Approved by Council: September 13, 2021

OFF-SITE LEVIES POLICY

BACKGROUND

The Town of Redcliff adopted the Off-site Levies Bylaw 1844/2017.

The Town has established Off-site Levies Reserve Funds for transportation, water, sanitary sewer, and storm as outlined in the Municipal Government Act (MGA).

POLICY

1.1 ASSESSMENT

Water, sanitary, storm, and transportation off-site levies were assessed on all properties in the Town with the passing of Bylaw 1844/2017. The requirement to pay off-site levies is triggered by the approval of a subdivision or development by the Town. Full payment is required upon occurrence of a trigger event, unless there is an exemption or the Town agrees to a deferral of the payment of the off-site levies.

1.2 EXEMPTIONS

There are two types of exemptions, Legislative and Town. Legislative exemptions are listed in the MGA. Town exemptions are listed in this policy.

Guiding Principle
If a parcel of land was previously subdivided or developed, and off-site levies or the equivalent to off-site levies for a certain infrastructure type (e.g. water) was paid on that entire parcel, then any new subdivision or development on the parcel is exempt from any future assessment and payment of an off-site levy of the same type. Any specific off-site levies or the equivalent to off-site levies that were not paid are still eligible for payment triggered by a future subdivision or development.

1.2.1 Legislative Exemptions

Municipal Government Act, Section 648

(4) An off-site levy imposed under this section or the former Act may be collected once for each purpose described in subsection (2), in respect of land that is the subject of a development or subdivision, if

(a) the purpose of the off-site levy is authorized in the bylaw referred to in subsection (1), and

(b) the collection of the off-site levy for the purpose authorized in the bylaw is specified in the agreement referred to in subsection (1).

(7) Where after March 1, 1978 and before January 1, 2004 a fee or other charge was imposed on a developer by a municipality pursuant to a development agreement entered into by the developer and the municipality for the purpose described in subsection (2)(c.1), that fee or charge is deemed

(a) to have been imposed pursuant to a bylaw under this section, and

(b) to have been validly imposed, and collected

effective from the date the fee or charge was imposed.

RSA 2000 cM-26 s648;2003 c43 s3;2015 c8 s67

1.2.2 Town Exemptions

Guiding Principle
If a development or subdivision is likely not to increase the servicing demands on the roads, and/or water, and/or sanitary, and/or storm management off-site infrastructure then the development or subdivision may reasonably be exempt from off-site levies and thresholds be set for these exemptions.

The MGA is very general in its description of Development and Subdivision. Many types of development either do not add to, minimally add to, or create no demand on the Town's infrastructure and would therefore be unfairly assed off-site levies without exemptions. The Town exempting these from paying off-site levies or partially paying off-site levies at the time of subdivision or development allows developments and subdivisions to proceed and encourage economic activity in the Town. Town exemptions do not exempt a property from never paying off-site levies but defer the payment of off-site levies to a time when the purpose of the subdivision or scale of development will create demands on the Town's infrastructure close to the assessed full value of the off-site levies. Town exemptions can also be used by the Town to encourage redevelopment in the Town.

Town exemptions/deferrals are grouped into three basic categories:

- There is no need to collect any off-site levies as the subdivision or development does not create any new demands on the Town's systems.
- There is an existing development on the land and it is reasonable to defer payment of off-site levies on the existing development.
- The proposed development only uses a portion of the land when compared to typical development of similar types in the Town.

Town partial exemptions/deferrals will not be applied if there will be less than 5% of the levies in a particular category left to be paid.

1.2.2.1 Full Deferral of Collection of Off-site Levies

Deferral / Deferral Threshold	Rationale
Excavation or stockpile	Excavation and stockpiles do not typically require the infrastructure that off-site levies are taken for.
Subdivision of lands to expedite further subdivision and development of the lands. Smallest subdivided parcel size is 4 ha (9.88 acres)	Allows large blocks of land to be subdivided to facilitate further subdivision and development without the burden of off-site levies. This kind of subdivision does not increase the demand on off-site levy infrastructure. The minimum parcel size threshold is established to help guide application of this exemption.

