TOWN POLICY NUMBER: 004/2017

REFERENCE:	ADOPTED BY:	SUPERSEDES:
	TOWN COUNCIL	None

PREPARED BY:	EFFECTIVE DATE:
PLANNING AND DEVELOPMENT	April 3, 2018

TITLE:	DATES REVIEWED:
Offsite Levy Policy Framework	July 11, 2017 April 3, 2018

1 DOCUMENT INFORMATION

1.1 Revision History

Version Number	Revision Date	Summary of Changes and Author
1	March 1st, 2016	DRAFT: All policy options created by CORVUS Business Advisors
2	April 23rd, 2016	DRAFT: Reviewed by Town and options selected.
3	February 28th, 2017	FINAL: Amended by Town.

1.2 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.

Term	Description
Offsite Levy Exemption	Conditions that must be satisfied in order to have to an offsite levy assessment waived on a subdivision or development permit application.
Offsite Levy Offset	Front-end infrastructure costs incurred by the developer used to reduce the amount of offsite levy assessment payable by the developer.
"Qualified" Offsite Infrastructure	Developer front-ended infrastructure that is outlined in the Offsite Levy Bylaw and contained within the "qualified" portion of the Capital Plan (usually the first 5 years).
"Non-Qualified" Offsite Infrastructure	Developer front-ended infrastructure that is outlined in the Offsite Levy Bylaw and is contained within the "non-qualified" portion of the Capital Plan (usually beyond 5 years).
Capital Plan	Outlines offsite infrastructure approved for construction and outlined in the offsite levy bylaw. Note, items approved for construction do not necessarily mean that they are funded.
Annual Financial Plan	Outlines future anticipated disbursement / retention of offsite levy reserve funds. The plan considers front-ending claims, development infrastructure staging, offsite levy reserve balances, future offsite levy receipts, municipal debt capacity etc.
Construction Completion Certificate	Issued by the municipality to signify that front-end offsite infrastructure has been constructed to standard.
Final Acceptance Certificate	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	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.

