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Maximizing Development While Minimizing Costs: Strategies for Effective Capital Cost Recovery and Maintenance

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INTRODUCTION

INTRODUCTION



BOTH IN CAPITAL AND OPERATIONAL COSTS

INTRODUCTION

- Municipal Budget
 - *Operating Budget*
 - *Capital Budget*



- The Challenge...

how does a municipality do more with less?

INTRODUCTION



1. Capital Costs

2. Operating Costs



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CAPITAL SERVICING COST RECOVERY

The *MGA* provides municipalities with a number of tools



Reduce your overall financial requirements and commitments



Capital Cost
Recovery
Tools



Reduce
Overall Capital
Expenditures



Offsite Levies
(s.648)

What is it?

A cost recovery mechanism, imposed by bylaw, to fund or reimburse the cost of new infrastructure required due to new development or subdivision

What is it for?

User Pay

- New developments proceed on a user pay basis

Big Ticket

- Obtain necessary capital to undertake certain big ticket infrastructure projects without relying upon general revenue/grants

One Time

- Intended to provide initial capital costs to accommodate new developments on a one time basis

Offsite Levies
(s.648)

Limited Purposes



New or expanded facilities for storage, transmission, treatment or supply of **water**;



New or expanded facilities for treatment, movement or disposal of **sanitary sewage**;



New or expanded **storm sewer drainage** facilities;



Land required for or in connection with any facilities described in the above off-site levy provisions of the MGA;



New or expanded **roads** required for or impacted by a subdivision or development.

Basic Elements



Recoverable Infrastructure

- New or expanded facilities for:
 - **water, sanitary sewer, storm sewer drainage, and roads**

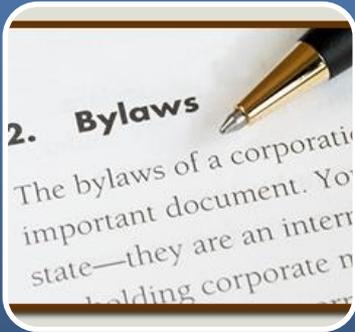


Method of Calculation

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

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

Basic Elements



Off-site Levy Bylaw

- Off-site levy must be established by bylaw
- Bylaw must be advertised and developers must be consulted
- 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)

Basic Elements



Collection Only Once

- Consider whether municipality has previously collected any type of levy on the development lands
- Ensure that all possible off-site levy infrastructure is included in the bylaw



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

Basic Elements



Duty to Consult and Negotiate

- Levy calculation must be determined in consultation with affected landowners and developers (Regulation s. 3(10))
- Non-statutory public hearing is one avenue for consultation



Ensure Proper Accounting Procedures

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

Risks

- Can only collect levies once for any given infrastructure in respect of lands subject to development or subdivision
- No recovery of costs by way of an offsite levy beyond the categories expressly set out in Section 648(2)
- Imperfect model = insufficient cost recovery
- Complex analysis to ensure fair and equitable rates

Offsite Levies
(s.648)

Best Practice

some key points that are often overlooked with respect to off-site levies

Established by Bylaw

Inflation & Timing of Construction

Need Master Studies

Use Professionals

Is not a Tax

No Deferrals or Require Security

No special recovery or collection rights/remedies

Caveat Re: Development Agr. Is Not Security

Local
Improvement
Taxes
(ss.391-409)

What is it?

Tax for a “local improvement” project that the council considers to be of greater benefit to an area of the municipality than to the whole municipality.

What is it for?



Raise revenue for a project that gives greater benefit to a certain area of a municipality than to the whole of the municipality.



Allows for recovery of costs on a fixed repayment basis by all of the lands benefited by the improvement.



Flexibility with commencement of local improvement – 3 years to undertake, or can undertake before actual costs known.

Local
Improvement
Taxes
(ss.391-409)

Risks



Petition



**Limited
timeframe
– 3 years**



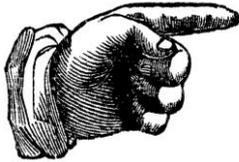
Best Practice



Local Improvement Plan

- Must meet requirements of MGA ss. 394 - 395

Please Notice This



Notice to Persons Liable for Tax

- Goes to landowners liable for tax.
- Landowners can petition.

