



Community Planning
Association of Alberta
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Using Off-site Levies to Build Liveable Communities



BROWNLEE LLP
Barristers & Solicitors

Presented by:



LORNE I. RANDA

Partner, Edmonton Office
lranda@brownleelaw.com
Direct: 780-497-4832



NICOLE MAYNARD

Associate, Calgary Office
nmaynard@brownleelaw.com
Direct: 403-

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3. Soft Services Essential Elements
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1. Introduction

Off-site levies are a valuable cost recovery mechanism, imposed by bylaw, to fund or reimburse the cost of new infrastructure required due to new developments or subdivision

Off-site levies are a charge by a municipality, collected from a developer as a condition of development or subdivision approval

Off-site levies are imposed by bylaw

2. BASIC ELEMENTS OF OFF-SITE LEVIES



2. Basic Elements

Recoverable Infrastructure



- New or expanded:
 - **water, sanitary sewer, storm sewer drainage, roads, and connections to provincial highways; and**
 - **community recreation facilities, fire halls, police stations, and libraries.**

Method of Calculation



- Municipalities must develop a clear method of levy calculation
- Basic calculation:

$$\frac{A}{B} = C$$

2. Basic Elements

$$\frac{A}{B} = C$$

A = Total cost of off-site infrastructure projects

B = Total benefiting area

C = Off-Site Levy Rate

To prepare an off-site levy and to determine the values for A and B, a municipality must perform a detailed assessment of its future infrastructure requirements:

- a) Planning Horizon**
- b) Requisite Infrastructure and Estimated Cost**

2. Basic Elements

General Principles (OSL Reg, s 3)



- ***Municipalities are responsible for:***
 - addressing and defining existing and future infrastructure, transportation infrastructure and facility requirements – can coordinate with neighboring municipalities
 - determining the basis on which the levy is calculated
- ***Municipalities cannot:***
 - Direct the Province to expend funds or otherwise commit to funding transportation infrastructure
 - Compel a subdivision or development application to pay beyond the applicant's proportional benefit

2. Basic Elements

Additional Principles (OSL Reg, s 5)



- In determining the basis on which the levy is calculated, the municipality ***must at a minimum*** consider and include or reference in the bylaw:
 - a ***description of the specific infrastructure***, facilities, and transportation infrastructure;
 - a ***description of each of the benefitting areas*** and how those areas were determined;
 - ***supporting studies, technical data, and analysis***;
 - ***estimated costs and mechanisms to address cost variations over time***

2. Basic Elements

Additional Principles (OSL Reg, s 5)



- There *must be a correlation* between the off-site levy and the benefit to new subdivision or development of land

2. Basic Elements



Off-site Levy Bylaw

- Off-site levy must be established by bylaw
- Bylaw must be advertised and good faith stakeholder consultation must occur
- Supporting documents must be referenced



Imposed at Development or Subdivision Approval

- Off-site levies may only be triggered as a condition of subdivision approval or the issuance of development permits
- Use of development agreements to facilitate payment (MGA ss. 650 and 655)

2. Basic Elements

Collection Only Once (for Each Purpose)



- Historically, off-site levies could only be collected once for each parcel of land.
- However, off-site levies may now be collected once for each purpose for which levies may be collected
- Allows levies to be collected at different times for different types of infrastructure (e.g. levy for water infrastructure at subdivision stage and levy for roads at development permit stage).
- BUT, because levies can only be collected once for each infrastructure type, it is important to ensure all possible off-site levy infrastructure is included in the bylaw

2. Basic Elements

Retain Consultants & Skilled Professionals



- Utilize skilled consultants such as engineers or accountants to compile data and prepare reports
- Help to meet municipal obligations to develop a clear method of calculation for the levy and to comply with expanded requirements in the new Regulation



Ensure Proper Accounting Procedures

- Procedures should be in place to effectively track payments and expenditures and provide annual reporting
- Separate accounts must be maintained for each infrastructure type (MGA s. 648(5))

2. Basic Elements

Stakeholder Consultation (MGA s 648.3)



- Municipalities **must consult** with stakeholders:
 - at the **earliest opportunity** (and ongoing), and in good faith;
 - **before making final determination** on defining infrastructure and facilities;
 - **when determining the methodology** on which to base the offsite levy; and
 - prior to passing Offsite Levy Bylaw, on the calculation of the levy rates.
- Municipalities must make publically available all calculations and information relied upon, assumptions and data used.