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3 INTRODUCTION

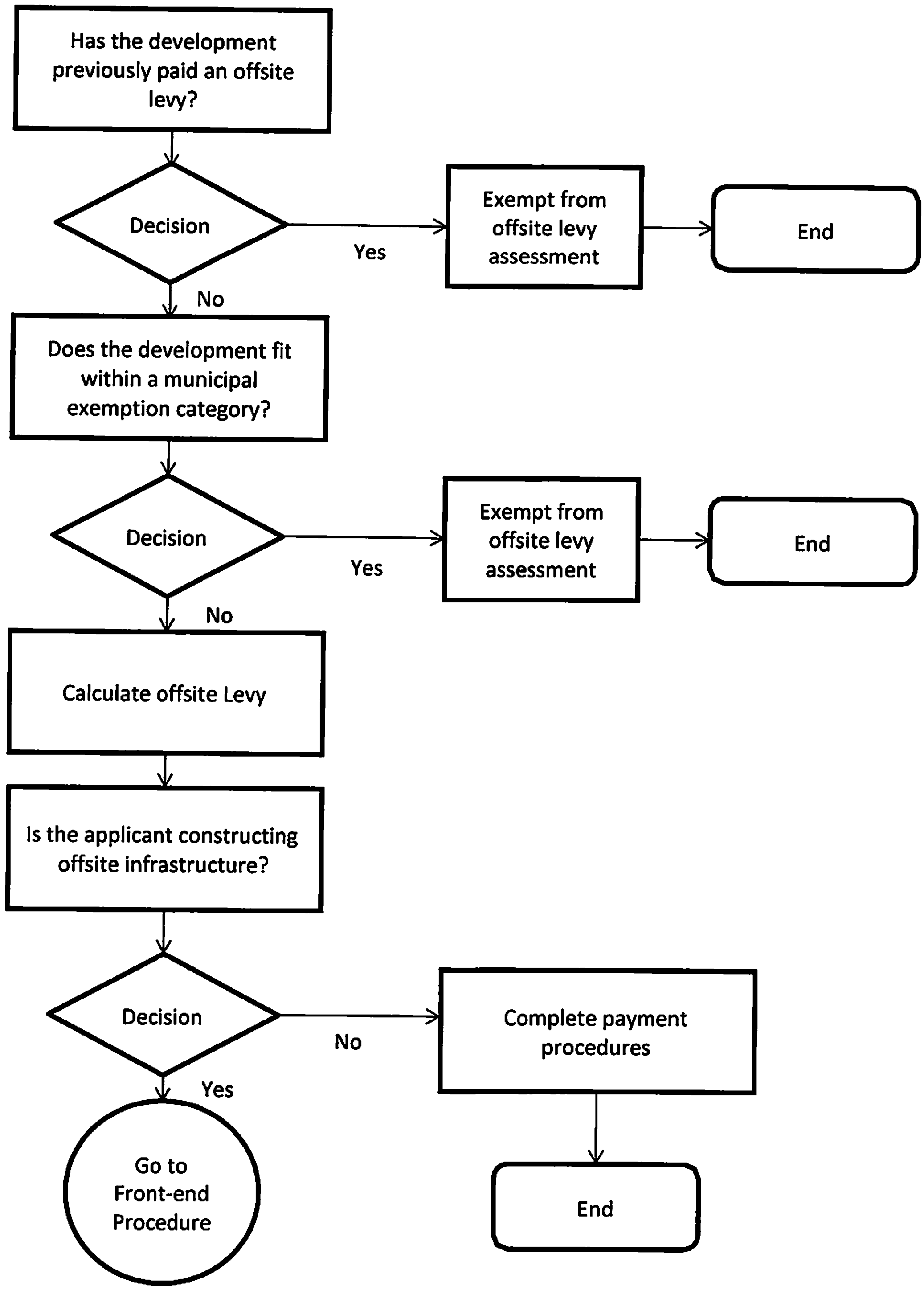
The Town of Rocky Mountain House is updating its offsite levy bylaw and associated rates to ensure the share of offsite infrastructure costs (i.e., transportation, water, and sanitary sewer infrastructure) required to support new development is correctly allocated to new development. Though the Municipal Government Act (MGA) provides guidance as to how the bylaw should be established, it provides only cursory guidance as to how the bylaw should be implemented. Accordingly, this document is intended to outline the policies and processes that the Town of Rocky Mountain House will utilize to guide when to assess offsite levies, when levies are payable (deferrals), when and how front-ended infrastructure construction will be assigned to developers, when and how front-ended construction costs will be reimbursed etc.

This document is laid out in chronological fashion starting with policy and process options pertaining to initial assessment and ending with policy and process options pertaining to disbursement of levy funds. Each section within the report contains an introduction to the scope of the policy, an overview of the typical steps and flow of decisions that Town staff would follow, the fundamental principles that are used to support policy option choices, and then procedural workings and other information that will assist Town to administer and the applicant understand the policy statements.

4 ASSESSMENT / COLLECTION PROCESS OVERVIEW

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

Figure 1: Offsite Levy Assessment and Collection



4.1 Levy Assessment, Assessment Exemptions and Thresholds

The obligation to pay offsite levies occurs in two steps: (1) the levy is incurred upon application for subdivision or development, and (2) the levy is paid upon execution of the subdivision or development agreement or may be deferred to a future time of payment. This section focuses on the principles that will guide the Town in determining when the application for subdivision or development would result in a levy obligation being incurred.

4.2.1 Legislated Exemption

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

Municipal Government Act, Section 648(4) states:

> *"An offsite levy imposed under this Part of the former Act may be collected once only for each purpose described in subsection (2) in respect of land that is the subject of a development or subdivision."*

Municipal Government Act, Section 648(7) states:

> *"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."*

Guiding Principle

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

4.2.2 Town Exemptions

Except for exemption conditions outlined in legislation, offsite levies would apply to all "development" or "subdivision" situations within the Town of Rocky Mountain House offsite 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 offsite 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 offsite levy. Whereas the intent of the offsite levy assessment is clearly to pay for the construction of offsite 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 offsite infrastructure might be considered exempt from offsite levy assessment and payment obligation.