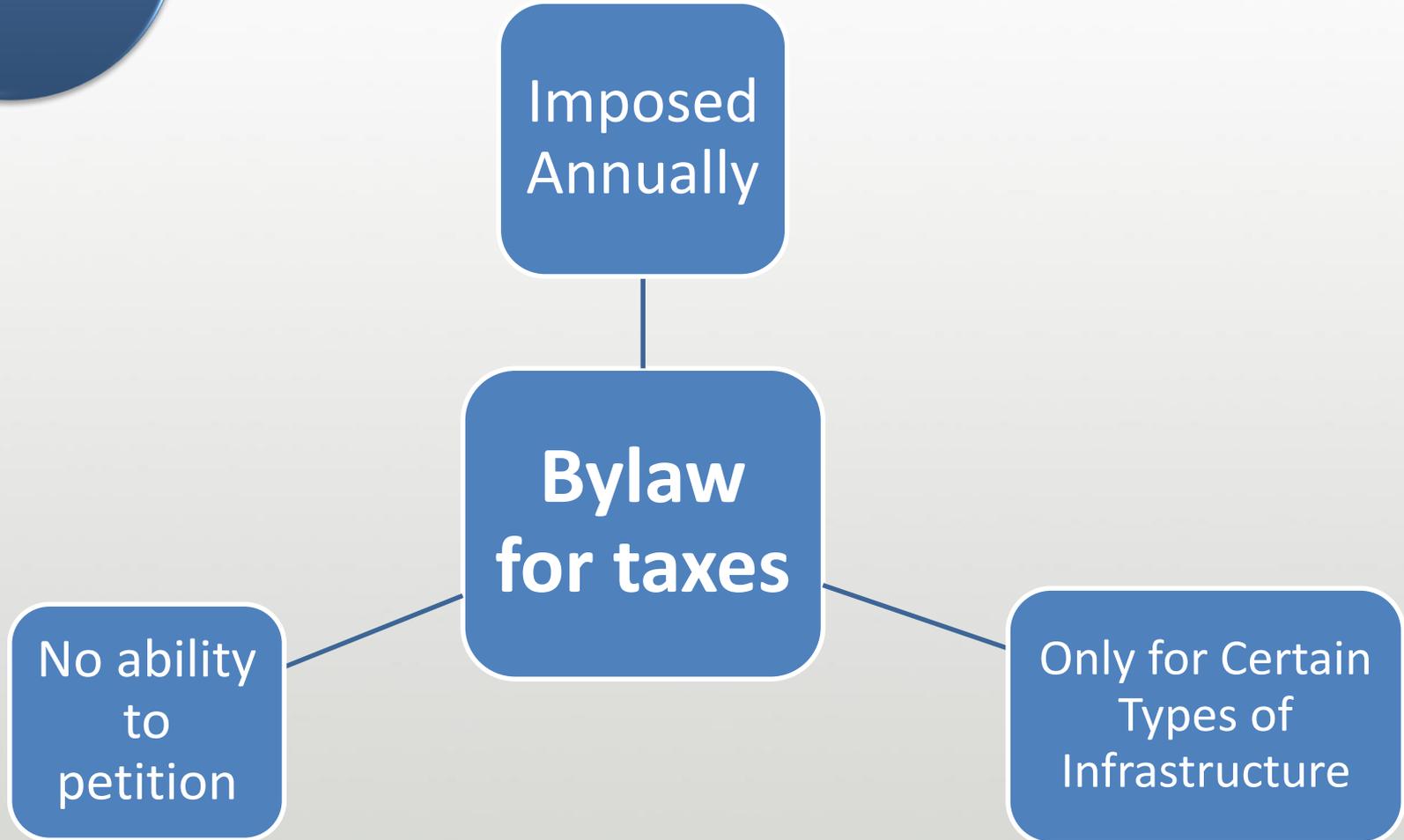


Pass Local Improvement Tax Bylaw

- Must include all information included in the local improvement plan
- Tax rate based on cost of local improvement, less any financial assistance provided by provincial or federal government, municipality or other sources.
- Tax rate must be uniform.

Special Taxes
(ss.382-387)

What is it?



What is it for?

Water Works tax;

Sewer tax;

Boulevard tax;

Dust treatment tax;

Paving tax;

Tax to cover the cost of repair and maintenance of roads, boulevards, sewer facilities and water facilities;

Ambulance services tax;

Tax to enable the municipality to provide incentives to health professionals to reside and practice their professions in the municipality;

Fire protection area tax;

Drainage ditch tax;

Tax to provide a supply of water for the residents of a hamlet; and

Recreational services tax.

Risks

Special Taxes
(ss.382-387)

The estimated cost of service for the imposition of the tax must be included as an estimated expenditure.