2. Basic Elements

Accountability & Consultation

Stakeholders

- Developers
- Landowners
- Residents
- Lobbyists

Good Faith

- Meaningful discussions
- Opportunity to provide input

Share Information

- Master studies
- Engineering analysis
- Calculations

2. Basic Elements

Annual Reporting (MGA s 648.4)

- In addition to proper accounting, ***transparency of levies is required***
- Annual Report must include:
 - the details of all levies received by each contributor for each type of facility and infrastructure within each benefiting area;
 - the use of each facility and infrastructure for each capital project; and
 - the balances retained for each facility and infrastructure within each benefiting area



3. SOFT SERVICES ESSENTIAL ELEMENTS



3. Soft Services – Essential Elements

Expansion of “Soft Services” – s.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**

3. Soft Services – Essential Elements

What does “Community Recreation Facility” mean?



Indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facility.

Examples: gymnasium, swimming pool, arena, field house, running track, etc.

Does not include outdoor sport fields, outdoor skating rinks, playgrounds, trails, etc.

3. Soft Services – Essential Elements

Additional Principles for soft services facilities (OSL Reg, s 6)



- In calculating an off-site levy for soft services, ***municipalities must consider*** supporting statutory plans, policies, or agreements, and any other relevant documents that identify:
 - the ***need for and anticipated benefits*** from the new facilities;
 - the ***anticipated growth horizon***;
 - the ***portion of the estimated cost of the facilities to be paid by*** the municipality, the revenue raised by the off-site levy; and other sources of revenue

3. Soft Services – Essential Elements

Additional Principles for soft services facilities (OSL Reg, s 6)



- ***Municipalities have discretion*** to establish service levels and minimum building and base standards for the proposed facilities

EXAMPLE

4. EXAMPLES OF SOFT SERVICE LEVIES

4. Examples

- Off-site levies for soft services are still relatively new and uncommon.
- Not many examples in Alberta.
- Main issues remain:
 - That it must be for NEW facilities
 - That determining benefiting area will remain challenging
 - That funding sources for such facilities must be determined
 - That what is meant by service levels and minimum building and base standards for facilities is unclear

4. Examples

Town of Cochrane, OSL Bylaw No. 09/2021

7.5. POLICE STATION FACILITIES

Project Description

The project consists of land acquisition and construction costs for new police station facilities, being a Protective Services Building. The new detachment will replace the current detachment within Downtown Cochrane.

4. Examples

City of Chestermere, OSL Bylaw No. 013/21

Recreation Infrastructure Staging

| Item | Project Description | Construction Start Year |
|------|--|-------------------------|
| 1 | Land, Phase 1 | 2021 |
| 2 | Rec Facility Phase 1, Field House, Fitness, Track (no field) | 2021 |
| 3 | Rec Facility Phase 2, Arenas (3 sheets) - delayed construction to 2035 | 2035 |

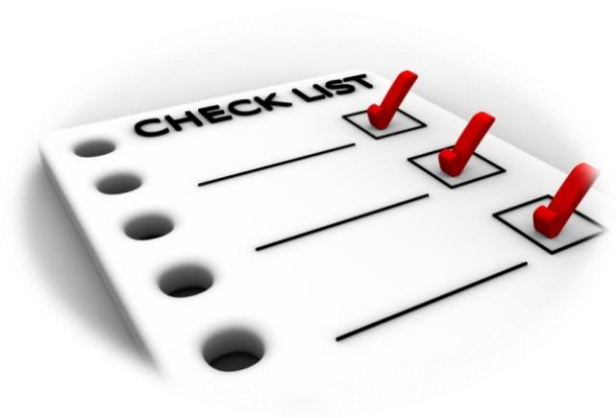
4. Examples

Town of High River, OSL Bylaw No. 4586/2020

Project Description:

