

Municipality of Indian Head No. 156

Bylaw No. 174, 2016

Being a Bylaw of the Rural Municipality of Indian Head No. 156 in the Province of Saskatchewan, for the purpose of establishing a Development Levy for Lands that are to be developed or redeveloped within the Rural Municipality of Indian Head No. 156 on lands within the Corporate Limits of the Rural Municipality of Indian Head No. 156.

WHEREAS Section 169 of *The Planning and Development Act, 2007*, Chapter P-13.2 (the "Act") provides that the Council of a municipality may pass a bylaw establishing a Development Levy;

WHEREAS certain lands within the Rural Municipality of Indian Head No. 156 have the potential for future development;

WHEREAS Council for the Rural Municipality of Indian Head No. 156 gave notice by advertising in a local weekly newspaper on June 23rd, 2016 and June 30th, 2016 and a Public Hearing was held on July 12th, 2016 in regards to the proposed Bylaw, in accordance with the public participation requirements contained in Section 207 of the Act;

WHEREAS the Council for the Rural Municipality of Indian Head No. 156 deems it desirable to establish a 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 has received a study or studies, regarding the estimated capital costs of providing municipal servicing, which sets out a fair and equitable calculation of the development levies in accordance with the Act;

WHEREAS the Council has considered the future land use patterns and development and phasing of public works to help determine a fair and equitable calculation of the development levies in accordance with the Act; and

WHEREAS the Council wishes to enact a bylaw: to impose and provide for the payment of development levies; to authorize agreements to be entered into in respect of payment of development levies; to set out the conditions upon which the levy will be applied to specific land uses, classes of development, zoning districts or defined areas; and to indicate how the amount of the levy was determined.

NOW THEREFORE the Council of the Rural Municipality of Indian Head No. 156, 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:

- a. to impose and provide for the payment of development levies;
- b. to authorize agreements to be entered into in respect of payment of development levies;
- c. to set out the conditions upon which the levy will be applied to specific land uses, classes of development, zoning districts or defined areas; and
- d. to indicate how the amount of the levy was determined.

3. DEFINITIONS

In this bylaw:

"Act" shall mean *The Planning and Development Act, 2007*, Chapter P-13.2;

“Capital Costs” means the municipality’s estimated cost of providing, altering, expanding or upgrading the following services and facilities associated, directly or indirectly, with a Proposed Development:

- a. sewage, water or drainage works;
- b. roadways and related infrastructure;
- c. parks; and/or
- d. recreational facilities.

“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;

“Development Lands” means those lands (or any part thereof) within the Rural Municipality of Indian Head No. 156, where no previous servicing agreement has been entered into for the specific proposed development and, in the opinion of Council, the Municipality will incur additional capital costs as a result of the proposed development;

“Development Levy” means the levy imposed and created by this bylaw pursuant to the Act;

“Development Levy Agreement” has the meaning ascribed to this term by the Act within Section 171;

“Development Officer” shall mean the development officer appointed by the Municipality;

“Municipality” means the Rural Municipality of Indian Head No. 156.

“Proposed Development” means a permitted or discretionary use within the Rural Municipality of Indian Head No. 156 Zoning Bylaw, for which a person or corporation has made an application for a development permit;

“Servicing Agreement” has the meaning ascribed to this term by the Act within Section 172;

4. ADMINISTRATION AND ENFORCEMENT

Council hereby delegates to the Development Officer the duty and authority to enforce and administer this bylaw, including administering the Development Levy, Development Levy Agreements and Servicing Agreements. Only Council has the Authority to enter into a Development Levy Agreement.

5. APPLICATION

This Bylaw applies to Development Lands that benefit or will benefit from municipal services installed or to be installed by or on behalf of the Municipality. The Development Levy imposed by this Bylaw is intended to recover all or a part of the Capital Costs incurred by the Municipality as a result of a Proposed Development, as set out in Schedule “A” attached to and forming part of this bylaw.

Pursuant to Section 169(3), the Development Levy will only be applied if: the specific proposed development was not previously subject to a servicing agreement; and, in the opinion of Council, additional capital costs will be incurred by the Municipality.

