

THE TOWN OF STONEWALL

By-Law No. 07-16

Being a By-Law of the Town of Stonewall (the "Municipality"), as it relates to the lands which are located in the Town of Stonewall.

- A. to provide for the imposition of capital levies on Zoning Sites affected by the making of an amendment to the zoning by-law;
- B. to provide for the imposition of capital levies on Zoning Sites affected by the making of a variance order;
- C. to provide for the imposition of capital levies on Zoning Sites affected by applications for conditional uses;
- D. to provide for the imposition of capital levies as on all new Zoning Sites created by subdivision of lands;
- E. to regulate charges for professional and like services required in consideration of zoning by-law amendments, variance orders, conditional use applications and subdivision applications;
- F. to provide for the establishment of a reserve funds for such levies set out above.

WHEREAS the Planning Act of the Province of Manitoba provides the Municipality with authority as follows:

I. As to an amendment to a zoning by-law:

81 As a condition of making an amendment to a zoning by-law, the board or council may require the owner of the affected property to enter into a development agreement under section 150.

II. As to making a variance order:

98(1) In making a variance order under clause 97(1)(b), the board, council or planning commission may

- (a) impose any conditions on the applicant or the owner of the affected property that it considers necessary to meet the requirements of clause 97(1)(b); and
- (b) require the owner of the affected property to enter into a development agreement under section 150.

III. As to approving a conditional use:

106(2) When approving an application for a conditional use, the board, council or planning commission may, subject to section 107 and subsections 116(2) and (3) (conditions on livestock operations),

- (a) impose any conditions on the approval that it considers necessary to meet the requirements of clause (1)(b); and
- (b) require the owner of the affected property to enter into a development agreement under section 150.

IV. As to a subdivision application:

125(1) Upon receiving the application and a copy of the planning report from the approving authority, the council must consider the application and decide, by resolution,

- (a) to reject it; or
- (b) to approve the application, with or without any of the conditions described in section 135.

AND WHEREAS Sections 135 and 150 of the Planning Act of the Province of Manitoba provide as follows:

135 A subdivision of land may be approved subject to one or more of the following conditions, which must be relevant to the subdivision:

1. Any condition necessary to ensure compliance with this Act or another Act, or the regulations made under them, or a development plan by-law, secondary plan by-law or zoning by-law.
2. Any condition necessary to satisfy the requirements of a municipal by-law, including the payment of subdivision examination fees and capital levies, and the requirement to pay property taxes.
3. A condition that the applicant enter into a development agreement with the government, the municipality or a planning district, as required, respecting
 - (a) the construction or maintenance — at the owner's expense or partly at the owner's expense — of works, including, but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access, connections to existing services, fencing and landscaping; and
 - (b) construction or payment by the owner of all or part of the capacity of works in excess of the capacity required for the proposed subdivision.
4. Any condition recommended or required by a government department or other entity to which the application was referred by the approving authority.
5. Any condition necessary for the proper design of the subdivision or to implement the reorganization of titles.
6. A condition that the applicant dedicate the following land, without compensation:
 - (a) land for adequate public roads and municipal services in the subdivision;
 - (b) land for public reserve purposes, not exceeding 10% of the land being subdivided, but only if the land is being divided into parcels of less than 4 hectares;
 - (c) land for school purposes, not exceeding 10% of the land being subdivided;
 - (d) land not suitable for building sites or other development because it is unstable, subject to severe flooding, required for source water protection, or is otherwise unsuitable because of topographical or subsurface features, such as wetlands, gullies, ravines, natural drainage courses, creeks, ponds or lake beds;
 - (e) shore lands designated in a development plan by-law as land to be dedicated upon subdivision as a Crown reserve or a public reserve, including land that is or might be required to provide access to shore lands.
7. As an alternative to dedicating land under item 6(d) or (e), a condition that the applicant enter into a development agreement with the government, the municipality, or the planning district as required, whereby the applicant agrees to conditions limiting, regulating or prohibiting any use, activity or development on the land.
8. A condition that a zoning by-law be amended.

150 As a condition of amending a zoning by-law, making a variance order or approving a conditional use, a board, council or planning commission may, unless this Act provides otherwise, require the owner of the affected property to enter into a development agreement with the planning district or municipality in respect of the affected property and any contiguous land owned or leased by the owner dealing with one or more of the following matters:

- (a) the use of the land and any existing or proposed building;
- (b) the timing of construction of any proposed building;
- (c) the siting and design, including exterior materials, of any proposed building;
- (d) the provision of parking;
- (e) landscaping, the provision of open space or the grading of land and fencing;
- (f) the construction or maintenance — at the owner's expense or partly at the owner's expense — of works, including but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access and connections to existing services;
- (g) the payment of a sum of money to the planning district or municipality in lieu of the requirement under clause (f) to be used for any of the purposes referred to in that clause;

(h) the dedication of land or payment of money in lieu thereof, where the application is for an amendment to a zoning by-law to permit a residential use, use for a mobile home park or an increase in residential density, in which case item 6 of section 135 applies to the dedication.