Upgrades to the existing fire station to bring the building to current Alberta Building Code (2014). This project includes roof replacement, downpipe extensions, south wall crack repairs, building envelope insulation replacement, sprinkler installation, asbestos removal, fire separation installation, washroom upgrades, second floor exit, and guard rail installation. This is considered the bare minimum of upgrades needed for the facility (ISL, 2018).

5. OFF-SITE LEVY ISSUES CHECKLIST



5. Issues Checklist

☐ Recoverable Infrastructure

Infrastructure Type

- **Traditional Off-site Levy Infrastructure (s.648(2)):**
 - water, sanitary, storm, roads, provincial highway connections (new)
- ***New “Soft Services” (s.648(2.1)):***
 - community recreation facilities, fire halls, police stations, libraries

...and required lands

5. Issues Checklist

□ Recoverable Infrastructure, cont'd



Categories of Costs

- No recovery of costs by way of an off-site levy beyond the categories expressly set out in Sections 648(2) and (2.1) of the MGA

Incidentals and Appurtenances

- Courts have held such costs to be recoverable
- In developing an off-site levy regime, consider **all required infrastructure**

Regional or Boundary Facilities

- Consider possibility of intermunicipal off-site levy

5. Issues Checklist

❑ Residual Benefit to Existing Development

Residual benefit to existing development is not permitted



