

CITY OF HUMBOLDT

BYLAW NO. 15/2015

A BYLAW OF THE CITY OF HUMBOLDT TO PROVIDE FOR OFF-SITE CHARGES FOR LAND SUBDIVISION AND DEVELOPMENT WITHIN THE CITY

WHEREAS Section 169 of *The Planning & Development Act, 2007*, authorizes City Council to pass a bylaw to establish development levies for the purpose of recovering all or part of the capital cost of providing, altering, expanding or upgrading certain services and facilities associated, directly or indirectly, with a proposed development which does not involve the subdivision of land;

AND WHEREAS Section 172 of *The Planning & Development Act, 2007*, authorizes the City to require a subdivision applicant to enter into a servicing agreement to provide services and facilities that directly or indirectly serve the subdivision, and further authorizes the City to require the payment of fees that City Council may establish as payment in whole or in part for the capital cost of providing, altering, expanding or upgrading services and facilities that directly or indirectly serve the new proposed subdivision;

AND WHEREAS the City has undertaken studies to determine the capital costs of municipal servicing and recreational requirements for the purposes of determining appropriate levies and servicing fees, including but not being limited to the study appended to this Bylaw as Appendix A;

AND WHEREAS the City has considered future land use patterns and development and the phasing of public works, and has determined that the levies and servicing fees provided for in this Bylaw represent the estimated cost of providing, altering, upgrading or expanding services and utilities required to accommodate predicted growth.

IT IS HEREBY ENACTED AS FOLLOWS

1.0 NAME

1.1 This Bylaw may be referred to as the “Off-site Charges Bylaw”.

2.0 PURPOSE

2.1 This Bylaw is enacted for the purposes of recovering all or a portion of the City’s capital costs of providing, altering or upgrading certain services and/or facilities which are located outside and associated with, or intended to directly or indirectly serve a proposed development or subdivision as authorized under the Act, including:

- (a) Sewage, water, drainage or other utilities;
- (b) Transportation related infrastructure; AND

- (c) Parks and Recreational facilities;

all of which are “Off-site Services” for the purposes of this Bylaw.

- 2.2 The provisions of this Bylaw are intended to govern Off-site Charges and not to limit or restrict in any way the City to otherwise regulate development and subdivision and require any other conditions to be placed on development or subdivision including but not being limited to any requirements related to:

- (a) Any contract zoning agreement;
- (b) Any discretionary use approval;
- (c) Any development levy agreement; and
- (d) Any servicing agreement;

as may be permitted by the Act and are not restricted or otherwise provided for herein.

3.0 INTERPRETATION

- 3.1 For the purposes of this Bylaw:

- (a) “Act” shall mean *The Planning and Development Act, 2007*, and any amendments thereto.
- (b) “*Capital Cost*” shall mean the cost of construction of infrastructure, planning & engineering and legal services that are directly or indirectly related to the provision of Off-site Services to a proposed development or subdivision.
- (c) “*Deferral Period*” shall mean the period of time during which the payment of Off-site Charges may be deferred as provided for in Part 8.0 of this Bylaw
- (d) “*Development*” shall mean 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, and shall include Redevelopment.
- (e) “*Development Agreement*” shall mean an agreement for the Development of land as contemplated in Section 5.1(a) hereof, and which shall serve as and be a development levy agreement as provided for in s. 171 of the Act;
- (f) “*Development Land*” shall mean any land with respect to which any Development or Subdivision is proposed.
- (g) “*Development Levy*” shall mean a levy imposed and provided for by this Bylaw pursuant to the Act.