A Special Tax is not payable over the lifetime of the project or services.

Best Practice

- Bylaw must clearly set out purpose of tax
- Included in the municipality's budget as an estimated expenditure
- One time, annual expense
- Must use revenue for purpose in bylaw

Development
Agreement
Conditions
(ss.650 & 655)

What is it?

SECURITY

A condition that the applicant enter into an agreement with the municipality regarding infrastructure to access and service proposed development or subdivision (ss. 650 & 655)

AND

Any conditions necessary to ensure compliance with the MGA, the ***Subdivision and Development Regulation***, any LUB, and any applicable statutory plan.

What is it for?

Development
Agreement
Conditions
(ss.650 & 655)

New
Development
or Subdivision



Road giving access
to development



Pedestrian walkway
for development



Public works for development,
besides telecommunications



Pay off-site levy or
redevelopment levy



Security

Risks

- If there is insufficient security, the municipality may be left to complete unfinished improvements if the developer defaults



Development
Agreement
Conditions
(ss.650 & 655)

Best Practice

best form of security...

*Irrevocable Letter of Credit from a chartered bank
or the Alberta Treasury Branch*

Development
Agreement
Conditions
(ss.650 & 655)

Best Practice

amount of security...

Minimum 100-125 percent of estimated cost of infrastructure

Development
Agreement
Conditions
(ss.650 & 655)

Best Practice

form of development agreement...

Standardized with clear terms and conditions

What is it?

Permits a municipality to require an applicant for a development permit or subdivision approval to:

- *(a) pay for all or a portion of the cost of an improvement constructed or paid for in whole or in part by a municipality at any time prior to the date of approval of the development permit or subdivision approval application, or*
- *(b) construct or pay for all or a portion of an improvement with an excess capacity.*

Oversized
Infrastructure
(s.651)

What is it for?

- Permits a municipality to realize economies of scale through a development agreement by requiring a developer to construct or pay for services of a greater capacity than are necessary to serve that developer's particular development or subdivision.

Oversized
Infrastructure
(s.651)

Risks

- Must fit within the capital plan and development plan for the municipality
- Municipality should never act as guarantor of cost recovery for developer

Oversized
Infrastructure
(s.651)

Best Practice

Endeavour to assist

Incremental or pro-rata basis

Retain engineer to advise

Municipality facilitator, not guarantor

Never defer payments

Community
Revitalization
Levy

(ss.381.1-381.5)

What is it?

A levy in respect of the incremental assessed value of property in a community revitalization levy area to raise revenue for infrastructure and other costs related to redevelopment.

Community
Revitalization
Levy

(ss.381.1-381.5)

What is it for?

- Raises revenue to be used towards infrastructure or other costs associated with the redevelopment community revitalization levy area

Community
Revitalization
Levy

(ss.381.1-381.5)

Risks

Must be approved by
Lieutenant Governor in
Council – so not a readily
available tool

Related to increase in assessed
property value after
community revitalization levy is
approved

Best Practice

- Requires Cabinet approval
- Redevelopment tool
- Been utilized primarily in urban settings
 - e.g. Calgary, Edmonton, Cochrane
- Utilize professional assistance

Developer and
Other Capital Cost
Recoveries Have a
Direct Impact Upon
the Capital Budget