Infrastructure must be required due to **new development**



Costs of upgrading and retrofitting should not be included



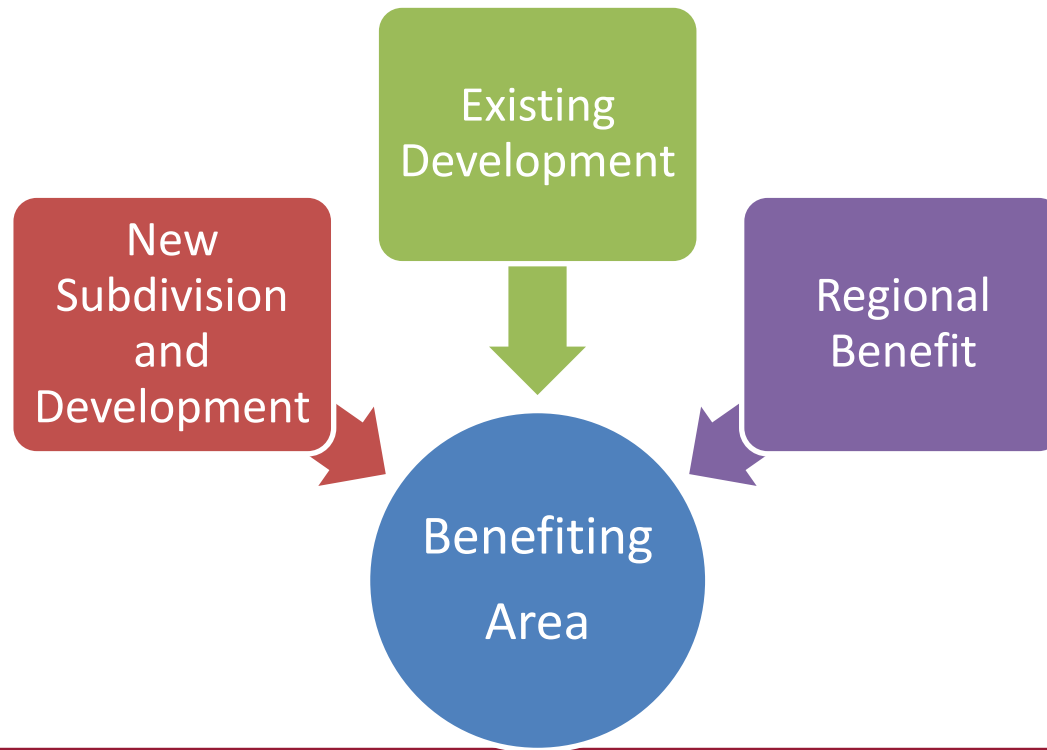
5. Issues Checklist

☐ Service Demand and Base Standards



5. Issues Checklist

□ Determining Benefiting Area



5. Issues Checklist

□ Net or Gross Area of Developable Lands

Will off-site levy be calculated and imposed on the **net** or **gross** developable lands?

"Net" calculations

After municipal reserve, arterial roads, etc. are removed from the total developable lands

"Gross" calculations

Before any lands are removed from developable lands

5. Issues Checklist

❑ Per Area or Per Lot/Unit

Off-site levies can be imposed either on per area or per unit basis



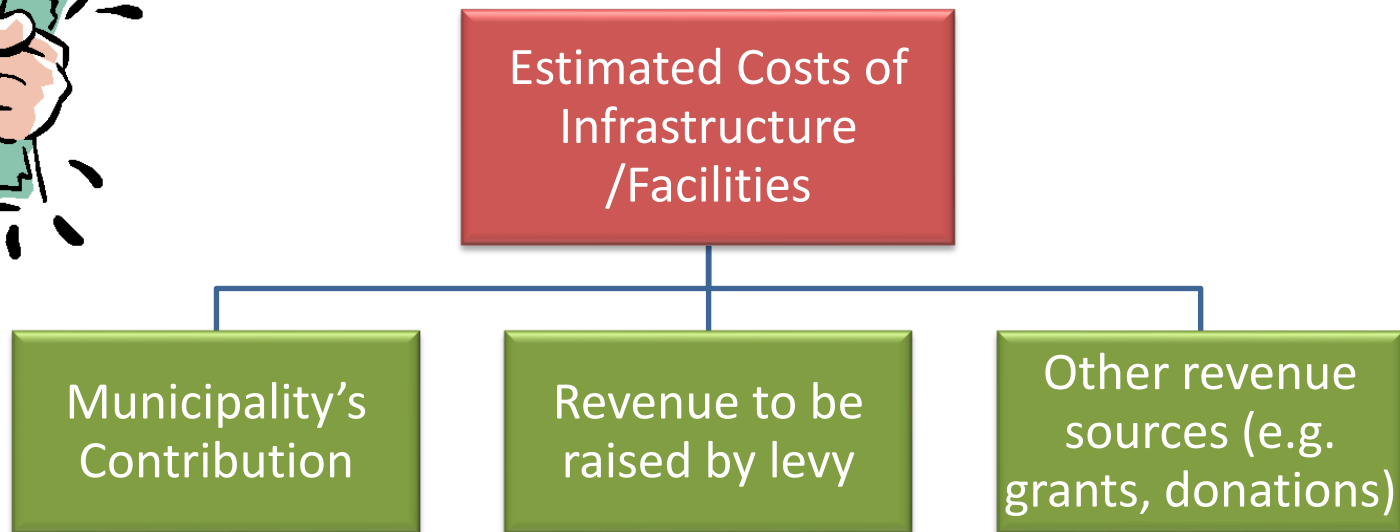
There must be consistency across the municipality for each type of infrastructure or facility (Regulation s. 4(1)(c))



Supporting documents should be reviewed to ensure there are logical assumptions related to how the rates are set

5. Issues Checklist

□ Funding Sources



5. Issues Checklist

□ Obtain and Review all Supporting Reports

Must have detailed calculations to support and justify the established rates; such calculations must be rational

Calculations may be part of the schedules or cross-referenced in reports referred to within the bylaw


Ensure prescribed principles and criteria are considered (Reg. ss.5-7)

Professional assistance is key!