- (h) “*Base Charge*” shall mean the amount of Off-site Charge initially calculated pursuant to Section 6.3(a) hereof
- (i) “*Development Proponent*” shall mean the legal and beneficial owner of Development Land.
- (j) “*Net Development Area*” shall mean the area of the Development Land, excluding land which is or will be dedicated to public utility rights of way and parcels, and Municipal or Environmental Reserve Parcels.
- (k) “*Off-site Charge*” shall mean either a Development Levy or an Off-site and/or Subdivision Servicing Fee; whichever is applicable.
- (l) “*Off-site Services*” shall have the meaning ascribed in Section 2.1(a) hereof
- (m) “*Off-site and/or Subdivision Servicing Fees*” shall mean the fees for off-site services as may be imposed under a Servicing Agreement.
- (n) “*Redevelopment*” shall mean any Development of land which has been previously the subject of Development.
- (o) “*Servicing Agreement*” shall have the meaning ascribed by s. 172 of the Act.
- (p) “*Subdivision*” shall mean a subdivision 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*.
- (q) “*Unit*” shall mean a single dwelling unit, being the living quarters of one family household.

4.0 APPLICATION

4.1 This Bylaw shall apply to all Development Land located within the City of Humboldt.

5.0 AGREEMENT REQUIRED

5.1 Where a Development Proponent makes application for a development permit, or for the subdivision of land, and where Off-site Charges are required by this Bylaw (or otherwise as the City may determine appropriate, the City shall require the Development Proponent to enter into:

- (a) In the case of a proposed Development, a Development Agreement, which shall provide for all terms and conditions to govern the proposed Development, including, but not being limited to:
 - (i) Any conditions placed upon the development approval by the City;
 - (ii) Any conditions and development standards placed upon any discretionary use approval granted by the City;

- (iii) Any other terms or conditions mandated or provided for by statute or bylaw,
 - (iv) Any other terms permitted by statute or bylaw and considered advisable by the City, and/or
 - (v) The amount of all Development Levies as required by this Bylaw.
- (b) In the case of a proposed Subdivision, a Servicing Agreement, which shall provide for all terms and conditions to govern the servicing of the proposed Subdivision, including, but not being limited to:
 - (i) Any conditions placed upon subdivision approval by the City;
 - (ii) The services to be constructed and/or otherwise provided by the Development Proponent;
 - (iii) The services to be constructed and/or otherwise provided by the City, including any provisions for payment to the City of all or part of the cost associated therewith;
 - (iv) The subdivision and vesting of all lands to be dedicated for public use, including but not being limited to all public roadways, easements utility parcels and reserve lands;
 - (v) Any other terms or conditions mandated or provided for by statute or bylaw;
 - (vi) Any other terms permitted by statute or bylaw and considered advisable by the City, and/or
 - (vii) Payment of all Off-site Servicing Fees as required by this Bylaw.

6.0 DETERMINATION OF OFF-SITE CHARGES

- 6.1 Where a Development Proponent applies for a development permit for the Development of land, and the proposed Development does not provide for or require a Subdivision:
 - (a) The permit application will be reviewed by the Development Officer; and
 - (b) In the event that the proposed Development will result in an increased intensity and/or density of Development the applicable Development Levy shall be determined in accordance with this Bylaw.
- 6.2 Where a Development Proponent applies for a Subdivision:
 - (a) The subdivision application will be reviewed by the Development Officer, and
 - (b) In the event that the Subdivision will require the provision of off-site services, the applicable Off-Site Servicing Fees shall be determined in accordance with the provisions of this Bylaw.

