

BYLAW NO. 5554

CITY OF MOOSE JAW DEVELOPMENT LEVY BYLAW, 2018

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THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

WHEREAS pursuant to s 169 and 171 of *The Planning and Development Act, 2007*, Chapter P-13.2 provides that the Council of the City of Moose Jaw in the Province of Saskatchewan may pass a bylaw establishing a development levy;

WHEREAS certain lands within the City of Moose Jaw are proposed for future development;

WHEREAS the Council of the City of Moose Jaw has adopted an official community plan that authorizes the use of a development levy;

WHEREAS the Council of the City of Moose Jaw deems it desirable to establish an updated development levy for the purposes of recovering all or a part of the capital costs of providing services and facilities associated with a proposed development, directly or indirectly, in regards to sewage, water and drainage works, roadways and related infrastructure, parks and recreational facilities;

WHEREAS the Council of the City of Moose Jaw has approved a development levy study regarding the estimated capital costs of providing City servicing and recreational requirements (infrastructure), which sets out a fair and equitable calculation of the development levy in accordance with the *Act*;

WHEREAS the Council of the City of Moose Jaw has considered the future land use patterns and development and phasing of public works (infrastructure) to help determine a fair and equitable calculation of the development levy in accordance with the *Act*; and

WHEREAS the Council of the City of Moose Jaw wishes to enact a bylaw to authorize agreements to be entered into with respect to payment of the development levy pursuant to s 171 and 172 of the *Act*; to set up the conditions upon which the development levy will be applied to specific classes of development and defined areas; and to indicate how the amount of the development levy is determined.

NOW THEREFORE the Council of the City of Moose Jaw duly assembled, enacts as follows:

1. SHORT TITLE

This Bylaw may be cited as the “Development Levy Bylaw”.

2. PURPOSE AND INTENT

This Bylaw is intended to:

- i) Impose and provide for the payment of a development levy;
- ii) Authorize agreements to be entered into with respect to payment of the development levy;
- iii) Set out the conditions upon which the development levy will be applied to specific classes of development and defined areas; and
- iv) To indicate how the amount of the development levy is determined.

3. DEFINITIONS

In this Bylaw:

- i) “**Act**” shall mean *The Planning and Development Act, 2007*, Chapter P-13.2.
- ii) “**Capital Costs**” means the City’s estimated cost of providing, altering, expanding or upgrading services and infrastructures associated, directly or indirectly, with a proposed development pursuant to s 169 and 172 of the *Act*.
- iii) “**City**” means the City of Moose Jaw.
- iv) “**Council or the City Council**” means the Council of The City of Moose Jaw.
- v) “**Developed Area**” means the exterior dimensions of all principal and accessory buildings and equipment, including all parking, driveway, loading areas, open storage areas, landscaped areas, roads and dedicated lands.
- vi) “**Developed Land**” means the land is considered developed and once it is subdivided or development permit issued, development levies have been paid and services provided to the parcel.
- vii) “**Developable Land**” means land that has not previously but can be physically provided with water, sanitary sewer and storm drainage service and associated infrastructure and is suitable for urbanization.
- viii) “**Development**” means the carrying out of any building, engineering, mining or other operations in, on or over land or the making of any material change in the use or intensity of the use of any building or land.
- ix) “**Development Region**” means all undeveloped land within the City boundary.
- x) “**Development Levy**” means the levy imposed and created by this Bylaw pursuant to the *Act*.
- xi) “**Development Levy Agreement**” means the meaning ascribed to this term by the *Act* within s 171 of the *Act*.
- xii) “**Development Officer**” means the Administrator for the City of Moose Jaw who administers the development permit applications.
- xiii) “**Infill Development**” means the infill development or redevelopment of existing serviced residential and commercial areas.
- xiv) “**Infill Properties**” means those lands (or any part thereof) within the City of Moose Jaw, that have previously been provided with City services but where **no** previous servicing agreement has been entered into or development levy has been collected for the specific

proposed development and, in the opinion of Council, the City will incur additional capital costs as a result of the proposed development.