5. Issues Checklist

□ Consider Alternative Models



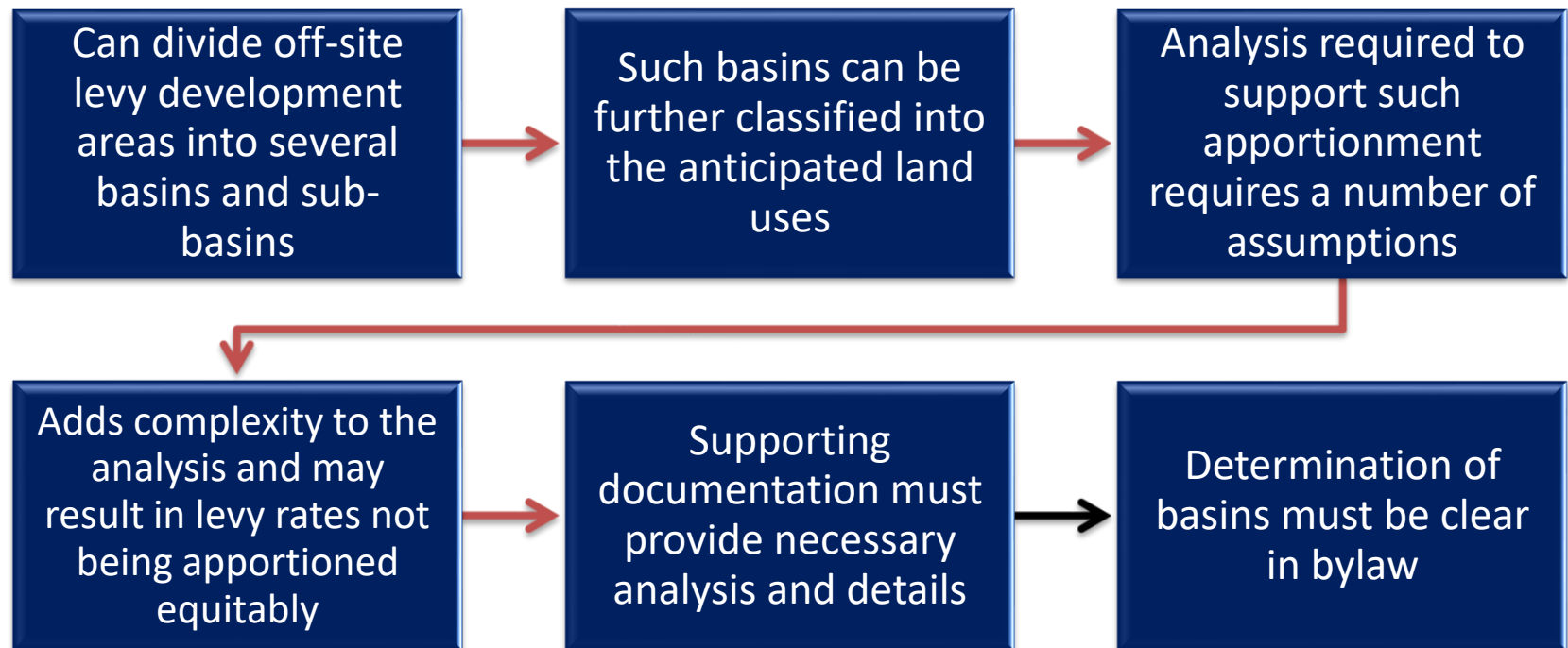
No “one
size fits
all” model

Consider the unique
or special
circumstances of the
municipality

Multiple basins with
differing rates may be
one solution

5. Issues Checklist

□ Multiple Basins and Differentiate Uses



5. Issues Checklist

□ Periodic Review and Re-evaluation



Underlying assumptions of your off-site levy bylaw should be reviewed periodically and adjusted as new information becomes available



Bylaw must include requirement for periodic review of the calculation of the levy (Regulation, s.5(4))