Deferral / Deferral Threshold	Rationale
Subdivision to facilitate consolidation of land	Allows land to be subdivided so that one of the two parcels created can be consolidated into an adjoining parcel.
Subdivision of land for the purposes of dedicating a road widening or municipal reserve or public utility lot to the Town	As the purpose of the subdivision of the land is to provide the Town with land required to deliver Town services and programs it is reasonable not to require the collection of off-site levies.
Temporary development / land uses – less than 1 year cumulative	A use that is temporary in nature will only have a temporary impact on off-site levies infrastructure. The timeframe threshold ensures that a temporary use is not extended to permanent use (i.e. temporary for the first year and then temporary for a second year is no longer considered a temporary use).
Demolition or removing of a structure	Demolition or removal of structures does not increase the use of infrastructure.
Ancillary building and improvements	Allows for various residential, commercial, and industrial development applications that do not create any additional demands on off-site levy infrastructure. Examples of ancillary improvements are fences, retaining walls, berms, signs, garden sheds, residential garages, residential decks, etc.
Building alterations	Allows for alterations of existing buildings that do not change the floor area or the use, as they do not create any additional demands on off-site levy infrastructure.
Building additions less than 25% of the original building floor area	Allows for small additions to buildings where there is no change in the use of the building as the increase in demand on the off-site levy infrastructure is minimal. Where successive building additions are done the cumulative increase in the building floor area must be less than 25%.
Building additions less than 25% of the original building floor area shall have the full amount of the levy deferred	Allows for small additions to buildings where there is no change in the use of the building as the increase in demand on the off-site levy infrastructure is minimal. Where successive building additions are completed and the cumulative is above the 25% threshold of the original building floor area, the off-site levies will be charged as a building exceeding 25% of the original building including all additions from the original building.

Deferral / Deferral Threshold	Rationale
Building additions more than 25% of the original building floor area shall be charged the full amount of the levy for the increase in the building floor area	Where a structure already exists and is serviced, it is not reasonable to charge off-site levies on the existing serviced capacity. However, it is logical to charge the off-site levies on the increase in servicing the Town is required to provide.

1.2.2.2 Partial Deferral of Off-site Levies for Existing Development

Deferral / Deferral Threshold	Rationale
Replacement of a structure within 1 year of demolition or destruction of the prior structure. Levies shall be calculated as if the structure is existing.	Allows for the replacement of a structure with a new structure of the same use on the same property. An increase in the size of a replacement structure is governed under the rules for building additions. The timeframe is intended to encourage the replacement of the structure in a timely manner.
Replacement of a structure greater than 1 year from the demolition or destruction of the prior structure. Levies shall be calculated as if the structure is existing with the exception that any increase in the size of the structure shall be charged a levy.	It is reasonable that properties that have been serviced in the past but are no longer using the Town's infrastructure due to demolition be given a partial exemption equal to the demand placed on the Town's infrastructure prior to demolition. In this case any increase in the size of the structure is not eligible for an exemption.
Change of use where the increase in demand created by the change in use is less than 25% of the original demand shall have the full amount of the levy deferred.	Allows for changes in use that do not substantially increase the demand on the off-site levy infrastructure. Where successive changes in use are done, if the increased demand from the original use exceeds the 25% threshold the off-site levies will be charged as a change in use with demand exceeding 25% of the original demand.
Change of use where the increase in demand created by the change in use is more than 25% of the original demand shall be charged the full amount of the levy for the increase in demand.	Where a use is already approved it is not reasonable to charge off-site levies on the existing serviced capacity. However, it is logical to charge the off-site levies on the increase in servicing the Town is required to provide.