- xv) “**Gross Acre**” means the total land area to be subdivided including but not exclusively all lots, roadways, sidewalks, park space, and dedicated lands.
- xvi) “**Gross Floor Area**” means the total floor area in a building or structure measured between the exterior faces of exterior walls of the building or structure at the level of each storey below, at and above grade, excluding the area used for off-street parking, loading, mechanical equipment, stairways or shafts.
- xvii) “**Off-site Infrastructure**” – is external roads (e.g. arterials and collectors), sewer, drainage, water and recreational facilities required for the development but installed outside the specific development boundaries.
- xviii) “**On-site Infrastructure**” – is internal roads, sewer, drainage, water and recreational facilities built on the land area defined by the current phase of development or parcel required to provide capacity to service the current phase of development on the parcel.
- xix) “**Oversize Infrastructure**” – is roads, sewer, drainage, water and recreational facilities sized greater than the predefined base size or capacity that provides increased capacity in the system beyond what is required by the current phase of development or specific parcel.
- xx) “**Proposed Development**” means a permitted or discretionary use within the City of Moose Jaw Zoning Bylaw, for which a person or corporation has made an application for a development permit.
- xxi) “**Servicing Agreement**” has the meaning ascribed to this term by the *Act* within s 172 of the *Act*.
- xxii) “**Sanitary Sewer Facilities**” – Sanitary sewer facilities, in the context of this Bylaw, include pipe, appurtenances, lift stations and force mains.
- xxiii) “**Storm Water Facilities**” – Storm water facilities, in the context of this Bylaw, include drainage pipe, appurtenances and any pump stations.
- xxiv) “**Storm Water Detention Facilities**” – Storm Water Detention Facilities, in the context of this Bylaw, include storm water ponds, pond outlets up to and including the control structure low flow bypass pipe, overland surface flow routes and land associated with these facilities.
- xxv) “**Study**” means the City of Moose Jaw Development Levy Study Referenced in Appendix A, prepared by Tom Williams P.Eng and Dwight Mercer M.C.I.P., RPP.
- xxvi) “**Subdivision**” means a division of land that will result in the creation of a surface parcel, or the rearrangement of the boundaries or limits of a surface parcel, as surface parcel is defined in *The Land Titles Act, 2000*.
- xxvii) “**Water Facilities**” – Water Facilities, in the context of this Bylaw, include pipe, appurtenances, pump stations and reservoirs.

4. ADMINISTRATION AND ENFORCEMENT

Unless otherwise stated in this Bylaw, Council hereby delegates to the City Administrator or any City employees assigned by the City Administrator the duty and authority to administer and enforce this Bylaw.

5. DEVELOPMENT LEVY APPLICATION

- a) This Bylaw applies to Developable Land that benefits or will benefit from municipal services installed or to be installed by or on behalf of the City and for a development which a Development Levy or Servicing Agreement Fee has not been previously collected. The Development Levy imposed by this Bylaw is intended to recover all or a part of the Capital Costs incurred by the City as a result of a Proposed Development, within the corporate boundaries of the City of Moose Jaw. For the purposes of this Bylaw, the Development Levy fee shall be applied equally as a Servicing Agreement Fee within the meaning of s 171 and 172 of the *Act*.
- b) The Development Levy is hereby imposed as follows:
 - i) \$80,580 per gross acre on all lands identified as “Residential Study Sectors” in Schedule “A”, which are the lands outlined in the Development Levy Study.
 - ii) \$80,580 per acre on the Developed Area on all lands identified as “Industrial Study Sectors” in Schedule “A”, which are the lands outlined in the Development Levy Study.
 - iii) \$80,580 per acre on all lands in the Development Region within the City of Moose Jaw boundaries that are considered “Developable Land” as defined. Levies will be applied as specified in subsections i) and ii) above depending on whether the land is residential or commercial/industrial.
 - iv) For lands intended considered in subsections i, ii, and iii above, an adjustment factor may be considered at the City’s discretion based on the density of the development and whether the development is connected to City sewer and water.
 - v) Infill properties, which may undergo revitalization and redevelopment within established neighborhoods, will be evaluated considering the intensification of use on the site and off-site infrastructure requirements. \$80,580 will be applied to the gross floor area of any commercial/industrial building additions. Residential infill development will be subject to a \$5,000 per additional unit fee.
 - vi) In all cases the City reserves the right to require a third-party study to determine the impact of a proposed development on off-site City services, and adjust the Development Levy charge accordingly.
 - vii) The Development Levy will be phased-in over three years as follows:
 - 2018: \$48,348 per gross acre
 - 2019: \$64,464 per gross acre
 - 2020: \$80, 580 per gross acre