6.3 Off-site Charges for a proposed Development and/or Subdivision shall be determined as follows:

- (a) The Development Officer shall calculate a Base Charge as provided for in Appendix B hereto;
- (b) Where the Development Officer shall determine that there are no circumstances which warrant a variation from the Base Charge, then the Off-site Charges shall be set at an amount equal to the Base Charge, and the Off-Site Charges shall be distributed in accordance with Appendix B.
- (c) Where the Development Officer should determine that there are circumstances which may warrant a variation from the Base Charge for a proposed Development and/or Subdivision:
 - (i) The Development Officer shall submit a report to Council, providing particulars of the proposed Development or Subdivision, the circumstances which may warrant a variation in the Development Charge, a recommendation with respect to the appropriate Off-site Charges to be levied, and where the variation may warrant a change to the distribution of Off-site Charges upon collection, the proposed change to the distribution thereof.
 - (ii) Council shall consider the Development Officer's report and may, by resolution of Council:
 - (A) Approve the Development Officer's recommendations;
 - (B) Approve such other variation and/or change to distribution as Council may, in its discretion determine.
 - (iii) Any resolution made pursuant to subparagraph (c)(ii) above shall specify the circumstances by which the variation and/or change to distribution is considered to be justified.
 - (iv) In the event that a resolution made pursuant to subparagraph (c)(ii) shall be passed by Council the Off-Site Charges and the distribution thereof shall be as set forth in the resolution, and a copy of the resolution shall be appended to and form part of the Development Agreement and/or Servicing. Otherwise the Off-site Charges shall be set in accordance with the Base Rate.

6.4 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 C to this Bylaw.

7.0 COLLECTION OF OFFSITE CHARGES

7.1 Each Development Agreement and Servicing Agreement shall contain all provisions deemed necessary by the City to secure payment of the obligations of the Development

Proponent thereunder. Each such agreement shall provide for payment of all Off-site Charges by the Development Proponent and/or its successor in title or its assigns. Without limiting the foregoing:

- (a) A Development Agreement shall provide that the Development Levies required by this Bylaw shall be paid either:
 - (i) In full prior to issuance of a Development Permit by the City;
 - (ii) Where deferral is permitted by this Bylaw, in accordance with the provisions governing deferral, or
 - (iii) As otherwise prescribed by Council.
- (b) A Servicing Agreement shall provide that the Off-Site Servicing Fees required by this Bylaw shall be paid either:
 - (i) In full prior to subdivision approval from Community Planning Branch of the Ministry of Government Relations;
 - (ii) Where phased subdivision is to be phased, in full prior to subdivision approval from the Community Planning Branch of the phase to which such fees are to apply;
 - (iii) Where deferral is permitted by this Bylaw, in accordance with the provisions governing deferral; or
 - (iv) As otherwise prescribed by Council.

7.2 Where payment will not be made as provided for in Section 7.1(a)(i) or (b)(i), and as the Development Officer may consider advisable, the City shall take appropriate security from a Development Proponent to secure payment of all Off-site Charges levied in accordance with this Bylaw.

7.3 Upon collection, Off-site Charges may be:

- (a) Applied to reimburse the City for previously incurred Capital Costs, which were incurred by the City to provide Off-site Services to the proposed Development or Subdivision;
- (b) Used to pay for Capital Costs which are intended to be incurred by the City to provide Off-site Services to be constructed or provided in conjunction with the development or servicing of the proposed Development or Subdivision;
- (c) Held by the City for the purposes of paying Capital Costs which are to be incurred by the City in the future to provide Off-site Services to the proposed Development or Subdivision; or

- (d) Used for the reimbursement of Off-site Charges, as provided for in clause 173(d) of the Act.
- 7.4 Off-site Charges shall be deposited into one or more accounts separate from other funds of the City and used only for the purpose they were collected. Off-Site charges shall be distributed as provided for in Section 6.3.

8.0 EXEMPTION AND DEFERRAL

- 8.1 Where the City is the Development Proponent, the following proposed developments and/or subdivisions shall be exempt from the payment of Off-site Charges:
- (a) Residential housing;
 - (b) Commercial;
 - (c) Industrial;
 - (d) Municipal recreation;
 - (e) Municipal transportation;
 - (f) Municipal utility.
- 8.2 Where the Development Officer shall determine that a proposed development is intended to provide a community service, such as a school or hospital, the Development Officer may authorize the deferral of Off-site Charges as provided below:
- (a) The Development Officer shall require the Development Proponent to enter into a Development Agreement;
 - (b) The Development Agreement will identify the proposed use, which provides the intended community service; and
 - (c) The Development Agreement will provide, in relevant part, for a Deferral Period which shall commence on the effective date of the Development Agreement and which shall terminate on the occurrence of either of the following:
 - (i) The proposed development is not completed within such time frame as the Development Officer may require; and
 - (ii) The entirety of the Development Land is not used for the specified use and no other use shall be commenced.
- 8.3 Where the Development Officer should determine that the Development Proponent is a non-profit housing agency, and the proposed development and/or subdivision is for the purposes of constructing and renting affordable dwelling units, the Development Officer may authorize the deferral of Off-site Charges as provided below:

- (a) The Development Officer shall require the Development Proponent to enter into a Development Agreement;
- (b) The Development Agreement will provide for a Deferral Period which shall commence on the effective date of the Deferral Period and which shall terminate upon the occurrence of any of the following:
 - (i) The proposed development is not completed within such time frame as the Development Officer may require;
 - (ii) The entirety of the Development land is not used exclusively for the purposes of constructing, and thereafter renting affordable housing units;
 - (iii) Occupancy of the rental units located on the Development Land is not restricted to renters whose annual household income is below the greater of the most recent:
 - (A) The Maximum Income Limit calculation; and
 - (B) The Housing Income Limit calculation

as published by Saskatchewan Housing Corporation (or such successor agency or governmental department as may publish such calculations from time to time)
 - (iv) The owner of the entirety of the Development Land is no longer a non-profit housing agency.

8.4 Where the Development Officer should determine that the proposed development and/or subdivision is for the purposes of constructing and selling affordable dwelling Units, the Development Officer may authorize the deferral of Off-site Charges as provided below:

- (a) The Development Officer shall require the Development Proponent to enter into a Development Agreement;
- (b) The Development Agreement will specify criteria for eligible purchasers of Units to be constructed as part of the proposed development;
- (c) The Development agreement shall provide for a Deferral Period which shall commence on the effective date of the Development Agreement and, as respects each title arising from the Development Land, shall terminate where:
 - (i) The proposed development is not completed within such time frame as the Development Officer may require;
 - (ii) Legal and/or beneficial title remains in the name of the Development Proponent five years after the effective date of the Development Agreement;

- (iii) The Development Proponent shall rent or lease the land and/or Unit without the express written permission of the City; or
 - (iv) Legal and/or beneficial title having been transferred by the Development proponent, the land and/or Unit is not owned and occupied by an eligible purchaser (whether as transferee of the Development Proponent or the transferee of a previous eligible purchaser).
 - (d) The Development Agreement will further provide that where the Development Proponent has transferred title to a Unit to an eligible purchaser, and where dwelling has thereafter been continuously owned and occupied by an eligible purchaser for a period of five years, the Off-site Charges associated with that Unit will be cancelled and the Deferral Period will terminate.
- 8.5 Except as provided for in Section 6.4(d), where a Deferral Period provided for in this Bylaw shall terminate:
- (a) Off-Site Charges shall be immediately payable by the owner of the affected land; and
 - (b) The amount of Off-site Charges shall payable shall be calculated in accordance with such Bylaw as may be in effect at the time at the expiry of the Deferral Period.
- 8.6 Notwithstanding any other provision of this Bylaw, unless authorized by resolution of Council, the Development Officer may only in any calendar year authorize deferrals affecting Development Land to a maximum of 0.125 hectares (0.3 acres), which shall approximate to 2 single family residential lots, 4 townhouse dwellings, or 8 multi-unit dwellings.

9.0 APPEALS

- 9.1 The amount of or requirement to pay Off-Site Charges may be appealed pursuant to Section 176 of the Act.

10.0 SEVERABILITY

- 10.1 In the event that a court shall determine that any provision of this Bylaw is invalid, or contrary to the law, such provision shall be severed from this Bylaw and the remainder of this Bylaw shall continue to be in full force and effect.