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OPERATIONAL COST RECOVERY

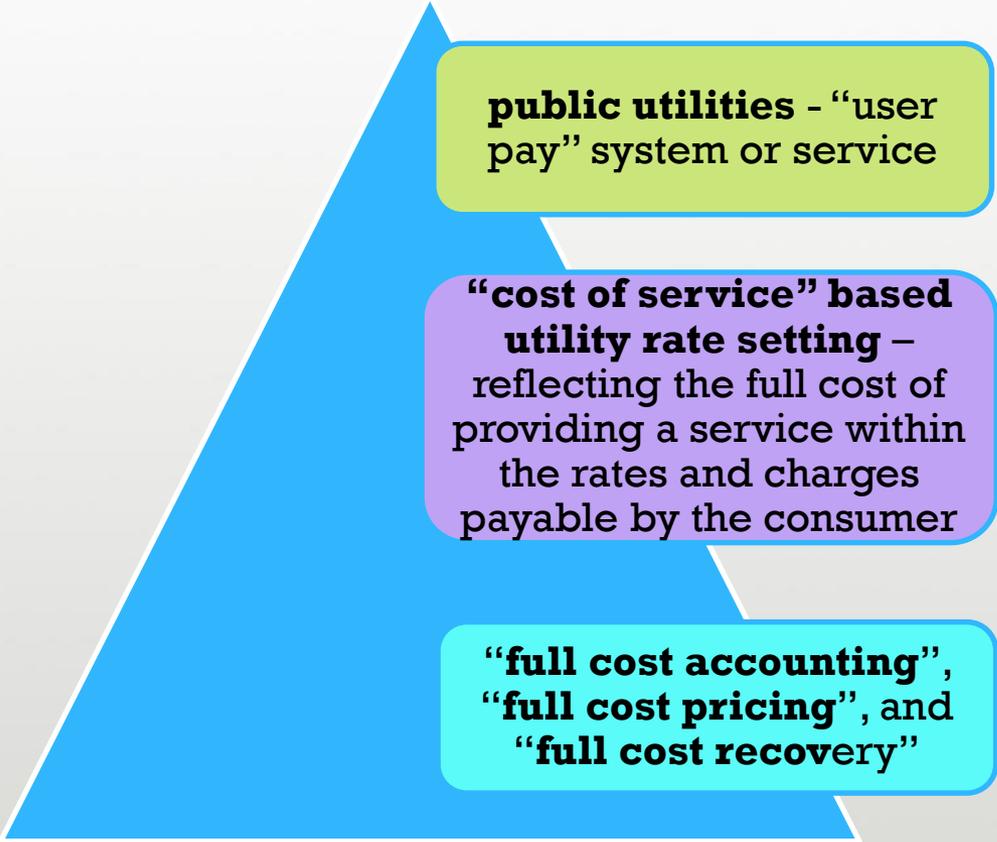


Operational
Cost Recovery
Tools



Reduce Overall
Operational
Budget

COST OF SERVICE BASED UTILITIES



public utilities - “user pay” system or service

“cost of service” based utility rate setting – reflecting the full cost of providing a service within the rates and charges payable by the consumer

“full cost accounting”, “full cost pricing”, and “full cost recovery”

COST OF SERVICE BASED UTILITIES

- **Operating Costs** - to operate, maintain and administer the system and the service (e.g. labour, materials, power and other utilities) reflected as expenditures
- **Capital Costs** - costs of capital repairs, replacements and expansions of the system, which are not recoverable or funded by other means or sources (e.g. from grant sources, from developers under Development Agreements, etc.)
- **Revenue Deficit** – when viewed against the revenue received from the corresponding services, a deficit may begin to appear

BEST PRACTICE – UTILITY RATES

Recordkeeping & Accounting

- ensure that the municipality reports and records its costs, such that they can be accessed easily;

Analyze, Review and Identify Costs

- identify the costs of developing and providing utility services...wherever they may be;

Cost of Service –

- build a complete cost of service;

Revenue Requirement

- determine your revenue required in order to completely fund the cost of service;

