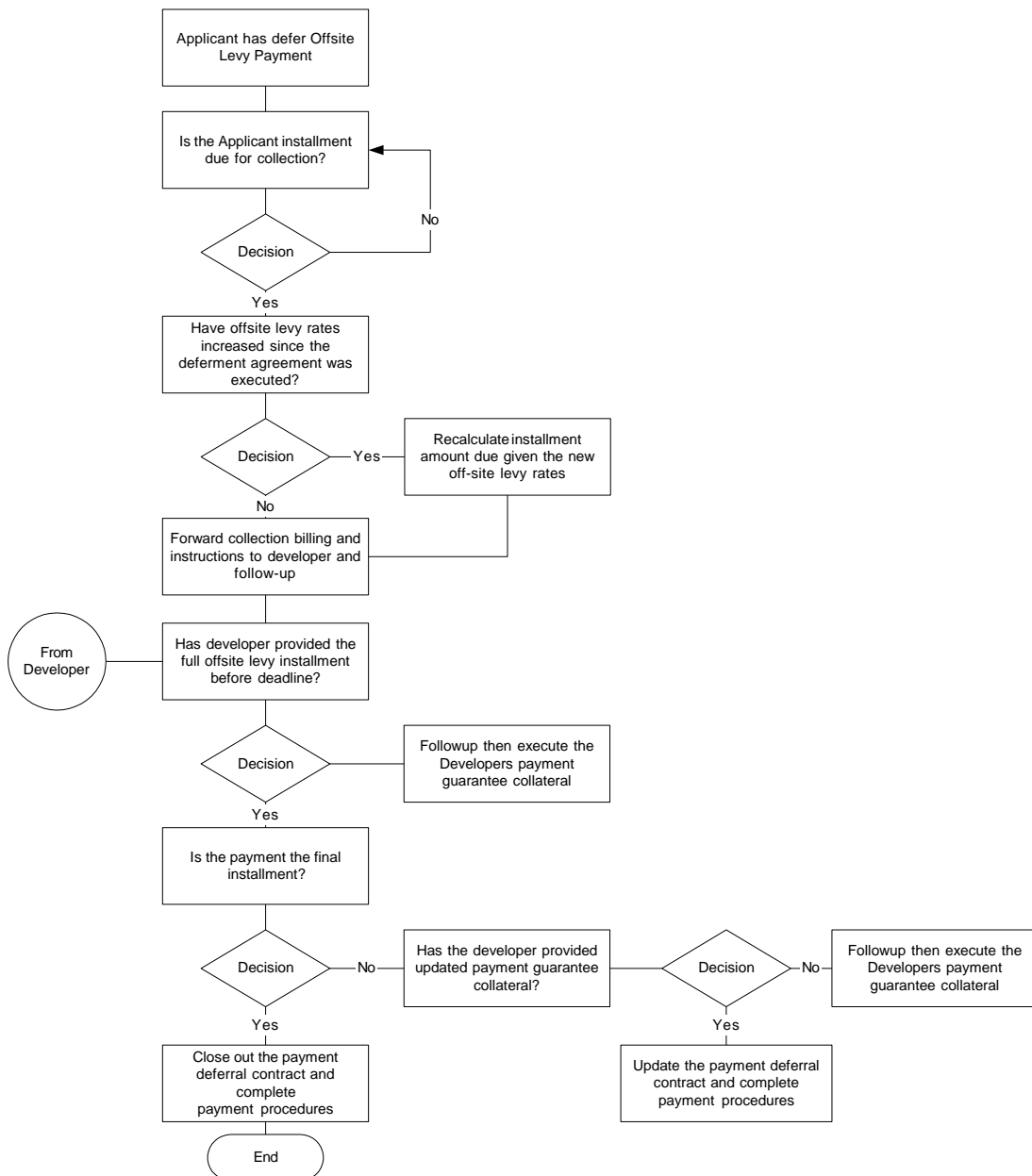


Calculation of off-site levy payments will be as follows:

Assessment Adjustment Terms	Rationale
<p>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.</p>	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.

