

BYLAW 2017-3365

A Bylaw of the City of Weyburn, in the Province of Saskatchewan to establish an Off-Site Development Levy in respect of land that is to be subdivided, developed or redeveloped within the City of Weyburn

WHEREAS, pursuant to and under the authority of *Sections 169 and 172(3)(b)* of the *Planning and Development Act 2007 (Chapter P-13.2)* (the “Act”) the Council of the City of Weyburn (the “Council” or “City), may pass a bylaw establishing and charging off-site development levies or subdivision servicing fees for one or more purposes described in the Act;

AND WHEREAS, the Council of the City of Weyburn deems it desirable to establish an off-site development levy and standard subdivision servicing fees for the purposes described in the Act;

AND WHEREAS, the City has updated its 2013 Study by engaging an engineering consultant and has received a report amending the estimated capital costs of providing municipal services and infrastructure, which study further sets out a fair and equitable calculation of off-site development levies and subdivision servicing fees in accordance with the Act;

AND WHEREAS, the City has carried out public notification of the proposed bylaw in accordance with the public participation requirements contained in Section 207 of the Act;

NOW THEREFORE, the Council of the City of Weyburn, in open meeting, enacts as follows:

1. SHORT TITLE

This bylaw may be cited as the “*Off-site Development Levy Bylaw - 2017*”.

2. PURPOSE AND INTENT

This Bylaw is intended to:

- a) To impose and provide for the payment of Off-site development levies;
- b) To provide consistency between off-site development levies and subdivision servicing fees, where appropriate;
- c) To provide a tool to collect Off-site development levies or subdivision servicing fees related to services provided by the City within and outside corporate City boundaries, as and where appropriate;
- d) To authorize agreements to be entered into with respect to payment of Off-site development levies;
- e) To set out conditions upon which the Off-site development levy will be applied to specific land uses, classes of development, zoning districts or defined areas; and
- f) To indicate how the Off-site development levy and subdivision servicing fees is determined and allocated.
- g) To provide for the consideration of providing a partial or full reduction where it is consistent with an adopted local economic development initiative as a means of further encouraging the establishment of a specific type of new development, redevelopment or density of development in strategic areas of the City; such reduction to be funded within the broader City tax structure.

3. DEFINITIONS

In this Bylaw;

- i. “Act” shall mean *The Planning and Development Act, 2007*, Chapter P-13 and any amendments thereto.
- ii. “Development Credit” shall mean an amount previously collected by the City as an off-site development levy or subdivision servicing fee, for which there is a record that the amount was collected or included as part of a sale price if purchased directly from the City.
- iii. “Development Land” shall mean any land on which development, redevelopment, and/or subdivision is proposed.
- iv. “Development Proponent” shall mean a landowner or legal designate of development land.
- v. “High Service Level Application” shall mean:
 - a. Introduction of a service (e.g. water, sewer, etc) which was not previously provided to the development site;
 - b. Significant increase in use of a service or services due to a change in use; or
 - c. A change in use that in the opinion of the Chief Development Officer or Economic Development Committee will utilize a higher level of service incrementally adding to the capital costs of the City to provide for services.
- vi. “New developable lots/parcels” shall mean, for the purpose of this bylaw, the total number of lots/parcels created from subdivision excluding any one parcel/lot on which already exists a permanent building or structure.
- vii. “Net hectare/acre” shall mean a hectare/acre of development land which excludes any land dedicated public utility parcels, Municipal or Environmental Reserve Parcels.
- viii. “Net gain” shall mean the increased number of dwelling units or area of the commercial/industrial/institutional building from what previously existed on the site.
- ix. “Off-site Development Levy” shall mean the levy imposed and created by this bylaw pursuant to the Act.
- x. “Subdivision Servicing Fees” shall mean the fees imposed under a subdivision servicing agreement pursuant to the Act.

4. ADMINISTRATION & ENFORCEMENT

- a) The Council hereby delegates to the City Manager and his delegate, as Subdivision Approving Authority and Chief Development Officer for the City of Weyburn, the authority to enforce and administer this bylaw.
- b) The Council hereby provides the City Manager and his delegate authority to enter into and negotiate Subdivision Servicing Agreements.
- c) Any requests to negotiate directly with Council on a Subdivision Servicing Agreement may be referred to the Economic Development Committee, at the City Manager’s discretion, and proceed to Council only if it is recommended by the Committee.
- d) Off-site Development levies will be collected by the City as a condition of approval for a development permit; a permit will not be issued until the levy has been paid or a development levy agreement has been entered into.
- e) A request to enter into an Off-site Development Levy Agreement, pursuant to Section 171 of the Act, must be approved by Council, pursuant to clause 169(8) of the Act.

5. APPLICATION

This Bylaw applies to all Development Land located within the City of Weyburn and will be applied, with any necessary modification, to the extension of City services provided outside of the corporate limits of the City.

