

**BYLAW NO. 350-15
OF THE TOWN OF PONOKA
IN THE PROVINCE OF ALBERTA**

THIS BEING a Bylaw of the Town of Ponoka in the Province of Alberta to authorize a levy of off-site costs on lands within the Town proposed for subdivision, development and redevelopment.

WHEREAS new residential, commercial and industrial sites within the Town have required and will require new construction or expansion of certain municipal facilities, or land in connection with such facilities;

AND WHEREAS it is deemed just and reasonable that subdivisions, developments and redevelopments should bear a fair portion of the cost of constructing and expanding such facilities;

AND WHEREAS in accordance with Section 648 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, a Council may by Bylaw:

- a) Provide for the imposition and payment of a levy, to be known as the "off-site" levy, in respect of land that is to be developed or subdivided, and
- b) Authorize an agreement to be entered into in respect of the 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 has advertised its intention to consider the provision of this Bylaw pursuant to the requirements of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26;

NOW THEREFORE the Council of the Town of Ponoka, duly assembled, and under the authority of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended;

HEREBY enacts as follows:

1. SHORT TITLE

1.1 This Bylaw shall be known and referred to as the "Town of Ponoka Off-Site Levy Bylaw"

2. PURPOSE AND INTENT

2.1 The purposes and intent of this Bylaw is to:

- a) Impose and provide for the payment of levies to be known as off-site levies in respect of land that is to be subdivided or developed,

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- b) Authorize agreements to be entered into in respect of payment of the off-site levies,
- c) Set out the objects of each off-site levy, and
- d) Indicate how the amount of each off-site levy was determined.

3. DEFINITIONS

In this Bylaw, the following words and phrases shall have the following meanings:

3.1 "Bylaw" means this Bylaw together with all schedules;

3.2 "Chief Administrative Officer" means the Chief Administrative Officer of the Town of Ponoka;

3.3 "Council" means the Town of Ponoka Council;

3.4 "Development" means "development" as defined in the *Municipal Government Act*;

3.5 "Development Area" means those various areas of lands within the Town boundaries adjusted from time to time as set out in Schedule "B" of this Bylaw, as established in Section 1.4 "Off-Site Levy Boundaries"; Figure 1.0 "Study Area" and Figure 2.0 "Study Area Storm Quadrants" of the Town of Ponoka 2014 Off-Site Levies Report;

3.6 "Developable Land" means all land contained within the Development Area:

- a) Upon which Development takes place after the date of passing this Bylaw; or
- b) For which Subdivision approval is obtained after the date of passing this Bylaw;

But does not include:

- a) Municipal Reserve, as defined in Part 17 of the *Municipal Government Act*;
- b) Environmental Reserve, as defined in Part 17 of the *Municipal Government Act*; and
- c) Land required for the widening of major collector roads along $\frac{1}{4}$ section boundary or any arterial roadways.

3.7 "Engineer" means the Town's contracted engineering consultant;

3.8 "Engineering Reports" means the following:

- a) Town of Ponoka 2014 Off-Site Levies Report, prepared by Tagish Engineering Ltd., dated December 2014; and

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b) Town of Ponoka Master Servicing Study 2013 Update, prepared by Tagish Engineering Ltd., dated 2013.

3.9 “*Infill Residential Development*” means the development of land for residential purposes within a built up area (an area of land covered by buildings or surrounded by lands covered by buildings);

3.10 “*Municipal Government Act*” means the *Municipal Government Act* (Alberta) being R.S.A. 2000, Chapter M-26, as amended or repealed and replaced from time to time;

3.11 “*Off-Site Levy*” means a levy imposed and created by the Bylaw as set out in Schedule “A” of this Bylaw;

3.12 “*Off-Site Levy Fund*” means a fund into which an off-site levy together with any interest earned from the investment of the off-site levy is deposited and kept separate from the General Account or any other municipal account and administered in accordance with the *Municipal Government Act*;

3.13 “*Subdivision*” means “subdivision” as defined in the *Municipal Government Act*; and

3.14 “*Town*” means the Town of Ponoka or the geographical area within its jurisdictional boundaries, as the context may require;

4. ADMINISTRATION AND ENFORCEMENT

4.1 Council hereby delegates to the Chief Administrative Officer the duty and authority to enforce and administer this Bylaw.