Guiding Principle

If a development or subdivision is likely not to place a burden on the roads, and/or water, and/or sanitary, and/or storm management offsite infrastructure then the development or subdivision may, subject to the approved exemptions and thresholds, be considered exempt from offsite levy assessment.

Town offsite levy assessment exemptions and exemption thresholds:

Exemption / Exemption Threshold	Rationale
a) **Temporary Development / Land Uses** – Temporary land uses are exempt so long as the use or structure proposed will not be used beyond 3 years.	If a use is truly temporary in nature the impact on offsite 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.
b) **Demolition or Removing of a Structure** – This would permit any existing property to remove existing structures while remaining exempt from offsite levy assessments.	This would allow existing property owners to demolish older structures in readying the property for future development.
c) **Replacement of a Structure** – Replacement of a structure with a new structure of the same size and use at the same site or lot are exempt.	This is intended to exempt residential / commercial rebuilding in the event of a fire or similar catastrophic lost, etc. The replacement structure would not use offsite infrastructure to any greater extent than the previous structure.

Exemption / Exemption Threshold	Rationale
d) **Altering a Residential Structure** – Altering residential structures up to creation of a 2-plex are exempt. Note, this would not apply to any situation where a residence is connecting from a septic/cistern system to a Town sanitary/water services.	This is intended to exempt the various forms of residential alterations ranging from a room addition to creation of a 2-plex. Alterations beyond a 2-plex would be considered a development that would result in greater demand on offsite infrastructure and therefore not exempt from offsite levies.
e) **Ancillary improvements** – includes but may not limited to fences, walls, berms and signs. These miscellaneous improvements are exempt.	This is intended to exempt various residential, commercial and industrial development applications that would not create any additional burden on offsite infrastructure.
f) **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 8 ha. (20 ac.) is exempt.	This allows large tracks of lands to be assembled and divided amongst developers. The minimum parcel size threshold is established to help guide application of this exemption.
g) **Non-residential Farm Buildings** – agricultural / farming structures are exempt. This would include bona fide farming operations such as barns, silos and other ancillary development for agricultural use.	Exempting non-residential farm buildings permits existing farms to modernize without incurring offsite levies.