6. IMPOSITION OF LEVY

Development Land shall be subject to and charged an Off-site development levy according to the following classes of development;

a) Land Subdivisions:

- i. New developable lots/parcels to be created from subdivision shall be charged a subdivision servicing fee based on \$188,825.00 per net hectare [\$76,440.00 per net acre] of the lands being affected by the subdivision.
- ii. Where an amount was previously collected by the City as a subdivision servicing fee or off-site development levy, as determined by the Chief Development Officer or his designate, that amount will be provided as a development credit towards the subdivision servicing fee charged under the current application.

b) Development Permit Applications:

- i. Proposals involving development or redevelopment of a site, involving permitted or discretionary uses and where no subdivision is occurring, and in the case of redevelopment providing the development has taken place a minimum of three (3) years after the initial construction commenced, which result in an increased intensity of use, increased density of development, change of use and/or are determined to be a High Service Level Development Application, as determined by the Chief Development Officer or the ad hoc Economic Development Committee, shall be subject to payment of an off-site development levy based on \$188,825.00 per net hectare [\$76,440.00 per net acre] of the lands being affected by the development.
- ii. Proposals involving development or redevelopment of a site where no subdivision is occurring will pay on an equivalent household or lot charge for the services that are impacted by the business. In the case of water and sewer services, the AWWA Water Systems Handbook can be referred to in the absence of actual or demonstrated comparative demand data. The calculation is based on the per lot equivalent charge found in 9 c) of this Bylaw.
- iii. Proposals involving development or redevelopment of a serviced site which is anticipated to have minimal or no impact on existing or anticipated future services may be exempt from off-site levies or fees. The development or servicing agreement would document the developer's statement regarding intended use, be entered on title and transferable to any subsequent owner.
- iv. Where an amount was previously collected by the City as a subdivision servicing fee or off-site development levy, as determined by the Chief Development Officer or his designate, that amount will be provided as a development credit towards the subdivision servicing fee charged under the current application.

c) Adjustments to the Offsite Development Levy or Fees:

- i. Where an amount was previously collected by the City as a subdivision servicing fee or off-site development levy, as determined by the Chief Development Officer, that amount will be provided as a development credit towards the off-site development levy charged under the current application.
- ii. Any adjustment to the development levy by the Chief Development Officer or ad hoc Economic Development Committee will be based upon the impact of the development on past, current and future off-site infrastructure needs in accordance with Sections 9 and 10.
- iii. Where the Development Officer or the Economic Development ad hoc Committee should determine that there are circumstances which may warrant a

variation from the full off-site development levy for a proposed Development or Subdivision:

- a. The Development Officer shall submit a report to Council, providing particulars of the proposed development or subdivision, the circumstances which may warrant a variation, a recommendation with respect to the appropriate off-site charges to be levied and where the variation may warrant a change the distribution of off-site charges upon the collection, the proposed change in the distribution thereof
- b. Council shall consider the Development Officer's report and may, by resolution of Council:
 - i. Approve the Development Officer's recommendations; or,
 - ii. Approve such other variation and/or change to distribution as Council may, in its discretion, determine.
- iv. Circumstances warranting a variation in the development levy or off-site servicing fees and/or a change in the distribution thereof, may include, but are not limited to the circumstances identified and illustrated in Appendix A to this Bylaw.

7. AUTHORITY TO ENTER INTO AGREEMENT

For the purposes of this bylaw, and where in the opinion of the City it is necessary to do so, the City may require the development proponent to enter into an off-site development levy agreement or in the case of subdivisions a subdivision servicing agreement, with the City respecting the payment of off-site development levies or subdivision servicing fees. The agreement, to be prepared by the City, may contain whatever provisions are deemed necessary by the City to ensure payment of the off-site levy or fees by the development proponent and/or successor in title or assigns, including the items in Section 173 of the Act.

8. PAYMENT

- a) The Off-site Development Levy and Subdivision Servicing Fee prescribed by this bylaw shall be paid either:
 - i. 100% payout prior to the issuance of a Development Permit, as applicable; or
 - ii. 100% payout prior to the issuance of a Subdivision Approval, as applicable; or
 - iii. In a prescribed manner and timeline appropriate for the City as outlined within a development levy agreement, pursuant to Section 171 of the Act; or
 - iv. In a prescribed manner and timeline appropriate for the City as outlined within a servicing agreement, pursuant to Section 172 of the Act.
- b) Delayed or phased payments of levies/fees may only occur if authorized by the City Manager and payment is secured by letters of credit in the full outstanding amounts.