Deferral / Deferral Threshold	Rationale
Change of use of a parcel to comply with the Municipal Development Plan, Land Use Bylaw, Area Structure Plan, or Area Redevelopment Plan shall be given a deferral of 25% on off-site levies after the increased demand on the Town's infrastructure is calculated.	Planning documents adopted by Council, especially in the case of redevelopment plans, create situations where it is in the interest of the Town to encourage the redevelopment of properties. Granting a deferral on the off-site levies for a parcel's use to be changed to conform with Town planning documents gives property owners an incentive to redevelop to be consistent with planning documents adopted by Council.
Intensification of activities on a parcel where the increase in demand created by the intensification is less than 25% of the original demand shall have the full amount of the levy deferred.	Allows for intensification of the activities on a site that does not require additions to or new buildings (processing / production facilities, storage, etc.) where the intensification does not substantially increase the demand on the off-site levy infrastructure. Where successive intensification in activities occur, if the increase demand from the original use exceeds the 25% threshold, the off-site levies will be charged as an Intensification of Land Development with demand exceeding 25% of the original demand.
Intensification of activities on a parcel where the increase in demand created by the change in intensification of activities is more than 25% of the original demand shall be charged the full amount of the levy for the increase in demand.	Where a level of activities on a parcel is already approved it is not reasonable to charge off-site levies on the existing serviced capacity. However, it is logical to charge the off-site levies on the increase in servicing the Town is required to provide.

1.2.2.3 Partial Deferral of Off-site Levies for Very Large Parcels with Small Development

Deferral / Deferral Threshold	Rationale
Partial development of a residential lot. The off-site levy payable will be calculated on the area of development divided by 15%. Any levies not paid will be due and payable at the next trigger event.	The typical site coverage of a developed residential lot is in the range of 30% to 45%. The least coverage of a developed residential lot in the Town is approximately 12%. Where a residential development is proposed for a parcel where the proposed development is much smaller than the area of the parcel, in consideration that the off-site levies are calculated on a land area basis and the proposed development will not use the full service, it is reasonable to allow deferral of some of the off-site levies until another trigger event.

Partial development of an industrial / commercial lot. The off-site levy payable will be calculated on the area of development divided by 7%. Any levies not paid will be due and payable at the next trigger event.	The typical site coverage of average commercial and industrial lots is in the range of 15% to 30%. The least coverage of a developed commercial and industrial lot in the Town is approximately 2%. Where an industrial or commercial development is proposed for a parcel where the proposed development is much smaller than the area of the parcel, in consideration that the off-site levies are calculated on a land area basis and the proposed development will not use the full service, it is reasonable to allow deferral of some of the off-site levies until another trigger event.

1.3 VALUE OF OFF-SITE LEVIES

The value of off-site levies is calculated at the time of payment, not at the time of the trigger event.

1.4 CALCULATION OF OFF-SITE LEVIES

Once it has been determined that no exemption or only a partial exemption to the payment of the off-site levies is applicable, the value of the levies will be calculated in accordance with this policy.

- In an effort to emphasize transparency, a copy of the calculations will be provided to the developer.

1.5 PAYMENT OF OFF-SITE LEVIES

Except as outlined in this Policy, off-site levies are due and payable prior to:

- The release of a Development Permit by the Town.
- The endorsement of the Plan of Subdivision by the Town.

1.5.1 Deferment of Payment of Off-site Levies

Payment of off-site levies may be deferred by a developer under the following conditions:

- Total levies to be collected are greater than $750,000 including any offsetting amounts for off-site levies infrastructure to be installed by the developer.
- Security for the total value of the levies in the form of an Irrevocable Letter of Credit is provided to the Town by the developer.
- The developer enters into a Deferral Agreement with the Town which will contain the following clauses:
    - Developer acknowledges that off-site levies assessments are recalculated yearly and that the developer is responsible to pay the current off-site levies rate. This includes incremental payments.
    - Early payment of the off-site levies is allowed without penalty.

- Maximum deferment period is a maximum of two (2) years and the levies are to be paid to the Town in installments as follows:
  - 25% down payment
  - 50% at the 1st year anniversary
  - Remainder at the 2nd year anniversary
- Security held will be released so that the Town only retains security in the amount of the unpaid off-site levies.

1.6 OFFSETTING CREDITS

Guiding Principle
Developers that pay for the construction of off-site levy infrastructure as part of their development should not be required to also pay the levy for that category of infrastructure up to the cost of infrastructure's cost of construction.