The following flow chart outlines the installment collection process.

Figure 3: Off-site Levy Collection

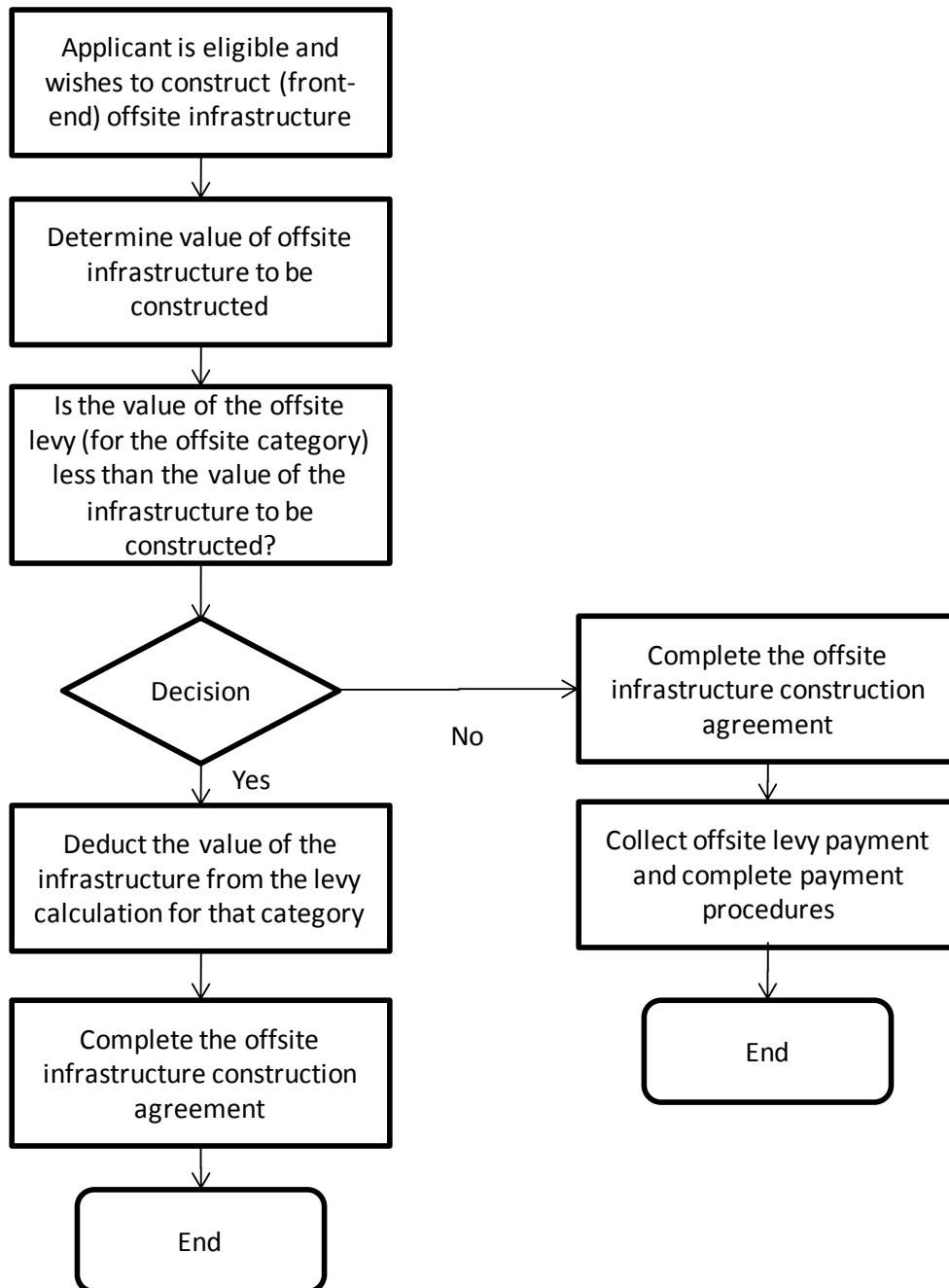


OFF-SITE LEVY INFRASTRUCTURE FRONT-ENDING

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, incentives will include: offsetting levies due by the value of off-site levy infrastructure constructed by the developer and providing interest on front-ending balances owed to the developer.

