



## CITY OF FORT SASKATCHEWAN

### OFF-SITE LEVY BYLAW

#### BYLAW NO. C1-14

A BYLAW OF THE CITY OF FORT SASKATCHEWAN IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE IMPOSITION OF AN OFF-SITE LEVY FOR LANDS PROPOSED FOR SUBDIVISION AND DEVELOPMENT IN DEFINED NEW GROWTH AREAS WITHIN MUNICIPAL BOUNDARIES.

**WHEREAS** the *Municipal Government Act*, RSA 2000, c.M-26, as amended or repealed and replaced from time to time, permits Council to impose a levy known as an Off-Site Levy in respect of land to be developed or subdivided within a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** 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of Off-Site Levies in accordance with the purpose of the *Municipal Government Act*, RSA 2000, c.M-26, as amended or repealed and replaced from time to time;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 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provision of this Bylaw pursuant to the requirements of the *Municipal Government Act*, RSA 2000, c.M-26, as amended or repealed and replaced from time to time.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 City of Fort Saskatchewan, duly assembled, enacts as follows:

This Bylaw is cited as the City of Fort Saskatchewan "Off-Site Levy Bylaw".

#### 1. DEFINITIONS

For the purposes of this Bylaw, the following words shall mean:

- (a) "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time;
- (b) "City" means City of Fort Saskatchewan;
- (c) "City Council" means the Council of the City of Fort Saskatchewan;
- (d) "Development Agreement" means an executed contract between a developer and the City of Fort Saskatchewan which establishes servicing and development requirements, and obligations;

- (e) "Developable Land" includes all lands utilized for the purposes of growth and which are subdivided or developed (as those terms are defined under the Act, s. 616), except for lands:
  - (i) designated as Environmental Reserve,
  - (ii) designated as Municipal Reserve, or
  - (iii) for which an Off-Site Levy was previously paid to the City;excluding the Developed Land.
- (f) "Developed Land" means land:
  - (i) that has been subdivided or developed prior to the date of this Bylaw,
  - (ii) for which all Off-Site Levy payments have been paid, and
  - (iii) for which services have been provided in accordance with a Development Agreement;
- (g) "Environmental Reserve" (ER) means land designated as environmental reserve by a subdivision authority or municipality in accordance with the Act;
- (h) "Light / Medium Industrial Development Area" means the area(s) as identified on Figure 1.1 of the "Light / Medium Industrial Levies Report";
- (i) "Municipal Reserve" (MR) means the land designated as municipal reserve by a subdivision authority or municipality in accordance with the Act;
- (j) "Off-Site Levy" means the levy imposed pursuant to Section 5 of this Bylaw;
- (k) "Off-Site Infrastructure" shall mean those components and projects referred to in the Southfort Levies Report, Westpark Levies Report and Light/ Medium Industrial Levies Report, in relation to water facilities, sanitary sewer facilities, arterial roads, and storm water management facilities;
- (l) "Southfort Development Area" means the area(s) as identified on Figure 1.1 of the "Southfort Levies Report";
- (m) "Subdivision Authority" means the person(s) or body appointed by Council pursuant to Section 623(1) of the Act; and
- (n) "Westpark Development Area" means the area(s) as identified on Figure 1.1 of the "Westpark Levies Report".