AND WHEREAS Sections 142(1) and (2) and Sections 143(1) and (2) of the Planning Act of the Province of Manitoba provide as follows:

142(1) A board or council may, by by-law, set the fees and charges to be paid by applicants.

142(2) Fees and charges may relate to technical, administrative, professional, consultative or other services required by the municipality or planning district to examine and approve a subdivision application.

143(1) A Council may, by by-law, set the levies to be paid by applicants to compensate the municipality for the capital costs specified in the by-law that may be incurred by the subdivision of land.

143(2) A council must establish a reserve fund under The Municipal Act into which the levies are to be paid.

AND WHEREAS it is deemed expedient and in the public interest to regulate such capital levies and charges in order that the owner or developer is responsible for said capital levies and charges;

AND WHEREAS Council of the Municipality has reviewed the existing capital infrastructure of the Municipality and the anticipated future demands within the Municipality, and in the Municipality in general, including those set out in Schedule "A";

AND WHEREAS the Council of the Municipality deems it prudent and in the best interests of the Municipality to ensure that a sufficient capital levy is obtained relating to Zoning Sites affected by zoning by-law amendments, variance orders, and conditional uses AND relating to all new Zoning Sites created by subdivision to ensure that the capital levies and charges are obtained to contribute to the anticipated necessary capital development, capital repairs, expansion, replacement and renewal of the capital infrastructure of the Municipality.

AND WHEREAS the Council of the Municipality has established by By-Law various reserves for the purpose of funding future capital expenditures for municipal infrastructure and service requirements;

AND WHEREAS the Council of the Municipality desires to enact a by-law prescribing the scale of levies to be paid by an applicant for a zoning by-law amendment, a zoning variance, a conditional use and all new Zoning Sites created by subdivision of lands and from all new units in any building, as compensation to the Municipality for capital costs to be incurred within the Municipality pursuant to Section 143(1) of the Planning Act and establishing a reserve fund for those capital levies.

AND WHEREAS Section 232(2) of the *Municipal Act* of Manitoba authorizes Council to pass a By-law establishing charges and terms for payment;

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

(c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;

(d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;

(e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:

(i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,

(vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;

NOW THEREFORE BE IT ENACTED as a by-law of the Town of Stonewall as follows:

1. THAT By-law No. 5-15 is hereby repealed in its entirety.
2. THAT this By-law shall affect the entire Municipality.
3. Definitions:

The following word shall have the following meaning in this by-law:

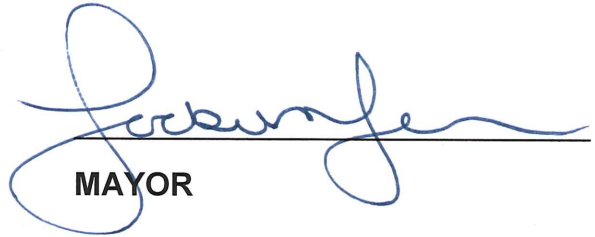
- a) "Actual Costs" shall be the costs incurred by a Municipality, either by its own staff or third parties in receiving, processing, holding public hearings, rental of halls, having proceedings recorded, newspaper advertisements, or any other costs related to the Subdivision, Conditional Use Application, Variance Application, or Zoning By-Law amendment.
- b) "Dwelling Unit" means a building or portion of a building designed for and intended to be used for residential occupancy that contains cooking, eating, living, sleeping and sanitary facilities. A dwelling unit does not include establishments for commercial accommodations.
- c) "Zoning Site" shall mean a Zoning Site as defined in the Town of Stonewall Zoning By-law as amended from time to time, and without limiting the generality of the foregoing shall include the following:
 - i) Each individual Dwelling Unit shall be considered a separate Zoning Site.
 - ii) Each individual lot in a plan of subdivision capable of having a building constructed thereon shall be considered as a separate Zoning Site.
4. THAT where approval of an Application for Subdivision, will create one (1) or more additional Zoning Sites and which require the Town of Stonewall to incur capital costs, wholly or in part, as a result of the said Subdivision approval, the applicant shall pay for each additional Zoning Site that was created those capital levies in accordance with Schedule "B" attached hereto.
5. THAT when a Variance, Conditional Use or Zoning By-Law amendment creates a greater density (number of residential, commercial or institutional units) or greater intensity of use than is currently permitted in the Zoning By-Law at the time of the application for the Variance, Conditional Use or Zoning By-Law amendments then a capital levy will be charged.