The following flow chart outlines the infrastructure front-ending process:

Figure 4: Off-site Levy Front-Ending Process



3.1 CONSTRUCTION OF “QUALIFIED” AND “NON-QUALIFIED” OFF-SITE INFRASTRUCTURE

There may be instances where a developer will construct “qualified” off-site infrastructure to support their development. “Qualified” means that the Town has approved off-site infrastructure construction and entered into contract (Front-end Construction Agreement) with the developer. The agreement will outline the standards and specifications of the infrastructure to be constructed. The decision to approve the construction as “qualified” is based upon the off-site infrastructure being outlined within the Town’s Off-site Levy Bylaw and the infrastructure being required “by the Town” in the near term. This later condition is denoted by the project being reflected in the next 5 years of the Town’s Capital Plan.

There may be instances where a developer will construct off-site infrastructure to support their development however the Town may not require the infrastructure to be built in the near term (“non-qualified”). For example, a developer may wish to construct all four lanes of an arterial road when only two lanes are required. “Non-qualified” means that the Town has approved off-site infrastructure construction and entered into contract (Front-end Construction Agreement) with the developer. The agreement will outline the standards and specifications of the infrastructure to be constructed. The decision to approve the construction as “non-qualified” is based upon the off-site infrastructure being outlined within the Town’s Off-site Levy Bylaw but the infrastructure is not required “by the Town” in the near term. This later condition is denoted by the project being reflected beyond the next 5 years of the Town’s Capital Plan.

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 AGREEMENT WITH THE TOWN ON ALL OFF-SITE INFRASTRUCTURE CONSTRUCTED (QUALIFIED OR NON QUALIFIED INFRASTRUCTURE). “QUALIFIED” OFF-SITE INFRASTRUCTURE IS OUTLINED WITHIN TOWN OF VERMILION’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 VERMILION’S OFF-SITE LEVY 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 agreement with the Town.	Developers are required to enter 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”.

3.2 OFFSETTING OFF-SITE LEVIES FOR FRONT-END INFRASTRUCTURE COSTS

Developers who front end the construction of off-site levy infrastructure whether “qualified” or “non-qualified” may apply the cost of this infrastructure against off-site levies due to the Town. If the developer is constructing off-site infrastructure or contributing land that will be used to site off-site levy infrastructure the Town will award the developer a credit up to the value of construction. However, the construction credit may only be applied against the same category of levy as the constructed front-end infrastructure. No construction credits may be applied to off-site levies owing that differ from the off-site levy infrastructure being constructed. For example, if a developer were front-ending the construction of road off-site infrastructure, then the off-site levy assessment for roads can be offset by the value of front-ended road infrastructure. The value of construction cannot be offset against any other off-site levy assessments.



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.

Calculation of off-site front end amounts and levy credits for front-ended off-site levy infrastructure are as follows:

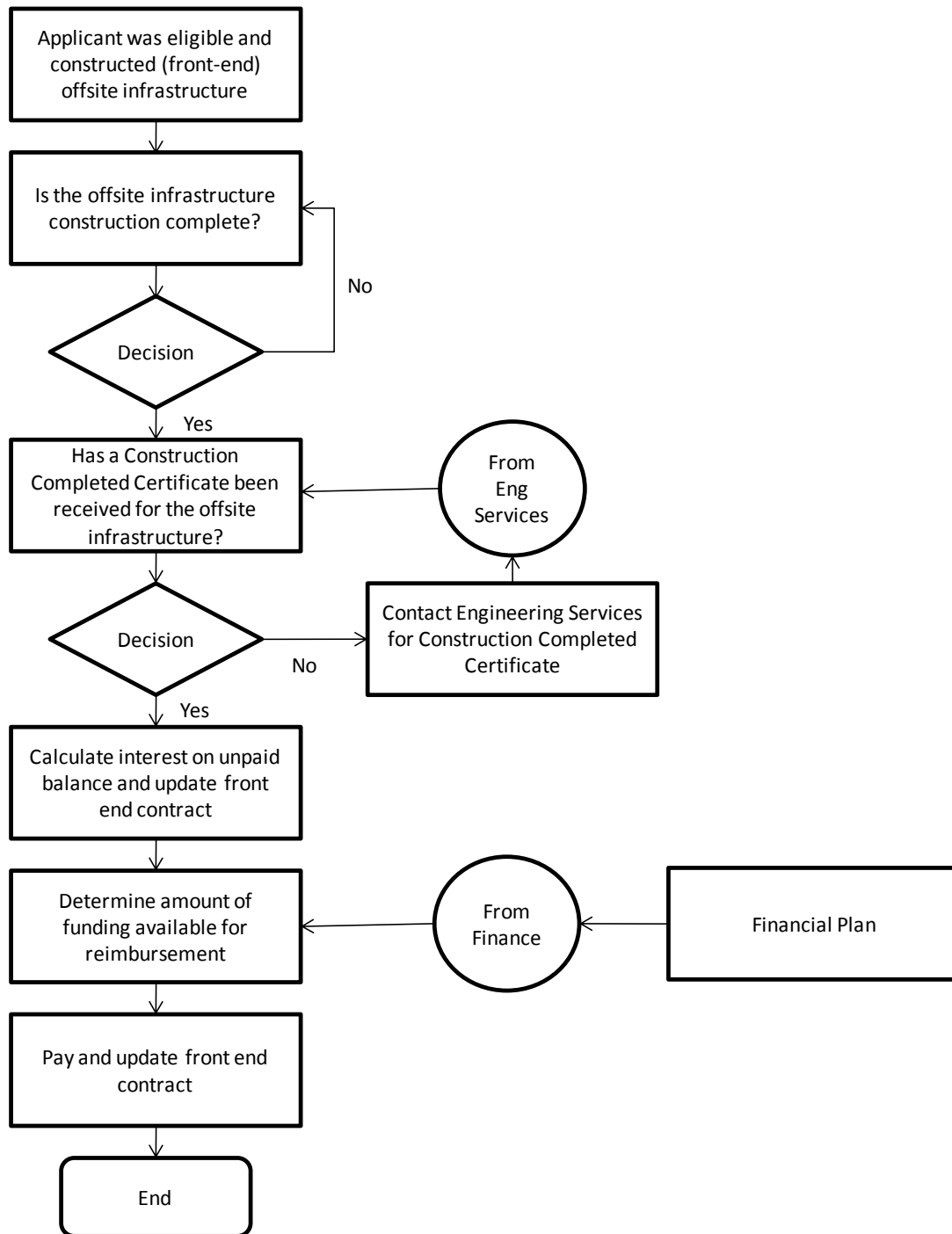
Front-end Construction Amount / Offset Credits	Rationale
<p>Offset Based Upon Professional Estimate / Adjust for Actual – The offset credit will be based upon the Town approved construction estimates. The developer will provide this estimate. The developer estimate must be certified by a professional 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>



INFRASTRUCTURE FRONT-END CLAIM REIMBURSEMENT

The following flowchart outlines the reimbursement of front-ending claims process:

Figure 5: Front-Ending Claim Reimbursement Process



4.1 CONSTRUCTION INSPECTION AND ACCEPTANCE

Developers who are front-ending the construction of off-site levy infrastructure will construct infrastructure to the standards and specifications demanded by the Town. In this regard the process used to inspect and accept other development infrastructure will be used for off-site infrastructure construction. The Town will inspect constructed infrastructure and issue a Construction Completion Certificate when the infrastructure is completed. This certificate will “start the clock” on the timing of guaranteed repayment on “qualified” off-site infrastructure. The developer will be responsible for correcting any deficiencies in off-site infrastructure construction. Front-end off-site infrastructure will be subject to a two-year warrantee period. To ensure that the developer corrects deficiencies in front-end infrastructure, cost reimbursement will be subject to hold back. The Town will issue a Final Acceptance Certificate when all deficiencies have been remedied and the warrantee period has expired. The Final Acceptance Certificate will trigger the release of front-end infrastructure reimbursement hold back (assuming funds are available in the off-site levy reserve).