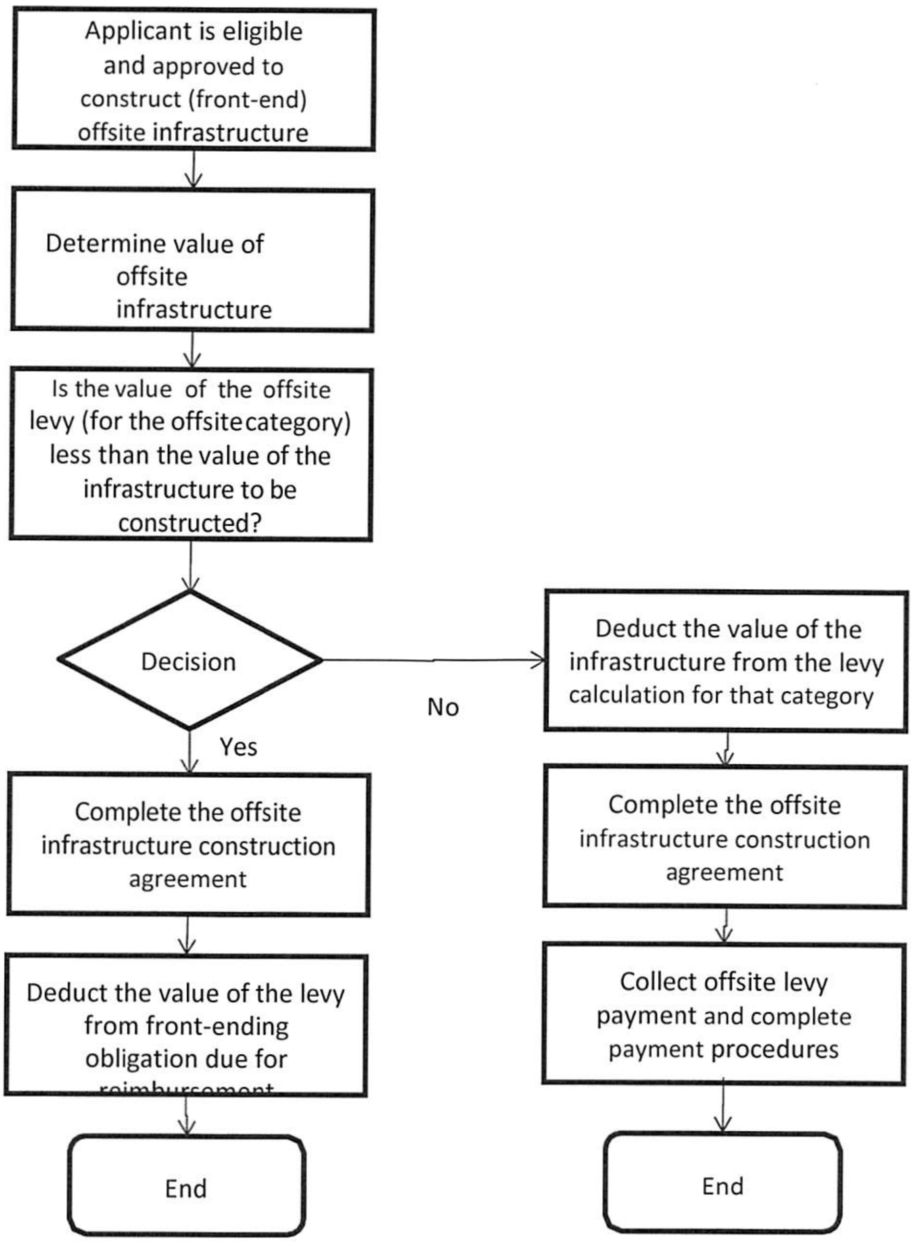
Exemption / Exemption Threshold	Rationale
h) **Division of Agricultural Lands** – includes situations where a farm is subdivided. Subdivision of land in blocks of 8 ha. (20 ac.) or greater are exempt. An exemption is also permitted for the severance of one residential parcel of land from the agricultural lands for a residential site.	This would allow land owners to sell their farmland and create a residential site on the divided lands.
i) **Alteration of Existing Non-Residential Buildings** – Non-Residential buildings may be altered and/or enlarged to a threshold of 50% of the existing building floor size before offsite levies are assessed, so long as the use of the building is not changed. Cumulative building enlargement in excess of the 50% threshold will result in the assessment of offsite levies.	This would allow existing developments to make improvements etc. within the existing development floor plate. The floor plate % threshold is easy to administer. A cumulative threshold ensures that multiple / staged building enlargements do not bypass the payment of offsite levies.

5 OFFSITE LEVY INFRASTRUCTURE FRONT-ENDING

If the timing of offsite infrastructure is such that all offsite levy funds will not be in place prior to construction, front-ending will be required, and may be undertaken by either the Town or a developer (at the Town's discretion).

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

Figure 2: Offsite Levy Front-ending Process



5.1 Offsetting Offsite Levies for Front-end Infrastructure Costs

Developers who front-end the construction of offsite levy infrastructure may apply the cost of this infrastructure against offsite levies due to the Town. If the developer is constructing offsite infrastructure or contributing land that will be used to site offsite levy infrastructure the Town will award the developer a credit up to the cost 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 offsite levies owing that differ from the offsite levy infrastructure being constructed. For example, if a developer were front-ending the construction of road offsite infrastructure, then the offsite levy assessment for roads (but not water, sanitary, or stormwater levies) can be offset by the value of front-ended road infrastructure.

Guiding Principle

Developers that front-end the construction of offsite infrastructure may offset the offsite levy assessments on the same category of offsite infrastructure up to the cost of infrastructure construction.

