

BYLAW 2022-11
TOWN OF BLACK DIAMOND

**A BYLAW OF THE TOWN OF BLACK DIAMOND, IN THE PROVINCE OF ALBERTA,
FOR THE PURPOSE OF ESTABLISHING OFF-SITE LEVIES**

WHEREAS the *Municipal Government Act* provides that a council of a municipality may by bylaw provide for the imposition and collection of an off-site levy in respect of land that is to be developed or subdivided and authorize an agreement to be entered into in respect of the payment of such levy; and

WHEREAS the Council of the Town of Black Diamond deems it desirable to impose off-site levies for the purposes described in the *Municipal Government Act*; and

WHEREAS the Council of the Town of Black Diamond deems it desirable to authorize agreements to be entered into in respect of the payment of off-site levies; and

WHEREAS the Town of Black Diamond engaged the firm Urban Systems Ltd. to prepare a report in respect of the fair and equitable calculation of off-site levies for the purposes described in the *Municipal Government Act*, which is attached as Schedule "C" to this Bylaw; and

WHEREAS the Council has reviewed the report prepared by Urban Systems Ltd. and deems it desirable to impose and collect off-site levies in accordance with such report.

NOW THEREFORE: The Council for the Town of Black Diamond, duly assembled, hereby enacts as follows:

1. NAME OF BYLAW

1.1. This Bylaw may be cited as the "Off-Site Levy Bylaw".

2. INTERPRETATION

2.1. DEFINITIONS

- a) "Act" means the *Municipal Government Act*, R.S.A. 2000 M-26, as amended;
- b) "Bylaw" means a bylaw of the Town;
- c) "Chief Administrative Officer" or "CAO" means the person appointed to the position by the Council of the Town of Black Diamond to carry out the power, duties and functions of the CAO. It may also mean a person appointed to this position on an interim basis, or a person to whom the CAO has delegated their authorities to, in accordance with the Town of Black Diamond Chief Administrative Officer Bylaw;

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- d) "*Council*" means the Council of the Town of Black Diamond;
- e) "*Development Area*" means the lands identified in Schedule A to this Bylaw that is to be developed or subdivided excepting:
 - i. any area taken as environmental reserve or as an environmental reserve easement;
- f) "*Off-Site Levy*" means an off-site levy imposed by this Bylaw;
- g) "*Redevelopment*" means subdivision or development on land that has previously been the subject of urban development, as determined by the CAO; and
- h) "*Town*" means the Corporation of the Town of Black Diamond or the geographical area within the municipal boundaries of the Town of Black Diamond, as the context may require.

2.2. Any references in this Bylaw to any statutes are to those statutes as amended or replaced from time to time and any amendments thereto.

2.3. Whenever the singular or masculine form of a word is used in this Bylaw, it shall include the plural, feminine or neutral form of the word as the context so requires and vice versa.

2.4. The headings in this Bylaw do not form part of this Bylaw and shall not affect its interpretation.

2.5. The word "may" when used in this Bylaw shall be construed as permissive and empowering, and the word "shall" when used in this Bylaw shall be construed as imperative.

3. ADMINISTRATION AND ENFORCEMENT

- 3.1. Council hereby delegates to the CAO the authority to enforce and administer this Bylaw.
- 3.2. Without restricting subsection 3.1, where this Bylaw specifies that something is to be determined by the CAO or in the CAO's discretion, the CAO's decision shall be final.

4. ENACTMENT

- 4.1. Off-Site Levies are hereby imposed in respect of all lands within the Development Area, against which off-site levies may be imposed in accordance with the Act.
- 4.2. Off-Site Levies are deemed imposed whether or not the imposition of Off-Site Levies is made a specific condition of subdivision approval or the development permit.

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5. AGREEMENTS

- 5.1. The Town may, as a condition of subdivision approval or a development permit, negotiate and enter into agreements with owners of land within the Development Area respect to the payment of Off-Site Levies in accordance with this Bylaw.
- 5.2. Without restricting subsection 5.1, at the discretion of the CAO, the Town may, as a term of an agreement respecting the payment of Off-Site Levies in accordance with this Bylaw, agree to defer the imposition of Off-Site Levies to future subdivision or development.