## 2. PRINCIPLES

- (a) That there is hereby imposed a levy, which shall be known as an Off-Site Levy, upon all Developable Land within the Southfort Development Area, the Westpark Development Area and the Light/Medium Industrial Development Area, at the rates prescribed in this Bylaw;
- (b) That this Bylaw has been established to provide funds for the construction of the Off-Site Infrastructure required for growth;
- (c) That municipal infrastructure projects and associated costs have been determined through the preparation of the:
  - (i) Southfort Levies Report – Schedule “B” attached hereto and forming part of this Bylaw;
  - (ii) Westpark Levies Report – Schedule “C” attached hereto and forming part of this Bylaw; and
  - (iii) Light / Medium Industrial Levies Report – Schedule “D” attached hereto and forming part of this Bylaw.
- (d) That the following principles provide guidance for interpretation of this Bylaw and form the basis of the provisions:
  - (i) Collecting an Off-Site Levy in the Southfort, Westpark and Light / Medium Industrial Development Areas will provide the capital that will fund the infrastructure required for growth. Those who benefit from the infrastructure, which is defined by all those within the Southfort, Westpark, and Light/Medium Industrial Development Areas, should share proportionally on a per hectare basis, in its costs.
  - (ii) The Off-Site Levy rates may be subject to inflationary increases.
  - (iii) Infrastructure should be provided to maintain cost effective and orderly growth. Thus, non-contiguous development should be discouraged and Off-Site Levy projects should be constructed only when there is a demonstrated need for said infrastructure.
  - (iv) The calculation of the Off-Site Levy should be an open transparent process that is clear and understandable.
  - (v) The management of the Off-Site Levy account should be an audited process, with reports available to the public and industry.
  - (vi) Provisions of Off-Site Infrastructure by developers of Developable Land will not create an advantage or penalty due to the time or location of development.

(vii) The Off-Site Levy will help allow the City to recover the cost of infrastructure required for growth:

- a. Using financing strategies that remain sustainable;
- b. Facilitating development by reducing risk on early developers and ensuring future developers share the costs of the facilities from which they benefit; and

(viii) Promoting cost effective and orderly development;

(ix) The Off-Site Levy will help promote orderly development by:

- a. Providing Off-Site Infrastructure, once the appropriate planning is in place, and when warranted in development; and
- b. Providing infrastructure for contiguous development;

(x) The Off-Site Levy will help create transparent process by:

- a. Providing opportunity for industry input into the levy, its definition and administration;
- b. Conforming with the *Municipal Government Act*; and
- c. Providing reports on levies;

(xi) The Off-Site Levy will help create clear process for calculation of the rate, levies and credits by:

- a. Creating consistent and predictable levies and credits;
- b. Creating predictable and stable levies over time; and
- c. Documenting a process for establishing the levy rate.

### 3. APPLICATION

- (a) That the Off-Site Levy, as set out in this Bylaw, is imposed and payable for all lands to be subdivided or developed within the Southfort, Westpark and Light / Medium Industrial Development Areas, excepting all lands designated as Municipal Reserve or Environmental Reserve.
- (b) That the Off-Site Levy is payable in relation to Off-Site Infrastructure set out in Schedules "B", "C" and "D", attached hereto and forming part of this Bylaw.
- (c) That the City shall require that all subdivision and development be carried out in accordance with the executed Development Agreement between the City and a developer(s).

- (d) That all Development Agreements, as per Section 3(3), shall ensure:
  - (i) that provision is made for the payment of the Off-Site Levy as specified in this Bylaw;
  - (ii) that no further Off-Site Levy be required to be paid under Development Agreements where the Off-Site Levy has been previously collected in full in respect to all lands which are the subject of subdivision or development application;
- (e) That subject to the other provisions of this Bylaw the Off-Site Levy will be assessed on all Developable Land within the Southfort, Westpark and Light/Medium Industrial Development Areas.
- (f) That notwithstanding the provisions of Section 3(e) above, an Off-Site Levy will be assessed on the greater of the following:
  - (i) the estimated surface area of a storm water management facility during a 1 in 100 year storm event, that is located within a portion of land that is designated Municipal Reserve; or
  - (ii) that area defined legally as a public utility lot.
- (g) That the City's Administration is authorized to enter into Development Agreements on behalf of the City, which agreements may, among other things implement the provisions of this Bylaw and ensure collection of the Off-Site Levy, provided that the terms of the Development Agreements shall comply with the requirements of this Bylaw.
- (h) That unless otherwise specified in a Development Agreement, an Off-Site Levy shall be calculated and become due and payable upon execution of the Development Agreement; if a Development Agreement does provide for deferred payment of any portion of the Off-Site Levy payable under the Development Agreement, the Development Agreement shall provide that:
  - (i) any portion of the Off-Site Levy deferred shall be protected through security, on terms outlined in the Development Agreement;
  - (ii) the deferred portion of the Off-Site Levy shall be subject to adjustment, such that the amount of the Off-Site Levy payable by the developer shall be the off-site levy prescribed by this Bylaw at the time of payment, not at the time of endorsement of the Development Agreement; and
  - (iii) the deferred portion of the Off-Site Levy shall be a maximum of FIFTY (50%) PERCENT of the Off-Site Levy payable, and the maximum period for deferral shall be one (1) year from the date of entry into the Development Agreement: or
  - (iv) any other form of payment deferral for the Light/Medium Industrial Development Area as approved by Council.