11.0 EFFECTIVE DATE

This Bylaw shall come into force and take effect on January 1, 2016.

12.0 REPEAL

Bylaw No. 17/2013 is hereby repealed upon the coming into force of this Bylaw.

Mayor: Malcolm Eaton

City Clerk: Sandra Pauli

INTRODUCED AND READ A FIRST TIME THIS 27th DAY OF July, 2015.

READ A SECOND TIME THIS 24TH DAY OF August, 2015.

READ A THIRD AND FINAL TIME THIS 24th DAY OF August, 2015

APPENDIX A

CAPITAL COST ESTIMATIONS

1.0 Estimations of Capital Costs for Municipal Infrastructure

1.1 Estimations for the capital costs of municipal infrastructure related to growth as determined from the 2014 *Planning & Engineering for Growth Study* as well as long-term municipal asset and capital management plans are as follows:

- (a) Water: \$9,004,000
- (b) Waste Water: \$10,096,500
- (c) Storm Water: \$888,850
- (d) Transportation: \$2,136,875
- (e) Recreation/Leisure Services: \$4,584,320

APPENDIX B
CALCULATION OF BASE CHARGE
AND DISTRIBUTION OF OFF-SITE CHARGES

1.0 Calculation of Base Charge for Development Levies

1.1 The Base charge for Development Levies shall be calculated as follows:

- (a) In the case of a proposed residential development, where the density of the proposed development:
 - (i) Will be less than 80 Units per hectare, the Development Levy shall be \$82,976.00 for every hectare of Net Developable Area; and
 - (ii) Will be greater than 80 Units per hectare, the Development Levy shall be \$165,953.00 for every hectare of Net Developable Area; and
- (b) In the case of a proposed commercial or industrial development, the Development Levy shall be \$53,902.00 per hectare of Net Developable Area.

2.0 Calculation of Base Charge for Off-site Servicing Fees:

2.1 The Base Charge for Off-site Servicing Fees shall be calculated as follows:

- (a) In the case of a proposed residential development, the Subdivision Servicing Fee shall be \$165,953.00 for every hectare of Net Developable Area; and
- (b) In the case of a proposed commercial or industrial development, the Subdivision Servicing Fee shall be \$107,804.00 per hectare of Net Developable Area.

3.0 Distribution of Off-site Charges:

3.1 Off-site Charges collected by the City shall, unless otherwise determined by Council resolution, be distributed to the provision of services as follows:

- (a) Water: 33.7 per cent;
- (b) Waste Water: 37.8 per cent;
- (c) Storm Water: 3.3 per cent;
- (d) Transportation: 8.0 per cent;
- (e) Recreation/Leisure Services: 17.2 per cent.

APPENDIX C

VARIATION OF OFF-SITE CHARGES

1.0 Circumstances Justifying Variation

Circumstances justifying a variation from the Base Rate as calculated in accordance with Appendix B to this bylaw include, but are not limited to the following:

- (a) Limited Increase in Intensity – where a proposed Development and/or Subdivision involves previously developed land, the Development Levy or Off-site Servicing Fees may be varied to reflect only the increase in intensity of use resulting from the new Development or Subdivision. An example of a limited increase in intensity includes the Subdivision of a lot formerly occupied by a single Unit into two lots to accommodate a duplex, in which case Off-site Servicing Fees may be reduced by an amount attributable to the first Unit, as it is merely replacing the previous Unit.
- (b) Limited Requirement for Services - where a proposed Development or Subdivision will not benefit from, use or otherwise call on the capacity of an Off-site Service, the Development Levy and/or Off-site Servicing Fee may be varied to reflect the reduced call on Off-Site Services. An example would be a residential acreage lot which will not be connected to the sanitary sewer network, in which case, the Off-Site Charge may be reduced to exempt the proposed Development or Subdivision from contributing to upgrades to that system.
- (c) Services Required Immediately – where a proposed Development 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 Off-Site Charges 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.
- (d) Construction by Development Proponent – where it should be considered advisable that a Development Proponent shall construct or upgrade services lying outside the Development Land, consideration may be given to providing for such construction to take place, with Off-site Charges being varied to reflect the cost thereof.
- (e) Unique Development - in the event of a unique proposed Development, the Development Levy and/or Off-site Servicing Fee may be varied so as to better represent the impact on Approved Services. Where such circumstances exist, the Development Officer shall obtain an engineering report which shall identify the expected impact of the proposed Development on each Approved Service, and the cost increase or decrease associated therewith, which report shall be appended to the Development Officer's report to Council made pursuant to section 6.3(a)(i) of the Bylaw.