Where a developer is required to install off-site levies infrastructure as part of their development, the developer may claim a credit towards the off-site levies payable by the developer subject to the following:

- The offsetting credit can only be applied against the same category of off-site levies infrastructure. (i.e. water to water, sanitary to sanitary, etc.)
- The credit will be based upon:
  - Initially, a Town approved professionally prepared estimate of the costs of the off-site levies infrastructure to be installed, and
  - Adjusted after construction to the actual costs of the off-site levies infrastructure installed and approved by the Town. It is the responsibility of the developer to:
    - Ensure that the actual construction costs are clearly identified separately from the rest of the project costs.
    - Any change orders that impact the cost of the off-site levies infrastructure must be approved in writing by the Town to be eligible for an offset credit.

1.7 DISBURSEMENT OF OFF-SITE LEVIES RESERVE FUNDS

Funds in the Off-site Levies Reserve Funds will be disbursed once a project has been completed. There are three different scenarios under which off-site levies funds will be disbursed:

- Town project.
- Developer project in the Town's 5-year capital plan,
- Developer project not in the Town's 5-year capital plan.

1.7.1 Annual Reserve Fund Priorities

The Town will, on an annual basis, develop a financial plan that outlines anticipated:

- Off-site levies receipts,
- Off-site levies project costs,
- Balances owing to developers for off-site levies infrastructure,

- Off-site Levies Reserve Funds balances,
- Payment of balances owing for off-site levies projects. Payments shall be made on the following priority basis:
    - Small balances (under $10,000) will be paid out first to optimize efficient administration.
    - The oldest projects will be paid out next (i.e. 2015 projects paid out before 2016 projects).
    - Developer projects will be paid out before Town projects.
    - Projects in the same year will be paid out on a pro-rated basis (i.e. if Party A is owed $100,000, Party B is owed $200,000, and there is $60,000 available for repayment then Party A would receive $20,000 and Party B would receive $40,000).

1.7.2 Town Project

Town projects are off-site levies projects that are undertaken by the Town through the capital projects plan.

Where there is sufficient money in the Off-site Levies Reserve Fund for the category of infrastructure to be built, the Off-site Levies Reserve Fund may be used to pay for the project costs directly as the project proceeds (i.e. for progress payments). Where there is insufficient monies in the Off-Site Levies Reserve Fund, the Town shall front end the costs of the off-site levies infrastructure and may recover the monies once they become available in the Off-site Levies Reserve Fund for the category of infrastructure built.

1.7.3 Developer Project in the Town's 5-Year Capital Plan

Developer projects in the Town's 5-year capital plan are off-site levies projects that are undertaken by the developer as the improvements are required to support their current development.

Off-site Levies Reserve Funds will be disbursed to the developer:

- When there are sufficient monies in the Off-site Levies Reserve Fund for the category of infrastructure to be built, and
- Once the Town issues (following the Town's standard procedures) a Construction Completion Certificate (CCC) for the project. The developer's warranty and maintenance obligations with respect to the off-site levies infrastructure installed remain as per the Service or Development Agreement between the developer and the Town.

Warranty and maintenance obligations are not eligible for reimbursement from the off-site levies funds.

1.7.4 Developer Project not in the Town's 5-Year Capital Plan

Developer projects not in the Town's 5-year capital plan are off-site levies projects that are undertaken by the developer as the improvements are required to support their current

development, however the project is not included in the Town's 5-year capital plan. Off-site levies funds will be disbursed to the developer once the following conditions have been met:

- There are sufficient monies in the Off-site Levies Reserve Fund for the category of infrastructure to be built,
- The project is placed on the Town's 5-year capital plan, and
- The Town issues a Final Acceptance Certificate (FAC) for the project.

1.7.5 Interest on Unpaid Balance

Where the Town or a developer constructs off-site levies infrastructure and there is insufficient money in the Off-site Levies Reserve Fund for the category of infrastructure, interest accrues from:

- Town project, issuance of a final completion certificate to the contractor,
- Developer project in the Town's 5-year capital plan, upon the Town issuing a Construction Completion Certificate (CCC),
- Developer project not in the Town's 5-year capital plan upon:
    - Council approving a 5-year capital plan with the project on it, and
    - The Town issuing a Final Acceptance Certificate (FAC).

Interest will be credited to the developer annually and at the time of final payment.