- viii) The Development Levy will be subject to a per annum increase of 2% to account for inflation and changing infrastructure costs.
- c) In accordance with s 169(7) of the *Act* and Notwithstanding s 6 herein, Council may designate “Economic Development Zones”, or Special Land Use Classes which may be subject to a partial application of the Development Levy, in order to encourage specific forms of development that enhances the growth of the City of Moose Jaw, and which do not unduly affect the City infrastructure.

6. AUTHORITY TO ENTER INTO AGREEMENT

Any Development Levy Agreement or Servicing Agreement and the obligation to pay the applicable Development Levy shall be binding on successors in title to the original owner or owners, regardless of whether an interest in respect of the Development Levy Agreement or Servicing Agreement or the obligation to pay the applicable Development Levy is registered by the City against the Development Lands.

7. PAYMENT

The Development Levy provided in this Bylaw shall be paid, either:

- i) 100% prior to issuance of a Development Permit; or
- ii) In a fashion and timeline deemed appropriate by the City within a Development Levy Agreement, pursuant to s 171 of the *Act*, or Servicing Agreement, pursuant to s 172 of the *Act*.

8. PURPOSE

The purpose of this Bylaw is to recover all or a part of the City’s Capital Costs for providing or upgrading the services, facilities and infrastructure herein associated, directly or indirectly, with the proposed development.

9. USE OF THE LEVY

- a) The City will deposit all Development Levy and Servicing Agreement fees into one or more Development Levy or Servicing Agreement accounts, separate and apart from other funds of the City pursuant to s 174 of the *Act*.
- b) The City will use the funds received, and any accrued interest only to:
 - i) Pay the Capital Cost of providing the services and facilities described in ss 169(2) or 172(3) of the *Act*;
 - ii) Pay a debt incurred by the City as a result of an expenditure described in ss 169(2) or 172(3) of the *Act*.

10. CALCULATION OF LEVY

The Development Levy Study, the summary of which is attached in Schedule “A” hereto and forming part of this Bylaw determines the Development Levy rates adopted in this Bylaw.

11. APPEALS ON DEVELOPMENT LEVY

The Development Levy or factors considered in its calculation can be appealed to the Development Appeal Board and subsequently to the Saskatchewan Municipal Board in accordance with s 176 of the *Act*.

12. ENFORCEMENT

In the event that any Development Levy payment imposed by this Bylaw payable under a Development Levy Agreement is not paid at the time or times specified within the Agreement and without limiting the remedies of the City, the Development Officer may issue an Order pursuant to s 242 of the *Act* prohibiting further development on the Development Lands. The Development Officer may register an interest in the land registry against the affected title pursuant to s 242(7) of the *Act*.

13. SEVERABILITY

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

14. COMING INTO FORCE

This Bylaw shall come into force and effect on and after the final passing thereof

READ A FIRST TIME THIS ____ DAY OF _____, 2018

READ A SECOND TIME THIS ____ DAY OF _____, 2018

READ A THIRD TIME AND PASSED ON THIS ____ DAY OF _____, 2018

MAYOR

CITY CLERK

SCHEDULE "A"
**DEVELOPMENT LEVY STUDY SUMMARY AND MAP OF STUDY
AREA**