Estimating front-ended construction costs for the purpose of determining offsets:

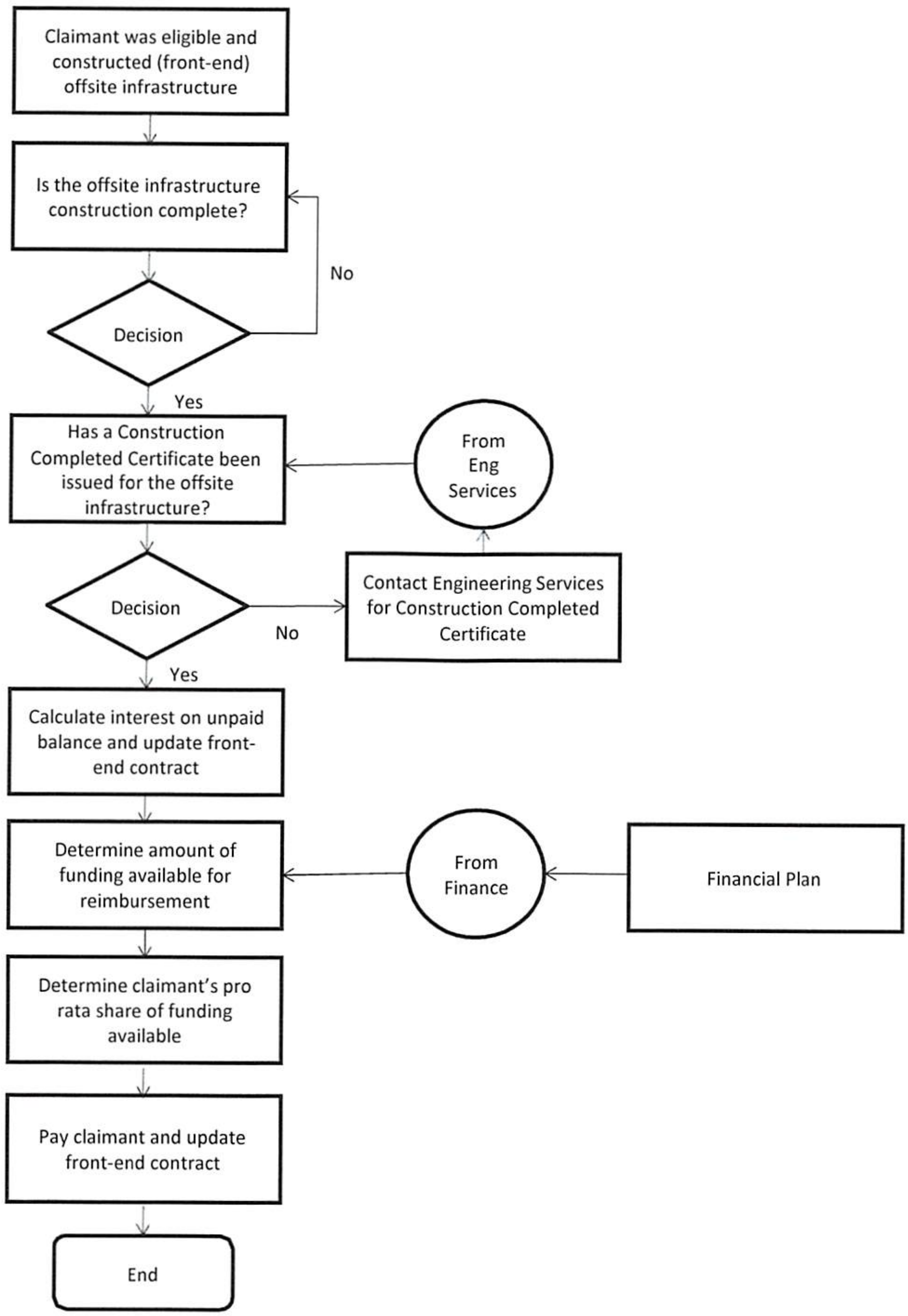
Front-end Construction Amount / Offset Credits	Rationale
Offset Based Upon Professional Estimate and Adjusted for Actual – The offset credit will be based upon the Town approved construction estimates. The developer will provide this estimate. The estimate must be certified by a professional engineer or based on a fixed price bid from a contractor. When the infrastructure is constructed the actual cost of construction, approved by the Town, may be applied to adjust any offsite	Obtaining external pricing ensures that all parties understand the potential cost of the project. Final actual construction cost is required to finalize amounts that may be due to the developer and / or the Town. The notification and approval of change orders will keep the Town and developer apprised of the cost changes and potential

levies still owing. 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.	impact on levy assessments outstanding.