GUIDING PRINCIPLE

DEVELOPERS WILL BE RESPONSIBLE TO CONSTRUCT OFF-SITE INFRASTRUCTURE TO THE STANDARDS AND SPECIFICATIONS OF THE TOWN.

Infrastructure inspection and acceptance conditions are outlined below:

Inspection / Acceptance Terms	Rationale
<p>a) Inspection, Correction of Deficiencies, Acceptance – 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 guaranteed repayment schedule.</p>
<p>b) Hold Back on Deficiencies, Issuance of Final Acceptance Certificate – The Town will withhold 20% of the cost of front-end off-site infrastructure repayment amounts 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 (if funds are 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.</p>



4.2 INTEREST ON UNPAID BALANCE

Developers who construct “qualified” off-site infrastructure, where the cost of construction exceeds off-site levies payable, should earn interest on balances due to them. Interest should accrue from the point of the issuance of the Construction Completion Certificate, and will be posted to the developers account annually and upon final repayment of the construction cost by the Town. Interest accrued on unpaid balances owed to the developer should be earned at the borrowing rates periodically agreed to by the Town in the “Town Banking Agreement”. The “Town Banking Agreement” represents the interest cost to the Town if it were to borrow money to front-end construction of the off-site infrastructure.

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 TO THE TOWN AS WOULD BE RECEIVED IN A LOAN THROUGH THE TOWN’S BANKING AGREEMENT.

Interest earned on outstanding balance due to the developer for construction of “qualified” off-site infrastructure:

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 at the interest rate the Town would receive if it were to borrow money under the terms and conditions of the “Town Banking Agreement”. 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.

4.3 FRONT ENDING REPAYMENTS

The Town will decide annually the amount of off-site levy reserves that are to be used / retained for drawn down of outstanding front-end balances (less holdbacks) and future construction. The following illustration outlines how off-site levy reserves will be apportioned.



Figure 6: Appointing Off-site Levy Reserve for Payment



The Town will develop a plan annually describing how it intends to distribute off-site levy reserve funds. The plan will consider future off-site front-ending, future staging of off-site infrastructure, the balance in off-site levy reserves, the balance of outstanding qualified front-end obligations, the Town’s borrowing capacity, interest rates, development trends etc.

This information will be used to create the Town’s Capital Plan as well as a Finance Plan that outlines anticipated levy receipts, expenditures and the allocation of expenditures between repayments, front end debt draw down, monies drawn by the Town to construct off-site infrastructure and amounts retained in the reserve to finance future disbursements including future construction, repayments etc.

GUIDING PRINCIPLE

THE TOWN WILL DEVELOP ANNUALLY A FINANCIAL PLAN DESCRIBING HOW OFF-SITE LEVY FUNDS WILL BE DISBURSED.

Repayment prioritization:

Reserve Use	Rationale
<p>a) Use for Funding Payouts, Construction of New Off-site Infrastructure or Draw Down of Off-site Infrastructure Debts – Off-site levy funds will be drawn down as may be required to meet front-end payments (less holdbacks).</p> <p>Off-site reserve funds may also be used / retained for future infrastructure projects or draw down of “qualified” front-end obligations at the discretion of the Town.</p>	<p>Repayment of developer payouts may be given the same priority as funding of new infrastructure or draw down of front-end debts.</p>



4.4 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

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 \$25,000, THE AMOUNT DUE WILL BE PAID OUT IN ITS ENTIRETY.

The following outlines the administrative processes that will be used when reserve payments are allocated to the repay / draw down of “qualified” front-end obligations.

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 \$25,000 will be paid out – When the balance of a “qualified” front-end obligation falls below \$25,000, 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.

