

TOWN OF PENHOLD
BYLAW 796/2021

OFF-SITE LEVY BYLAW

A BYLAW FOR THE TOWN OF PENHOLD, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF ESTABLISHING AN OFF-SITE LEVY FOR LAND THAT IS TO BE SUBDIVIDED OR DEVELOPED WITHIN THE TOWN OF PENHOLD.

WHEREAS the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time, permits a Council to impose a levy known as an Off-Site Levy in respect of land to be developed or subdivided within a municipality's limits, and to authorize an Agreement to be entered into for 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 the Municipality received advice and a Report respecting existing and future costs for Off-Site Infrastructure which sets out a fair and equitable calculation of Off-Site Levies in accordance with the purpose of the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time;

AND WHEREAS Council will be advertising its intention to consider the provision of this Bylaw on May 10, 2021 pursuant to the requirements of the *Municipal Government Act*, RSA 2000, c. M-26, as amended or repealed and replaced from time to time;

NOW THEREFORE the Council of the Town of Penhold, in the Province of Alberta, duly assembled, hereby enacts as follows:

Bylaw Title

1. This Bylaw shall be cited as the Town of Penhold's "Off-Site Levy Bylaw".

Definitions

2. The following terms shall have the meanings in this Bylaw:

- a) **"Bylaw"** means this off-site levy bylaw established by the Municipality;



- b) **"Chief Administrative Officer"** means the Chief Administrative Officer for the Town of Penhold, regardless of the specific title that may be conferred on that Officer by Council from time to time;
- c) **"Council"** means the Council for the Town of Penhold;
- d) **"Developable Land"** shall mean all land contained within the Global Boundary Area:
 - (i) upon which Development takes place after the date of passing of this Bylaw; or
 - (ii) for which Subdivision approval is obtained after the date of passing of this Bylaw;excluding all Developed Land.
- e) **"Developed Land"** shall mean land that has been subject to Development or a Subdivision prior to the date of passing of this Bylaw, and in respect of which off-site levies for the same infrastructure have been paid;
- f) **"Development"** means "development" as defined in the *Municipal Government Act*, R.S.A. 2000, c. M-26, s. 616, as amended or repealed and replaced from time to time;
- g) **"Development Agreement"** means "development agreement" as referred to in the *Municipal Government Act*, R.S.A. 2000, c. M-26, ss. 650 and 655, as amended or repealed and replaced from time to time;
- h) **"Global Boundary Area"** includes the area of land within the municipal boundaries of the Municipality identified in Fig. 7 of the Report, attached;
- i) **"Growth"** shall mean:
 - (i) the creation of new lots through Subdivision; and
 - (ii) the occurrence of Development;
- j) **"Municipality"** means the Town of Penhold in the Province of Alberta;
- k) **"Off-Site Levy"** means the off-site levy imposed pursuant to this Bylaw under the authority of the *Municipal Government Act*, RSA 2000, c. M-26, ss. 648 and 649 as amended or repealed and replaced from time to time;
- l) **"Report"** means the Town of Penhold 2021 Offsite Levies Report prepared by Tagish Engineering, dated March 8, 2021 attached hereto as Schedule "A"; and



- m) **"Subdivision"** means "subdivision" as defined in the *Municipal Government Act*, R.S.A. 2000, c. M-26, s. 616, as amended or repealed and replaced from time to time.

Purpose

3. The purpose of this Bylaw is to: create off-site levies payable for all or part of the capital cost of new or expanded facilities or land required for or in connection with any new or expanded facilities for:
- i. the storage, transmission, treatment or supplying of water;
 - ii. the treatment, movement or disposal of sanitary sewage;
 - iii. storm sewer drainage;
 - iv. transportation infrastructure required to connect or to improve the connection of municipal roads to provincial highways resulting from a subdivision or development;
 - v. roads required for or impacted by a subdivision or development;
- b) create off-site levies to pay for all or part of the capital cost including the cost of any related appurtenances and any land required for or in connection with new or expanded:
- i. community recreation facilities;
 - ii. fire hall facilities;
 - iii. police station facilities;
 - iv. libraries;
- c) authorize agreements to be entered into in respect of the payment of any off-site levies imposed pursuant to this Bylaw; and
- d) identify how the amount owing for an off-site levy is calculated.

General

4. Council hereby delegates to the Chief Administrative Officer of the Municipality the duty and authority to enforce and administer this Bylaw, which includes, but not limited to, the



authority to enter into Development Agreements on behalf of the Municipality and to defer or waive collection of the Off-Site Levy imposed pursuant to this Bylaw.

Imposition of Levy

5. There is hereby imposed an Off-Site Levy on all Developable Land within the Municipality that is to be developed or subdivided for residential, commercial, industrial, institutional, or other uses or purposes, which is hereby known as an Off-Site Levy, as calculated on a per hectare basis pursuant to the terms and rates specified in the Schedules to this Bylaw.
6. The amount of the Off-Site Levy imposed is as calculated in Fig. 7 within the Report.
7. All Off-Site Levies imposed by this Bylaw are due and payable prior to the registration of the plan of subdivision or at the time of issuance of a development permit or at the time specified in the development agreement if and when such an agreement is required.
8. Where the party that is imposed with an Off-Site Levy fails, neglects, or refuses to pay the Off-Site Levy, the Municipality may refuse to endorse a plan of Subdivision or the issuance of a development permit for the Development until the Off-Site Levy has been paid or a Development Agreement has been entered into that provides for the payment of the Off-Site Levy.