5. OBJECT OF THE OFF-SITE LEVIES

5.1 The object of the off-site levy or levies imposed and collected pursuant to the Bylaw are to pay for all and any part of the capital cost of any or all of the following:

- a) New or expanded facilities for the storage, transmission, treatment or supplying of water,
- b) New or expanded facilities for the treatment, movement or disposal of sanitary sewage,
- c) New or expanded storm sewer drainage facilities,
- d) New or expanded roads required for or impacted by a Subdivision or Development,
- e) Land required for or in connection with any facilities described within this paragraph

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5.2 The objects, principles and criteria of the Off-Site Levy shall be in accordance with the following:

- a) This Bylaw creates an off-site levy to provide funds for the construction of certain capital projects set out in the Engineering Report required for growth.
- b) Development in new growth areas through the off-site levies will provide the capital that will fund the infrastructure required for growth. Those who benefit from the infrastructure, which is defined by all Developable Land in the Development Area should share proportionally, on a per hectare basis, in related costs.
- c) Provision of off-site infrastructure projects by developers of Developable Land will not create an advantage or penalty due to the time or location of development.
- d) Off-Site infrastructure projects will be provided to maintain sustainable, cost effective and orderly growth.
- e) The calculation of the off-site levy should be an open and transparent process.
- f) All funds collected from the off-site levy will be credited to a separate and distinct, identifiable off-site levy fund, which may be invested as per the Town's Investment Policy until used for the construction of the specified Off-Site infrastructure. The management of the off-site levy fund should be an audited process, with reports available to the public and industry.
- g) The off-site levy will help allow the Town to recover the cost of infrastructure required for growth:
 - i. Using financing strategies that remain sustainable;
 - ii. Facilitating development by reducing risk on early developers and ensuring future developers share the costs of the facilities from which they benefit; and
 - iii. Promoting cost effective and orderly development;
- h) The off-site levy will help promote orderly development by:
 - i. Providing off-site infrastructure, once the appropriate planning is in place, and when warranted in development; and
 - ii. Providing infrastructure for contiguous development;
- i) The off-site levy will help create a transparent process by:
 - i. Providing opportunity for industry input into the levy, its definition and administration;
 - ii. Conforming with the *Municipal Government Act*, as amended or repealed and replace from time to time; and
 - iii. Providing reports on the off-site levy;

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- j) The off-site levy will help create a clear process for calculation of the rate, levies and credits by:
 - i. Creating consistent and predictable levies and credits;
 - ii. Creating predictable and stable levies over time; and
 - iii. Documenting a process for establishing the levy rate.

6. DEVELOPMENT AGREEMENTS

6.1 Where it is determined by the Chief Administrative Officer that a Development Agreement is appropriate for any application for Development or Subdivision, the applicant or the owner, as the case may be, shall enter into a Development Agreement with the Town regarding the payment of the off-site levy.

6.2 The Chief Administrative Officer shall determine if a Development Agreement is required in accordance with all relevant policies and guidelines adopted by Council.

6.3 All Development Agreements:

- a) Shall require payment of the off-site levy calculated pursuant to and in accordance with this Bylaw;
- b) May defer the payment of any off-site levy, including the requirement for security for the payment of such deferred payment of any off-site levy;
- c) Shall ensure that an off-site levy is only collected once in respect of land that is the subject of a Development or a Subdivision; and
- d) Shall comply with all relevant policies and guidelines adopted by Council.

7. ENACTMENT

7.1 An off-site levy is hereby imposed in respect of all Developable Land within the Town at the per hectare rates as specified and identified in the Engineering Report and attached as Schedule "A" of this Bylaw with the exception of any land where an off-site levy has been previously imposed and collected.

7.2 The off-site levy pursuant to Section 7.1 shall be paid upon the issuance of a development permit in respect of Developable Land that is subject to Development or upon endorsement of the subdivision approval in respect of Developable Land that is subject to Subdivision.

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7.3 Subject to Section 7.4, where prior to the passage of this Bylaw a Development Agreement making provision of the payment of the off-site levy pursuant to this Bylaw has been entered into between the Town and the applicant or owner of the Developable Land subject to Development or Subdivision, or an off-site levy imposed on the Developable Land and collected as a result of the operation of the then existing off-site levy Bylaw, the provisions of the off-site levy Bylaw that established the amount of the off-site levy shall continue in force as if this Bylaw or any intervening off-site levy Bylaw had not been enacted.

7.4 Where a Development or Subdivision is to be completed in multiple stages, the off-site levy applicable to each stage subjected to the first stage shall be calculated on the basis of the off-site levy Bylaw and rate in force at the time of the subsequent stage of Development or Subdivision is commenced.

7.5 The off-site levies to be imposed with respect to specific development or subdivisions shall be the sum of each of the site levies set out in Schedule "A" from which lands will benefit as identified in Schedule "B" multiplied by the developable land of the lands in hectares multiplied by the following phasing factors:

The coming into effect of this bylaw through December 31, 2015 – 0.50

January 1, 2016 through December 31, 2017 – 0.75

January 1, 2017 through December 31, 2018 – 0.85

January 1, 2018 forward until this bylaw is amended or rescinded – 1.00

8. OFF-SITE LEVY PAYMENT

8.1 Where the applicant or owner of land, as the case may be, that is subject to the imposition of an off-site levy or levies under this Bylaw fails, neglects or refuses to either pay the off-site levy imposed or provide sufficient security for the payment of the off-site levy, the Town may:

- a) Commence proceedings in Court for recovery of the off-site levy as an amount due and payable to the Town, or
- b) Refuse to endorse a Plan of Subdivision or release a Development Permit until the applicant or owner, as the case may be, has paid the off-site levy or has provided sufficient security for the payment of the off-site levy in a form satisfactory to the Chief Administrative Officer.