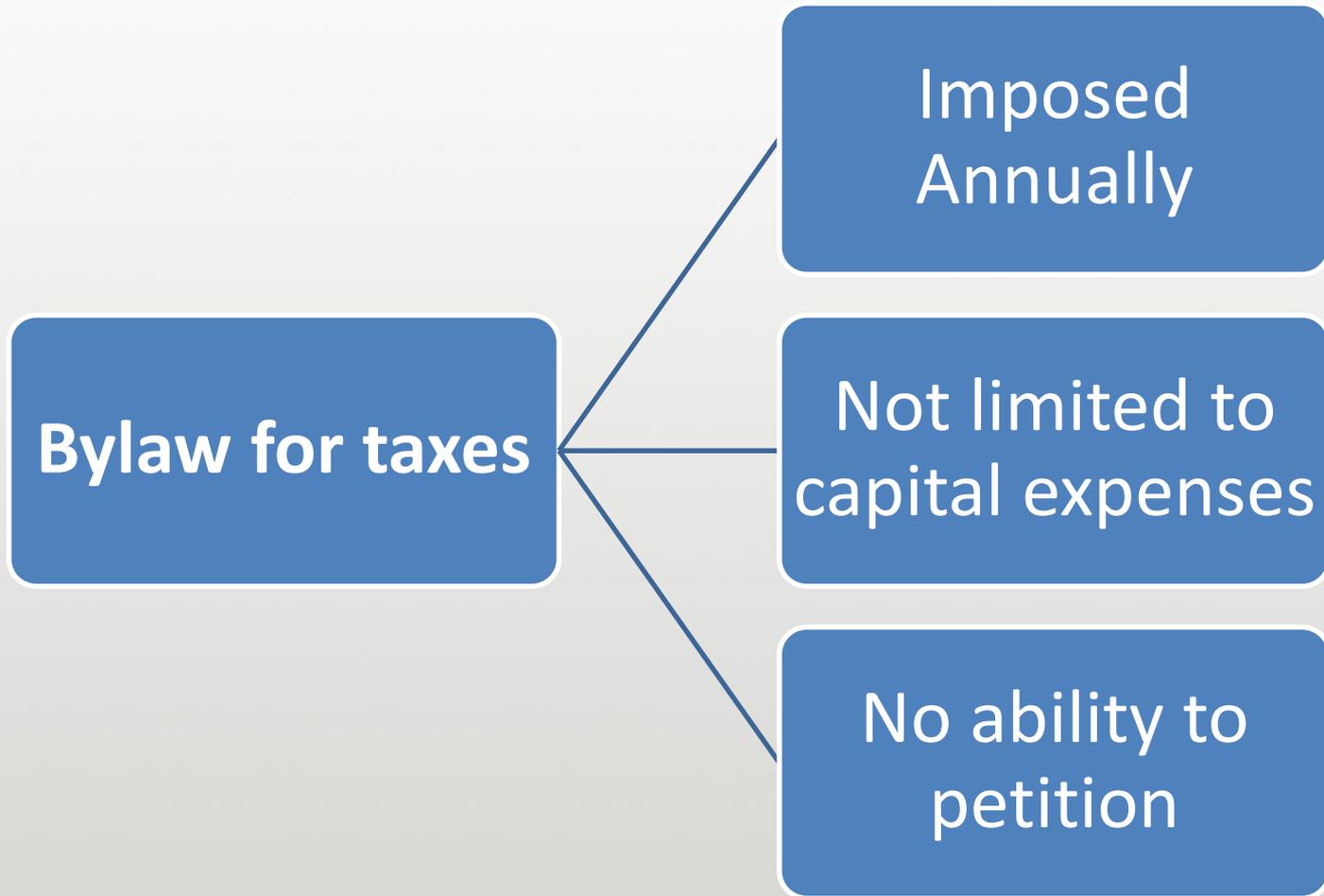
Establish Rate/Rate Structure

- to provide for the revenue required;

Recovery and Allocation

- impose and collect the rates and charges properly (i.e. proper rate structure established under a proper rate bylaw).

Special Tax – Operational Costs



Special Tax – Operational Costs

- REMEMBER it can only be imposed if the estimated cost of the service for which the tax is imposed is included in the municipality's budget as an estimated expenditure
- Imposed only in respect of property that will benefit
- Revenue MUST be applied to that service stated in bylaw

Cost Allocation To Homeowners Associations



***DECREASING** budget allocations of non-grant sourced funding to non-critical services.*



***INCREASING** nature, extent and cost of amenities to be constructed by developers as part of residential, commercial and industrial subdivisions.*



Cost Allocation To Homeowners Associations

A fairly consistent *trend/theme*.

DUE TO...developer's marketing desires...the ever increasing expectations of the typical consumer...the planning and development requirements of the municipality itself...or all of the above.

RESULT: ...*Budget Crunch...Reconciliation*
... *loss of service... deferred cost... big cost.*

Cost Allocation To Homeowners Associations

Operational Costs

- the maintenance and repair of the amenities
- the budgeting for this expense is a significant and growing issue

Capital Replacement

- long term cost of replacing portions of these amenities or replacing them entirely
- significant budgetary costs that fewer and fewer municipalities are willing or able to plan for or absorb

What is a Homeowner's Association?



Incorporation of the Association



Bylaws



Financial Encumbrance



Restrictive Covenant/Architectural Controls



Maintenance Agreements, Easements or Arrangements

What Is A Homeowners Association?



Defining Elements of Homeowner's Association



Function and Value of Homeowner's Association

Remove/Avoid/Allocate Responsibilities

Remove/Avoid/Allocate Costs

Facilitate Budget Constraints

Free Up the Budget

HOA Best Practices

- Goal is to avoid the accumulation of new expenditures before they have an opportunity to show up on the municipal budget
- HOAs only work with new subdivisions
- The seeds for this strategy are sown as part of the planning and development and approval process for new subdivisions
- Very early implementation is necessary



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QUESTIONS?

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