Objects, Principles and Criteria

9. 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 Off-Site Infrastructure required for Growth.
 - b) Development in new growth areas through 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 Global Boundary Area, should share proportionally, on a per hectare basis, in related costs.
 - c) Provision of Off-Site Infrastructure by developers of Developable Land will not create an advantage or penalty due to the time or location of development.
 - d) Off-Site Infrastructure 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 reserve fund account, which may be invested as per the Municipality's Investment Policy until used for the construction of the specified Off-Site Infrastructure. The management of the Off-Site Levy reserve fund accounts should be an audited process, with reports available to the public and industry.
- g) The Off-Site Levy will help allow the Municipality 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 affected landowners and developers to provide input into the levy, its definition and administration, through good faith consultation;
 - ii. Conforming with the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replace from time to time, and the *Off-Site Levies Regulation*, Alta Reg 187/2017, as amended or repealed from time to time; and
 - iii. 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:
 - 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.



Agreements

7. The Municipality may enter into agreements with respect to the payment of an Off-Site Levy imposed pursuant to this Bylaw if the Municipality considers it necessary to do so.
8. Council may from time to time adopt policies or guidelines for the assistance and direction of the Chief Administrative Officer in determining which Development and Subdivision applications shall require a Development Agreement or where to defer (and to require security for deferred payment) or waive collection of the Off-Site Levy imposed pursuant to this Bylaw.

Accounting

9. All funds collected pursuant to this Bylaw shall be accounted for in an Off-Site Levy reserve fund account and expended only as permitted under the provisions of the Act.
10. There shall be a separate Off-Site Levy reserve fund account for the Off-Site Levies for water infrastructure, sanitary sewer infrastructure, roads and infrastructure required for the interconnection of roads with provincial highways.

Review of Levy Rates

11. The Municipality shall review the Off-Site Levy rates once every three years, with the first review commencing in 2024, and shall amend the Bylaw to update the Off-Site Levy rates accordingly.
12. Commencing in 2022, in each year that the Municipality does not conduct a review, the Municipality will adjust the amount of the Off-Site Levy rate on December 31 of the non-review year by the annual percentage change of the Consumer Price Index for the 12-month period from November of the year before the non-review year to November of the non-review year if the Consumer Price Index is positive. If the percentage change is zero or negative, the Off-Site Levy rate shall not change. The change will be effective commencing January 1st of the year following the non-review year.

Annual Report

13. The Chief Administrative Officer shall report annually to Council regarding the Off-Site Levy in a format acceptable to Council. Notwithstanding the foregoing, the annual report shall at a minimum include information on:
 - a) the amount of each category of Off-Site Levy collected;
 - b) the construction of any components of the Off-Site Infrastructure;
 - c) the expenditure of any of the Off-Site Levies that have been collected;



- d) the interest accrued to each Off-Site Levy Reserve Fund; and
- e) the balance held in each Off-Site Levy Reserve Fund.

Transition

14. This Bylaw applies to:

- a) any Subdivision where the date of subdivision endorsement occurs on or after the date this Bylaw comes into force; and
- b) any Development where the date of issuance of the development permit occurs on or after the date this Bylaw comes into force.

General

15. Nothing in this Bylaw precludes the Municipality from:

- a) imposing further or different levies, duly enacted by bylaw, on any portion of the Developable Lands in respect of which the Municipality has not collected Off-Site Levies;
- b) deferring collection of the Off-Site Levy for the stated objects of this Bylaw, on any portion of Developable Lands in respect of which the Municipality imposed Off-Site Levies, including requiring security for payment of such deferred Off-Site levies; or
- c) reducing or forgiving payment of the Off-Site Levies required pursuant to this Bylaw, or otherwise providing for credits for other Off-Site Infrastructure constructed by a developer in calculating and/or collecting the Off-Site Levies that become payable pursuant to this Bylaw.

- 7. The Schedules to this Bylaw may be amended from time to time by Council.
- 8. Subject to the transition provision of this Bylaw, this Bylaw shall repeal Bylaw 721/15 and all amendments thereto upon the passing of this Bylaw.
- 9. 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.
- 10. This Bylaw shall take effect and come into force effective after final reading and signature thereof by the Chief Elected Official and Chief Administrative Officer, or their authorized delegates.



Read a first time this, 8th day of March 2021.

Read a second time this 17th day of May 2021.

Read for a third time and final time this 17th day of May 2021.



Mayor


Chief Administrative Office

SCHEDULE "A" – OFF-SITE LEVY RATES

SCHEDULE "B" – MAP OF GLOBAL BOUNDARY AREA

SCHEDULE "C" – TOWN OF PENHOLD 2021 OFF-SITE LEVY REPORT

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