The charge will be calculated as follows:

- a) On the number of Dwelling Units that exceed what is otherwise permitted at the time of said application
 - or
 - b) On the number of Zoning Site(s) that have created a greater intensity of use.
6. THAT where additional studies, professional opinions, technical studies, public hearings, studies are required prior to a zoning by-law amendment, variance application, conditional use or a subdivision receiving consideration from Council, the Actual Cost of any and all services required will be borne by the owner and/or developer of the lands.
7. THAT where Council receives a zoning by-law amendment, variance application, conditional use or subdivision application, the applicant is responsible to pay all technical, professional, consultative, Actual Costs or other services incurred by the Municipality in any way related to the said Zoning By-law amendment, variance application, conditional use application, or subdivision applications.
8. THAT all funds owing to the Municipality pursuant to this By-Law, whether by means of Capital Levies, Actual Costs, or from any source whatsoever, may be billed to the owner, applicant or developer. Such amounts may be billed in one lump sum or in interim stages. The Owner of the land in question shall be jointly and severally responsible for all funds owing to the Municipality pursuant to this By-Law and all such funds shall be an amount owing to the Municipality by the owner of the property and may be collected by the Municipality in the same manner as a tax against the land.
9. THAT all capital levies collected pursuant to this By-law shall be transferred to a Capital Development Reserve Fund of the Municipality.
10. THAT the Municipality may in their absolute discretion allow for a decrease and/or waive entirely the capital levies where the subdivision, conditional use, zoning by-law amendment or variance will not immediately require services, or where there are off-setting factors to be considered by Council, or where the Zoning Sites are considered by Council, in their absolute discretion, such that capital levies, on a per Zoning Site basis, should be altered.
11. THAT Capital Levies shall be paid as a condition of zoning by-law amendments, variance applications, conditional uses and subdivision approvals and said matter shall not be approved:
- a. Except subject to a condition requiring the payment of the applicable capital levies and charges;
 - b. Until such capital levies and charges have been paid or arrangements satisfactory to the Municipality for the payment of the capital levies and charges have been made, including, if required, the posting of security to ensure payment of the capital levies and charges in accordance with such arrangement;
- except as may be varied by paragraph 10 above.
12. THAT the Municipality has created a reserve fund for the purposes of capital levies paid to the Municipality pursuant to this By-law and funds paid into the reserve funds shall be used for capital purposes only, including capital expenditures for developing, repairing, expanding, replacing or renewing the capital infrastructure of the Municipality and shall be dealt with and expended only in accordance with the requirements of Section 168(2) of The Municipal Act.

13. THAT this By-Law shall come into force and take effect upon third reading and passing of this by-law and shall apply to all conditional letters of approval issued by the South Interlake District Planning District dated after this date.

DONE AND PASSED as a by-law of the Town of Stonewall, in Manitoba, this 2nd day of November, 2016 A.D..



MAYOR



CHIEF ADMINISTRATIVE OFFICER

Read a first time this 15th day of June, 2016 A.D.,

Read a second time this 2nd day of November, 2016 A.D.,

Read a third time this 2nd day of November, 2016 A.D..

SCHEDULE "A" TO BY-LAW NO. 07-2016

1. Water and sewage treatment and distribution system;
2. Fire and Police (protection services) and major equipment purchase;
3. Roads and road systems (maintenance and improvement of existing roads);
4. Public works building(including protective services) and major equipment (long term planning);
5. Construction and Maintenance of Recreation Facilities, Parks and Walkways
6. Development related plans/studies including storm water management, transportation, and land use planning;
7. Nuisance grounds, environmental collection and refuse collection areas and equipment, if not otherwise a private enterprise service;
8. Other capital works, structures and equipment.

SCHEDULE "B" TO BY-LAW NO. 07-2016

Capital Levies

As a condition of approval of subdivision application, zoning by-law amendment, conditional use application or variance application, the applicant shall pay a capital levy of:

Development Charge	Fixed Amount	Amount Per Zoning Site or Increase in Intensity of Use
Contribution to Public Forum Expenses/Electronic Access	\$3,000.00	
Administration Cost	\$2,500.00	
¹ Actual Costs for: Legal, Consulting, Engineering & Advertising Costs	Actual Costs	
Capital Lot Levy for Fire Hall and Equipment		\$1,300.00
Lagoon		\$3,400.00
Wastewater Connection to Town Line		\$1,500.00
Water Reservoir		\$2,000.00
Water Connection to Town Line		\$1,000.00
Development related plans/studies including storm water management, transportation, and land use planning		\$300.00
Construction and Maintenance of Recreation Facilities, Parks and Walkways		\$500.00
Upgrading, Expansion and/or Renewal of Roads, Sidewalk, Surface Water Drainage Construction and Related Infrastructure		\$2,000.00
Signalization		\$500.00
Sub-total Fixed Amounts:	\$5,500.00	
Sub-total Per Zoning Site or increase in intensity of Use:		\$12,500.00
² <u>Sub-Total:</u>		<u>\$18,000.00</u>

¹ Actual Costs to be paid in addition to Capital Levies

² Actual Costs to be paid in addition to Capital Levies