6 INFRASTRUCTURE FRONT-END CLAIM REIMBURSEMENT

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

Figure 3: Front-ending Claim Reimbursement Process



6.1 Construction Inspection and Acceptance

Developers who are front-ending the construction of offsite levy infrastructure will construct infrastructure to the standards and specifications required by the Town. In this regard, the process used by the Town to inspect and accept other on-site development infrastructure will be used for offsite infrastructure construction. The Town will inspect constructed infrastructure and issue a Construction Completion Certificate (CCC) when the infrastructure is completed. The developer is responsible for correcting deficiencies in offsite infrastructure construction. Front-end offsite infrastructure will be subject to a two-year warranty 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 (FAC) when all deficiencies have been remedied and the warranty period has expired. The FAC triggers the release of front-end infrastructure reimbursement hold back.

Guiding Principle

Developers will be responsible to construct offsite infrastructure to the standards and specifications of the Town, under the terms the Town's template development agreement.

6.2 Interest on Unpaid Balance

Developers who construct offsite infrastructure, where the cost of construction exceeds offsite levies payable, earn interest on balances due to them. Interest accrues from the point of issuance of the Construction Completion Certificate, and is 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 earns interest at the rate reflected in the Town's offsite levy model for the period in question.

Guiding Principle
Balances due to developers as a result of front-ending the construction of offsite infrastructure earn interest from this issuance of the CCC, at the rate reflected in the Town's offsite levy model for the period in question. **Interest is calculated once per annum and upon final repayment.**

Interest earned on outstanding balance due to the developer for construction of "qualified" offsite infrastructure:

Inspection / Acceptance Terms	Rationale
a) **Interest on Outstanding Balance at Town Cost of Capital** – Developer constructed offsite infrastructure will earn interest on any outstanding balance at the interest rate reflected in the Town's offsite levy model for the period in question. 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 offsite infrastructure. The MGA indicates that parties that front-end infrastructure construction will be entitled to interest on their investment.

6.3 Payments on Developer Front-end Debts

Offsite levy reserve funds that are used to the draw-down obligations related to front-end construction will be distributed to front-ending parties (Town and/or private developers) in an equitable fashion. Small balances will be paid out in priority to optimize efficient administration.

Guiding Principle **Funds drawn from the offsite levy reserve to pay down front-end obligations will be pro-rated across all outstanding loan balances.** **Repayments occur once per annum.** **When an amount owed on a front-ending obligation is less than $50,000, 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 front-end obligations.

Repayment of "Qualified" Debts	Rationale
Payments on Amounts will be Pro-rated 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 pro-rated across all debts and paid once per annum. For example, Front-ending Party A is owed $100,000 and Front-ending Party B is owed $200,000. Together they are owed $300,000. If the Town determines that there are $60,000 available for repayment, Party A would receive $20,000 ($100,000/$300,000 X $60,000), and Party B would receive $40,000 ($200,000/$300,000 X $60,000).	The Town will determine the amount of offsite levy reserve funding to be applied against debt draw-downs. This amount will be distributed equitably to all debts, Town and private developer alike. This ensures all debtors share in the cash flow regardless of the timing or size of front-ending obligations, thereby removing disincentives to front-ending.

Repayment of "Qualified" Debts	Rationale
b) **Payments on Small Amounts** – When the balance of front-end obligation falls below $50,000, the balance is paid out in priority in its entirety.	Small outstanding balances will be paid out in priority to reduce the administrative efforts associated with these amounts.

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Tammy Burke, Mayor

Dean Krause, CAO