- (i) That Council may from time to time adopt policies or guidelines for the assistance and direction of the City's Administration in determining which development and subdivision applications are required for the Development Agreement.

#### 4. LEVY CALCULATION

- (a) That the Off-Site Levy shall be calculated using the rates set out in Schedule "A" , and formalized through an executed Development Agreement, as follows:

Assessment formula:

Gross Area – (ER + MR) = Net Area X Levy Rate = Assessed Off-Site Levy

- (b) That prepayment of the Off-Site Levy shall not be permitted under any circumstances.
- (c) In order to implement the spirit and intent of the prohibition that there shall be no prepayment of an Off-Site Levy, the City Administration may:
  - (i) refuse endorsing a Development Agreement (or an addendum for a stage under a Development Agreement); or
  - (ii) require as a term of the Development Agreement (or an addendum for a stage under a Development Agreement) that the developer delay payment of all or part of the Off-Site Levy payable under the Development Agreement (or an addendum for a stage of a Development Agreement)

if it appears that the underground local improvements in relation to the Development Agreement (or a stage under that Development Agreement) will not be constructed to the point of issuance of the Construction Completion Certificate within 12 months of the entry into the Development Agreement (or the addendum for a stage of the Development Agreement). If the City requires the developer to delay payment of the Off-Site Levy payable under a Development Agreement (or an addendum), the City may prescribe the terms for the delayed payment, including provisions for security and adjustment.

#### 5. ACCOUNTING

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*.

#### 6. REVIEW PROCESS

That this Bylaw shall be reviewed from time to time.

#### 7. SEVERABILITY

That if at any time any provision of this Bylaw is declared or held to be illegal, invalid, or *ultra vires*, in whole or in part, then that provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and shall be constructed as it had been enacted without the illegal, invalid or *ultra vires* provision.

8. TRANSITIONAL PROVISION

That notwithstanding the provision of this Bylaw, a Development Agreement approved by the City of Fort Saskatchewan prior to the passing of this Bylaw shall remain valid and in effect until such time that all provisions of the Agreement have been met.

9. REPEAL

That Bylaw C33-07 and all amendments thereto are hereby repealed.

10. EFFECTIVE DATE

This Bylaw becomes effective upon third and final reading.

READ a first time this 28<sup>th</sup> day of January 2014.

READ a second time this day of 2014.

READ a third time and finally passed this day of 2014.

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Mayor

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Director, Legislative Services

## **SCHEDULE "A" TO BYLAW C1-14**

### **SOUTHFORT DEVELOPMENT AREA LEVY**

<b>Description</b>	<b>Current Off-Site Levy</b>
Water	\$20,928.67/ha
Sanitary Sewer	\$13,635.06/ha
Transportation	\$97,739.69/ha
Stormwater	\$29,829.05/ha
<b>TOTAL</b>	<b>\$162,132.47/ha</b>

### **WESTPARK DEVELOPMENT AREA LEVY**

<b>Description</b>	<b>Current Off-Site Levy</b>
Water	\$26,304.28/ha
Sanitary Sewer	\$21,656.45/ha
Transportation	\$39,438.16/ha
Stormwater	\$3,862.81/ha
<b>TOTAL</b>	<b>\$91,261.70/ha</b>

### **LIGHT/MEDIUM INDUSTRIAL DEVELOPMENT AREA LEVY**

<b>Description</b>	<b>Current Off-Site Levy</b>
Water	\$23,999.00/ha
Sanitary Sewer	\$17,379.00/ha
Transportation	\$3,051.00/ha
Stormwater	\$24,139.00/ha
<b>TOTAL</b>	<b>\$68,568.00/ha</b>