6. IMPOSITION OF LEVY

There is hereby imposed on the Development Lands a Development Levy in the amounts set out in Schedule “A” attached to and forming part of this bylaw. Schedule “A” shall be updated to reflect changes in infrastructure costs, as required. Any revisions to Schedule “A” shall apply only to development permit applications accepted by the Municipality after the date the revision is adopted.

7. AUTHORITY TO ENTER INTO AGREEMENT

Any Development Levy 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 a caveat in respect of the Development Levy Agreement is registered by the Municipality against the Development Lands. The amount of the development levies payable shall be the amount under Schedule "A", as amended from time to time.

Nothing in this bylaw prevents the Municipality from imposing additional or new development levies on any portion of the Development Lands where the Municipality has not previously collected the Development Levy or entered into a Development Levy Agreement or Servicing Agreement.

8. PAYMENT

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

- a. 100% prior to issuance of a Development Permit; or
- b. In a fashion and timeline deemed appropriate by the Municipality within a Development Levy Agreement, pursuant to Section 171 of the Act.

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 Municipality, the Municipality may issue a stop order prohibiting further development on the Development Lands.

11. PURPOSE AND USE OF THE LEVY

The development levy is intended to reimburse the Municipality for the capital costs associated with the construction, altering, expanding or upgrading of the following:

- a. sewage, water or drainage works;
- b. roadways and related infrastructure;
- c. parks; and/or
- d. recreational facilities

All capital costs associated directly or indirectly with the proposed development will be accounted for. The development levy may be utilized to pay a debt incurred by the municipality as a result of expenditure listed above or to reimburse an owner described in clause 173(d) of *The Act*.

12. CALCULATION OF LEVY

The Development Levy adopted in this Bylaw was determined on the basis set out in Schedule "B" annexed hereto and forming part of this Bylaw.

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. ENACTMENT

This Bylaw shall take effect and come into force upon the date of third and final reading.

READ A FIRST TIME THIS _____ DAY OF _____, 2016

READ A SECOND TIME THIS _____ DAY OF _____, 2016

READ A THIRD TIME AND FINAL THIS _____ DAY OF _____, 2016

REEVE

Arne Scott

SEAL

ADMINISTRATOR

Schedule "A"

Schedule "A" should contain the amount of the levy or the list of levies broken down by individual Capital Cost and the different criteria of the levy such as land use, different classes of development or the number of lots within a development. If a levy amount is to apply to only a defined area or areas than a map delineating that area within the Municipality should be included with Schedule "A".

The amount and analysis of the estimated capital costs will be as determined in Schedule "B". A Municipality may choose to collect all or part of the capital costs associated with a development. A Municipality may not collect more than the capital costs to the municipality to provide the service, however, they may reduce the amount or application of certain levies based on the criteria.

Levies may vary or be exempted from specific land uses. IE: Levies related to recreation would not be taken from Industrial Development as those capital costs are not directly or indirectly related to that specific development classification.

Below is an example of a Schedule "A" for this template.

Schedule "B"

Schedule "B" should contain the analysis of the capital costs and provide an estimate on the cost of providing that service. Typically this would be broken down by a per hectare fee, however it can be applied via a per permit fee or a per lot fee. A Municipality may choose to collect all or part of the capital costs associated with a development. A Municipality may not collect more than the Capital Costs to the municipality to provide services to that specific development.

A Municipality may not collect levies that are not required to service a development (E.g.: Cannot collect a water/sewer levy if the development is not serviced by a piped system and cannot require recreation or park levies on industrial / commercial development as these services are not used by that classification of development). However, a Municipality may vary the application of certain levies based on criteria such as providing roads and piped water/sewer service to a specified area, set out in the Bylaw, which is being developed a substantial distance from existing services. This is intended to compensate for extra capital costs to the municipality and the study must show how those costs have been determined.

No specific example is being provided for Schedule "B" as format and findings will differ between Municipalities. It is recommended that this study be undertaken by a Professional Engineer to lessen the likelihood of the Bylaw being contested by a Developer.