9. PURPOSE AND USE OF THE LEVY/FEE

- a) The purpose of charging offsite development levies and subdivision serving fees is to assist the City in paying expended, required and future capital costs for providing altering, expanding or upgrading infrastructure works which are located outside the boundaries of development land, and which directly or indirectly service and/or benefit the development land. The off-site development levy and subdivision serving fees may also be utilized to pay a debt incurred by the City as the result of infrastructure expenditures or to reimburse an owner described in clause 173(d) of the Act.
- b) The full off-site development levy/subdivision servicing fee capital costs for infrastructure has been evaluated to be as follows:

Water Supply, Treatment, Transmission & Distribution **\$26,930 per net hectare**
[\$10,898 per net acre]

Sanitary Sewage Collection, Storage, Transmission, Treatment & Disposal	\$17,574 per net hectare [\$7,112 per net acre]
Storm Drainage Collection & Disposal	\$ 9,103 per net hectare [\$3,684 per net acre]
Transportation - Arterial Roadways & Traffic Control	\$80,279 per net hectare [\$32,488 per net acre]
Parks & Recreation, Miscellaneous and Administration	\$54,996 per net hectare [\$ 22,255 per net acre]

c) The Lot Equivalent Off-Site Servicing Fee will be calculated as follows:

	<u>Per Lot Equivalent</u>
Water Supply, Treatment, Transmission & Distribution	\$ 2,180
Sanitary Sewage Collection, Storage, Transmission, Treatment & Disposal	\$ 1,422
Storm Drainage Collection & Disposal	\$ 737
Transportation - Arterial Roadways & Traffic Control	\$ 6,498
<u>Parks & Recreation, Miscellaneous and Administration</u>	\$ 4,451
Total	\$15,287

d) Offsite development levies shall be deposited into one or more accounts separate and apart from other funds of the City and used for the purpose they were collected.

10. CALCULATION OF LEVY/FEE

- a) The Off-site Development levy adopted in this bylaw is derived from the findings of the '*City of Weyburn - Development Cost Charge Review*' prepared by Stantec Consulting, dated March 26, 2013, and update prepared by Walker Projects Dated August 8, 2017. The recommended charge [\$212,546.22 per gross hectare] has been modified to be applied as \$188,882 per net hectare] under this bylaw.
- b) In circumstances, where a development proponent will be providing and/or upgrading off-site infrastructure work contemplated within the study on behalf of the City, the City Council may direct a reduction to the off-site development levy/subdivision servicing fee charged reflecting the public benefit derived. Where such works by a development proponent exceed future owing off-site development levy/subdivision servicing fee charges, levies/fees collected for those works may be used to compensate the developer for those contemplated costs.

11. SEVERABILITY

In the event that any provision of this bylaw is found to be null and void or contrary to law by any court of competent jurisdiction, than such provision shall be severed from this bylaw and the remainder of this Bylaw shall continue to be of full force and effect.

12. ENACTMENT

This Bylaw shall take force and effect upon 3rd and Final reading thereof.

13. REPEAL

This Bylaw repeals Bylaw 2014-3320.

MAYOR

CITY CLERK

READ a First time this 25th day of September, A.D., 2017.

READ a Second time this day of

READ a third time this day of , and passed

APPENDIX A

VARIATION OF OFF-SITE CHARGES

Circumstances justifying a variation from the full rate are not limited to the following:

- i. Limited Increase in Intensity – where a proposed development and/or subdivision involves previously developed land, the Development Levy or Offsite Servicing Fees may be varied to reflect only the increase in the intensity of use resulting from the new development or subdivision. An example includes the subdivision of a lot formally occupied by a single unit into two lots to accommodate a duplex, in which case the fees or levy may be reduced by an amount attributed to the first unit, as it is merely replacing the previous unit.
- ii. Limited Requirement for Services – where a proposed development and/or subdivision will not benefit from, use or otherwise call on the capacity of an off-site service, the fee or levy may be varied to reflect the reduced call on off-site services. An example would be a dry storage building for goods or equipment which will not be connected to the sanitary sewer network, in which the fee or levy may be reduced or to exempt the proposed development or subdivision from contributing to upgrades to that system or to the off-site development levy as a whole. As an example, a development providing for the storage of existing on-site equipment and goods are exempt from an off-site development levy.
- iii. Services Required Immediately - where a proposed development and/or subdivision shall require the construction or upgrade of and/or provision of services, off-site charges may be increased to reflect the extent to which the required costs have not been funded by offsite fees or levies levied on other lands which may or will benefit from the provision of such services. Where such an increase is warranted, consideration may be given to provisions for the reimbursement of the development proponent in whole or in part, as levies are collected for other lands which benefit from the services funded by the development proponent, as provided for in s. 173(d) of the Act.
- iv. Construction by Development Proponent – where it should be considered advisable that a development proponent shall construct or upgrade services lying outside of the development land, consideration may be given to providing for such construction to take place, with off-site fees and levies being varied to reflect the cost thereof.

Where the Chief Development Officer or ad hoc Economic Development Committee waives any portion or all off-site development levies, the development proponent may be subject to further fees as determined by Council for the development or redevelopment of a property, which will be included in the servicing agreement.