

## BYLAW 739.14

### LAMONT COUNTY INDUSTRIAL HEARTLAND (SOUTH BASIN) OFF-SITE UTILITY POTABLE WATER LEVY BYLAW

A BYLAW OF LAMONT COUNTY IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR OFF-SITE UTILITY POTABLE WATER LEVIES

**WHEREAS** the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended, grants a municipality the authority to pass an Off-Site Levy Bylaw;

**AND WHEREAS**, Council deems it necessary to establish an Off-Site Levy to pay for the capital costs of new municipal waterworks and the land required in connection with those facilities, all of which will be required for the Lamont Industrial Heartland South Basin District, and the subdivision and development that is anticipated therein;

**AND WHEREAS** Lamont County has and continues to consult with affected landowners and representatives of the development industry to address and define future infrastructure requirements within the Lamont Industrial Heartland South Basin District, and the benefit to new development from such infrastructure;

**AND WHEREAS**, Council deems it necessary to require agreements to be entered into with owners of lands within the boundaries of the Lamont Industrial Heartland South Basin District that are to be subdivided or developed in respect of the payment of the Off-Site Levy;

**AND WHEREAS**, Sections 648 of the Municipal Government Act, R.S.A. 2000, Chapter M-26 (MGA), as amended, authorizes a Council to pass a bylaw to provide for the imposition of an Off-Site Levy in respect of land that is to be subdivided or developed and authorize agreements to be entered into in respect of the payment of the Off-Site Levy;

**AND WHEREAS** the County has prepared the Lamont Industrial Heartland South Basin District Utility Master Plan;

**AND WHEREAS**, notice of intention to pass this Bylaw has been given in accordance with the Municipal Government Act;

**NOWHEREFORE**, the Council of Lamont County, in the Province of Alberta, duly assembled, hereby enacts as follows:

#### **PART I: BYLAW TITLE**

1. This bylaw may be cited as the “the Lamont Industrial Heartland (South Basin) Off-Site Utility Potable Water Levy Bylaw”.

## **PART II: DEFINITIONS**

2. For the purposes of this Bylaw the following words will have the following meanings:
  - a. "Act" or "MGA" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended;
  - b. "County" means the Municipal Corporation of Lamont County;
  - c. "Council" means the Council of Lamont County;
  - d. "Projects" means those Utility water projects listed in Schedule "A".

## **PART III: OBJECTS, PRINCIPLES AND CRITERIA**

3. 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 capital projects set out in Schedule "A" required for growth.
  - (b) Development in new growth areas through the Off-Site Levy will provide the capital that will fund the infrastructure required for growth. Those who benefit from the infrastructure, which is defined in Schedule "A", should share proportionally, on a per gross hectare basis, in related costs.
  - (c) Provision of the Projects by developers will not create an advantage or penalty due to the time or location of development.
  - (d) The 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 account, which may be invested as per the County's Investment Policy until used for the construction of the specified off-site infrastructure. The management of the Off-Site Levy account should be an audited process, with reports available to the public and industry.
  - (g) The Off-Site Levy will help allow the County 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
    - c. Promoting cost effective and orderly development.
  - (h) 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.
  - (i) The Off-Site Levy will help create a transparent process by:
    - a. Providing opportunity for industry input into the levy, its definition and administration;
    - b. Conforming with the Municipal Government Act, R.S.A. 2000, C. M-26, as amended or repealed and replaced from time to time; and
    - c. Providing reports on the Off-Site Levy.
  - (j) The Off-Site Levy will help create a 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.

## **PART IV: APPLICATION**

3. The Off-Site Levy related to the Projects, as provided for in this Bylaw, are hereby imposed upon those lands which are to be developed or subdivided at the time of issuance of a development permit or subdivision approval and which are within the "Lamont Industrial South Basin District" as depicted in Figure 1.2 of Schedule "A" attached hereto and forming part of this Bylaw. Such Off-Site Levy shall be payable to the County upon the endorsement of the subdivision or issuance of the development permit and calculated based on the rate prescribed by this Bylaw at the time of payment.