9. OFF-SITE LEVY FUND

9.1 The Chief Administrative Officer shall establish and maintain a separate fund for each facility in respect of which an off-site levy is being imposed pursuant to this Bylaw. Such off-site levy fund shall be kept separate from the Town's General Account or any other Town account and shall be administered in accordance with the *Municipal Government Act*.

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10. DETERMINATION AND CALCULATION OF THE OFF-SITE LEVIES

10.1 The off-site levies included in this Bylaw were determined in accordance with calculations from the Town of Ponoka 2014 Off-Site Levies Report, which is hereby incorporated into this Bylaw by reference as Schedule "C".

10.2 The off-site levy shall be calculated per hectare of Developable Land on the rates established in Schedule "A" for Development Area described in Schedule "B".

11. ANNUAL REPORT TO COUNCIL

11.1 Not less than once per calendar year, the Chief Administrative Officer shall provide a report to Council detailing all off-site levies imposed under this Bylaw, collections and expenditures during the previous calendar year, unpaid off-site levy amounts as at the end of the previous calendar year, funds on hand to meet anticipated expenditures during the current calendar year and updated estimates of the costs expected to be incurred in order to complete the construction of facilities in respect of which an off-site levy has been imposed under this Bylaw.

12. GENERAL

12.1 Nothing in this Bylaw precludes the Town from:

- a) Imposing further or different Levies, duly enacted by Bylaw, or any portion of the Development Area in respect of which the Town has not collected Levies imposed under this Bylaw or any previous off-site levy Bylaw authorized by statute;
- b) Deferring collection of levies for the stated objects of this Bylaw, on any portion of the Development Area in respect of which the Town has not collected levies, including the requirement for security for the payment of such deferred off-site levy;
- c) Staging the increase of Levies identified within the Town of Ponoka 2014 Off-Site Levies Report over a time frame as determined by Council and as described in section 7.5 of this Bylaw;
- d) Establishing review time frames and update costing of the levies based either on the Annual Consumer Price Index or Full Project Cost Review;
- e) Reducing or forgiving payment of the levies required pursuant to the Bylaw.

13. SEVERABILITY

13.1 In the event that any provision of this Bylaw be declared invalid or void by any Court having competent jurisdiction, then such invalid or void provision shall be severed from the Bylaw and the remaining provisions of the Bylaw shall be maintained and deemed valid.

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13.2 Council hereby delegates to the Chief Administrative Officer the duty and authority to enforce and administer this Bylaw.

14. OTHER

14.1 Bylaw 288-Z-78 for Water and Sanitary Sewer and 576-87 for Storm Sewer Off-Site Cost Levies be repealed in their entirety.

14.2 This Bylaw comes into full force and effect on passage of third reading.

READ a first time this 14th day of April, 2015

READ a second time this 26th day of May, 2015

READ a third time this 26th day of May, 2015

Mayor

Chief Administrative Officer

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Schedule "A"

Off-Site Levy Rates

All development unless otherwise identified in this schedule:

Town Sector	Water (\$/ha)	Sanitary Sewer & Treatment (\$/ha)	Storm water (\$/ha)	Transportation (\$/ha)	TOTAL (\$/ha)
Northwest	16,301	22,780	6,605	3,310	48,996
Southwest	16,301	22,780	2,853	3,310	45,244
Southeast	16,301	22,780	2,353	3,310	44,744
Northeast	16,301	22,780	0	3,310	42,391

Infill Residential development of 1 - 3 dwelling units on a parcel the following rates apply:

Town Sector	Water (\$/dwelling unit)	Sanitary Sewer & Treatment (\$/dwelling unit)	Storm water (\$/dwelling unit)	Transportation (\$/dwelling unit)	TOTAL (\$/dwelling unit)
Northwest	2038	2848	826	414	6125
Southwest	2038	2848	357	414	5656
Southeast	2038	2848	294	414	5593
Northeast	2038	2848	0	414	5299

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Infill Residential development of 4 or more residential dwelling units on a parcel the following rates apply:

Town Sector	Water (\$/dwelling unit)	Sanitary Sewer & Treatment (\$/dwelling unit)	Storm water (\$/dwelling unit)	Transportation (\$/dwelling unit)	TOTAL (\$/dwelling unit)
Northwest	1482	2071	600	301	4454
Southwest	1482	2071	259	301	4113
Southeast	1482	2071	214	301	4068
Northeast	1482	2071	0	301	3854

Manufactured home parks the following rates apply:

Town Sector	Water (\$/dwelling unit)	Sanitary Sewer & Treatment (\$/dwelling unit)	Storm water (\$/dwelling unit)	Transportation (\$/dwelling unit)	TOTAL (\$/dwelling unit)
Northwest	1482	2071	600	301	4454
Southwest	1482	2071	259	301	4113
Southeast	1482	2071	214	301	4068
Northeast	1482	2071	0	301	3854

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**Schedule "B"
Development Area**

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Schedule "C"

Town of Ponoka 2014 Off-Site Levies Report