We recommend municipalities undertake this exercise on an annual basis (ideally concurrently with the budgeting process)

5. Issues Checklist

☐ Deferred Payment



Collection can be triggered by subdivision or development and then deferred until a later date



No special collection mechanisms within the MGA or the Regulation.
Requiring security is recommended



Terms regarding deferred payment are best addressed under a Development Agreement

5. Issues Checklist

□ Inflation and Timing of Construction

Inflationary factors can have a major impact on cost recovery calculations



Levy calculation may include “estimated costs and mechanisms to address cost increases over time”
Regulation s. 5(1)(d)

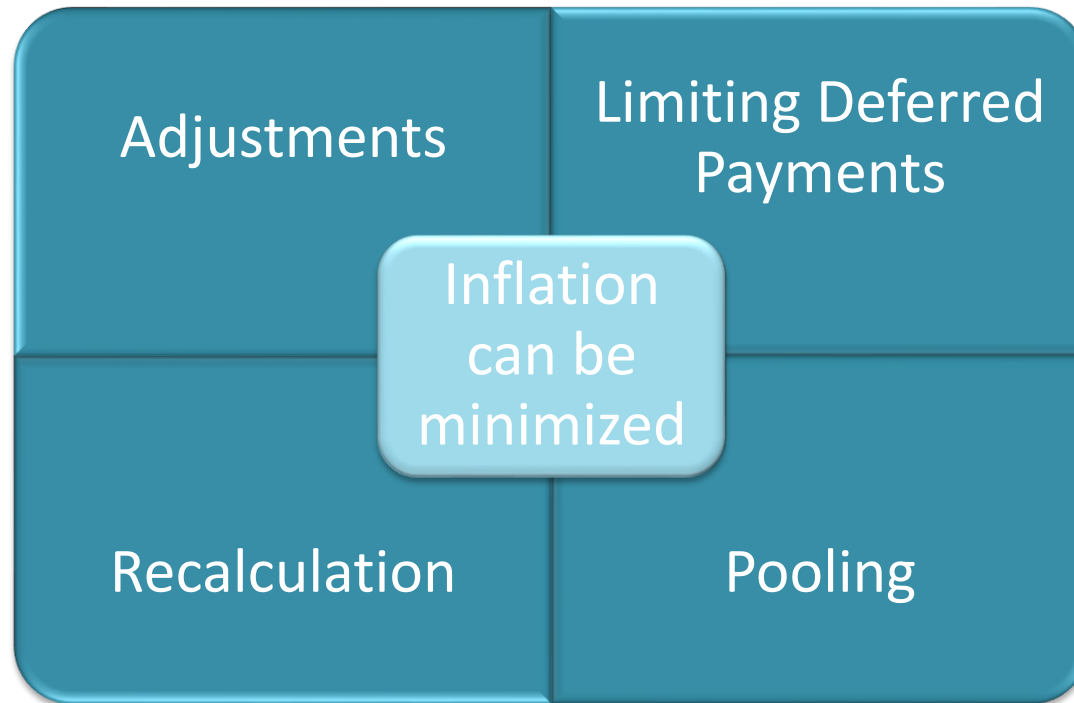


Consider:
When will construction take place?
Will borrowing be required?
Are there inflationary costs?



5. Issues Checklist

□ Inflation and Timing of Construction



5. Issues Checklist

□ Front-Ending and Levy Credits



Who will undertake construction of the off-site levy infrastructure?