4. The Off-Site Levy payable in respect to the lands referred to in paragraph 3 of this Bylaw are on a per gross hectare basis as set out in Section 2 and Section 4 of Schedule "A" attached hereto and forming part of this Bylaw. This Off-Site Levy is imposed for the purpose of paying for those Projects listed in Schedule "A" and illustrated on Figure 2.2, attached hereto and forming part of this Bylaw.

5. The supporting technical information which identifies the impact of proposed developments, estimates of the costs of the Projects listed in Schedule "A" and identifies how the Off-Site Levy is calculated are contained in the report of Opus Stewart Weir, dated April 2014 entitled "Lamont Industrial Heartland South Basin District Levy Report".

6. Council may from time to time adopt policies or guidelines for the assistance and direction of County Administration in determining which development and subdivision applications shall require a development agreement.

7. Where it is determined that a development agreement is appropriate for an application for development or subdivision, the applicant or owner, as the case may be, shall enter into a development agreement with the County and such development agreement shall ensure:

- a. that provision be made for the payment of the Off-Site Levies as specified in this Bylaw, or
- b. that provision may be made for the deferring of payment of the Off-Site Levies to some future time certain or uncertain; and
- c. deferral of payment may require the payment of security for future payment of Off-Site Levy; and
- d. that provisions be made to include a clause for an escalation payment, such that the amount of the levy to be deferred shall be the amount prescribed in the offsite levy bylaw in place at the time of payments being received not at the time of the subdivision or development application; and,
- e. that no further Off-Site Levies, imposed by this Bylaw, shall be required to be paid under development agreements where Off-Site Levies have been previously collected in full in respect to all of the lands which are the subject of development or subdivision application; and

f. that where a development or subdivision results in a Project listed in Schedule "A" being implemented prior to the collection by the County of sufficient Off-site Levies to fully pay for that Project or that Project is not within the County's capital budget for that year, the County and the applicant and/or owner of the development or subdivision may agree that the applicant and/or owner may undertake the Project, at its sole cost, for a credit against the Off-Site Levy imposed under this Bylaw and the applicant and/or owner shall be entitled to a reimbursement of costs incurred over and above the credit for the Off-Site Levy when, and provided that, the County collects the applicable Off-Site Levies from other developments or subdivisions. The nature and process of approving of costs incurred to construct and acceptance of a Project under this Bylaw and the process of reimbursement of any excess costs incurred shall be in the sole determination and discretion of the County in accordance with any County policies.

8. Except as otherwise provided herein, each development agreement entered into by the County with respect to any development or subdivision application shall make provision for payment of all Off-Site Levies imposed by this Bylaw within the times specified by County policy or guideline, as amended from time to time.

9. In the event that any of the Off-Site Levies imposed by this Bylaw are not paid at the time specified in a development agreement, the County is hereby authorized to take whatever action that they may deem necessary to collect the unpaid Off-Site Levies.

10. Nothing contained in this Bylaw precludes the County from imposing such further or other charges, costs, fees or levies as may be lawfully authorized.

#### **PART V: ACCOUNTING**

11. 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, R.S.A. 2000, c.M-26, as amended.

#### **PART VI: SEVERABILITY**

12. If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.

#### **PART VII: REPORTING**

13. On or before April 30 in each calendar year starting in 2015, an Annual Report shall be submitted to County Council on the Off-Site Levies pursuant to this bylaw and such report shall identify:

- a. Projects constructed during the previous calendar year;
- b. Construction costs of Projects constructed in the previous calendar year;
- c. Estimated construction costs including inflationary factors for Projects yet to be constructed and an explanation as to any adjustments to the estimates since the previous annual report;
- d. Amount collected in Off-Site Levy; and
- e. Specifics of the total value of Off-Site Levy being held by the County and yet to be expended on Projects, interest earned and commitments for future expenditures of such monies.

**PART VIII: ENACTMENT**

14. That this Bylaw shall come into force and take effect upon the date of third reading and signing in accordance with Section 213 of the Municipal Government Act, R.S.A. 2000 C.M-26, and amendments thereto.

Read a first time this 11<sup>th</sup> day of March, 2014.

Read a second time this 6<sup>th</sup> day of May, 2014.

Read a third and final time this 6<sup>th</sup> day of May, 2014 and finally passed by Council.

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Reeve

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Chief Administration Officer