2.0 Examples Complying With Intent of Bylaw

Figure 1: Development Levies vs. Off-site Servicing Fees for Comparable Developments

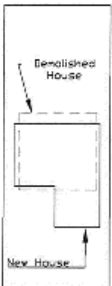
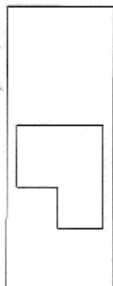
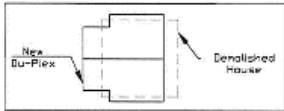
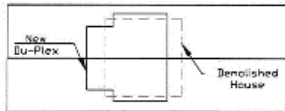
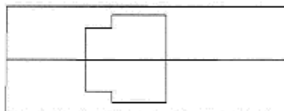

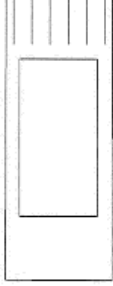
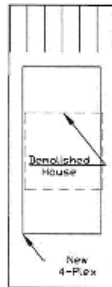
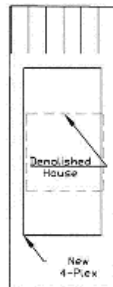
<p>New House replacing existing House</p>  <p>Development Levy: Density: 16.3 units per ha. (6.6/ac.) No Change in Intensity; No Charge</p>		<p>New Subdivision: Single Family House</p>  <p>Subdivision Servicing Fee: $\\$165,953 \times 0.0613\text{ha} = \\$10,172$</p>	
<p>House to Du-Plex (No Subdivision)</p>  <p>Development Levy: Density: 32units/ha. (13.2/ac.) $\\$82,976 \times 0.0613\text{ha} = \\$5,086$</p>	<p>House to Du-Plex (Subdivision)</p>  <p>Subdivision Servicing Fee: Density: 32units/ha. (13.2/ac.) $\\$165,953 \times 0.03065\text{ha} = \\$5,086$</p>	<p>New Subdivision: Du-Plex</p>  <p>Subdivision Servicing Fee: Density: 32units/ha. (13.2/ac.) $\\$165,953 \times 0.0613\text{ha} = \\$10,172$</p>	
<p>House to 4-Plex (No Subdivision)</p>  <p>Development Levy: Density: 65.25units/ha. (26.4/ac.) $\\$82,976 \times 0.0613\text{ha} = \\$5,086$</p>		<p>New Subdivision Resulting in 4-plex</p>  <p>Subdivision Servicing Fee: Density: 65.25units/ha. (26.4/ac.) $\\$165,953 \times 0.0613\text{ha} = \\$10,172$</p>	
<p>House to 5-Unit Dwelling</p>  <p>Development Levy: Density: 81.5 units/ha. (33/ac.) $\\$165,953 \times 0.0613\text{ha} = \\$10,123$</p>		<p>New Subdivision Resulting in 5-plex</p>  <p>Subdivision Servicing Fee: Density: 81.5 units/ha. (33/ac.) $\\$165,953 \times 0.0613\text{ha} = \\$10,123$</p>	

Figure 2: Development Levy (infill) vs. Off-site Servicing Fee (infill)
vs. Off-Site Servicing Fee (new subdivision):