Municipality constructs

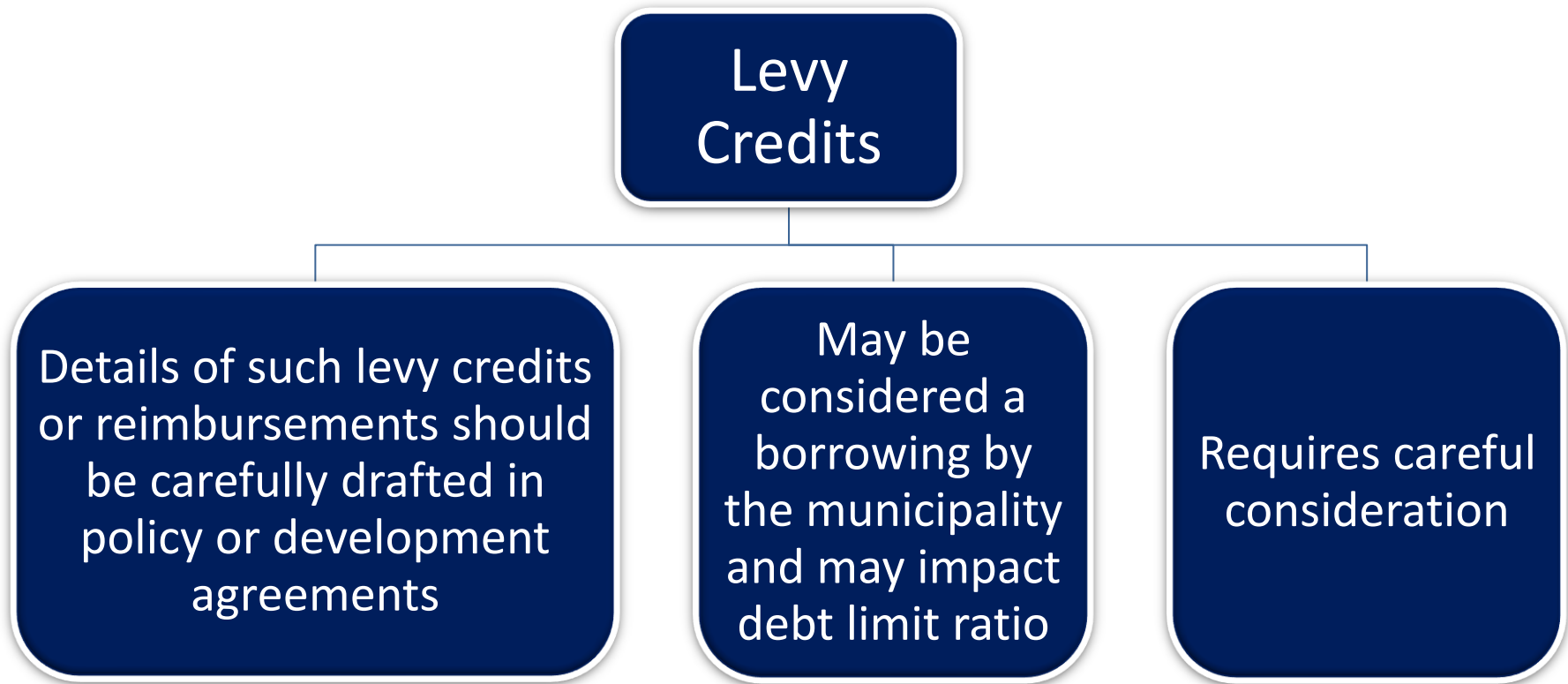
Paid for through off-site levy reserves or a borrowing bylaw

Developer constructs

“Levy Credit” may be required

5. Issues Checklist

□ Front-Ending and Levy Credits



5. Issues Checklist

□ Consider Alternative Cost Recovery Tools

Off-site levy bylaws are only one cost recovery tool

Issues to consider:



Time and Means of Collection

collection only once for each infrastructure type; negative impact if lands later intensified



Carrying Costs

assumptions relating to cost estimates; significant financial risk

5. Issues Checklist

□ Consider Alternative Cost Recovery Tools

Off-site levy bylaws are only one cost recovery tool

Issues to consider:



Significant Effort and Expense

can be complex and daunting; must achieve appropriate balance



Type of Infrastructure

other cost recovery mechanisms may be more appropriate

6. QUESTIONS





THANK YOU