6. PAYMENT OF LEVIES

- 6.1. Except as otherwise expressly set out in this Bylaw, Off-Site Levies shall be payable in respect of all lands within the Development Area.
- 6.2. Off-Site Levies in respect of land within the Development Area that is subject to subdivision shall be paid prior to the endorsement of the plan of subdivision.
- 6.3. Off-Site Levies in respect of land within the Development Area that is subject to development shall be paid prior to the release of the development permit.
- 6.4. Notwithstanding sections 6.2 and 6.3, at the discretion of the CAO, the Town may enter into an agreement with the owner of land within the Development Area whereby Off-Site Levies shall be paid as follows:
 - a) 50% (fifty percent) of the Off-Site Levy shall be paid prior to the endorsement of the plan of subdivision; and
 - b) 50% (fifty percent) of the Off-Site Levy shall be paid within 1 (one) year of endorsement of the subdivision.
- 6.5. Where the Town enters into an agreement with the owner of land within the Development Area whereby Off-Site Levies shall be in accordance with section 6.4, the Town may require, at the discretion of the CAO, as a term of the agreement, security in a form and amount sufficient to secure payment of the Off-Site Levy.
- 6.6. The Off-Site Levy rate payable in respect to the land within the Development Area shall be the rate in effect on the date of endorsement of the plan of subdivision or the release of the development permit, as applicable.

7. REDEVELOPMENT

- 7.1. The Off-Site Levies imposed in respect of Redevelopment shall be determined as follows, with reference to the methodology set out in Schedule "C":

Redevelopment Levy Calculation = Off-Site Levy x Development Area x Incremental increase in intensity of development (as determined by the CAO)

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8. DEFAULT OF PAYMENT

- 8.1. If a person fails, neglects or refuses to pay an Off-Site Levy imposed under this Bylaw, the Town may:
 - a) In accordance with the terms of the agreement with the owner of land within the Development Area whereby levies are payable, commence proceedings in a court of competent jurisdiction for payment of the Off-Site Levy;
 - b) In accordance with the terms of the agreement with the owner of land within the Development Area whereby levies are payable and conditions of the subdivision approval or development permit, refuse to endorse a plan of subdivision or release a development permit; and
 - c) take any other steps available in law or equity for the failure, neglect or refusal to pay the Off-Site Levy.

9. OFF-SITE LEVY FUND

- 9.1. The CAO shall set up and maintain a separate fund for each grouping of facilities as provided in Schedule "B" in respect of which Off-Site Levies are paid.

10. DETERMINATION OF THE LEVIES

- 10.1. Off-Site Levies for the Development Area shown in Schedule "A" shall be as shown in Schedule "B" and in Figure 5 of the Urban Systems Ltd. Report attached as Schedule "C" to this Bylaw.
- 10.2. Notwithstanding section 10.1, Off-Site Levies in respect of Sewage Collection facilities as identified in Schedule "B" will only be imposed against land if the proposed servicing for the subdivision or development connects to and uses these facilities.

11. INFORMATION ON REQUEST

- 11.1. The Town shall disclose upon request the information the Town has relied upon in establishing the Off-Site Levies and the current Off-Site Levy fund balances.
- 11.2. Without restricting subsection 3.1, where this Bylaw specifies that something is to be determined by the CAO or in the CAO's discretion, the CAO's decision shall be final.

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12. YEARLY REPORT TO COUNCIL

- 12.1. No less than once in each calendar year, the CAO shall provide a report to Council, which report shall be publicly available, containing the information required in section 648.4(2) of the Act.

13. REVIEW

- 13.1. The calculation of the Off-Site Levies shall be reviewed no less than once every four (4) calendar years.

14. GENERAL PROVISIONS AND COMING INTO FORCE

- 14.1. If any term, clause or condition of this Bylaw or application thereof is found to be invalid or unenforceable, the remainder of this Bylaw or the application of such term, clause or condition shall not be affected and shall remain in force and effect.
- 14.2. Nothing contained in this Bylaw precludes the Town from imposing such further or other charges, costs, fees or levies as may be lawfully authorized, including future Off-Site Levies where such levies have not been collected for a grouping of facilities as provided in Schedule "B".
- 14.3. This Bylaw repeals Bylaw 04-08 and any amendments thereto.

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THIS BYLAW shall take effect on the date of the third and final reading.

READ A FIRST TIME this 5th day of October A.D. 2022.

PUBLIC HEARING held November 2 A.D. 2022.

READ A SECOND TIME this 2nd day of November A.D. 2022.

READ A THIRD AND FINAL TIME this 2nd day of November A.D. 2022.



MAYOR



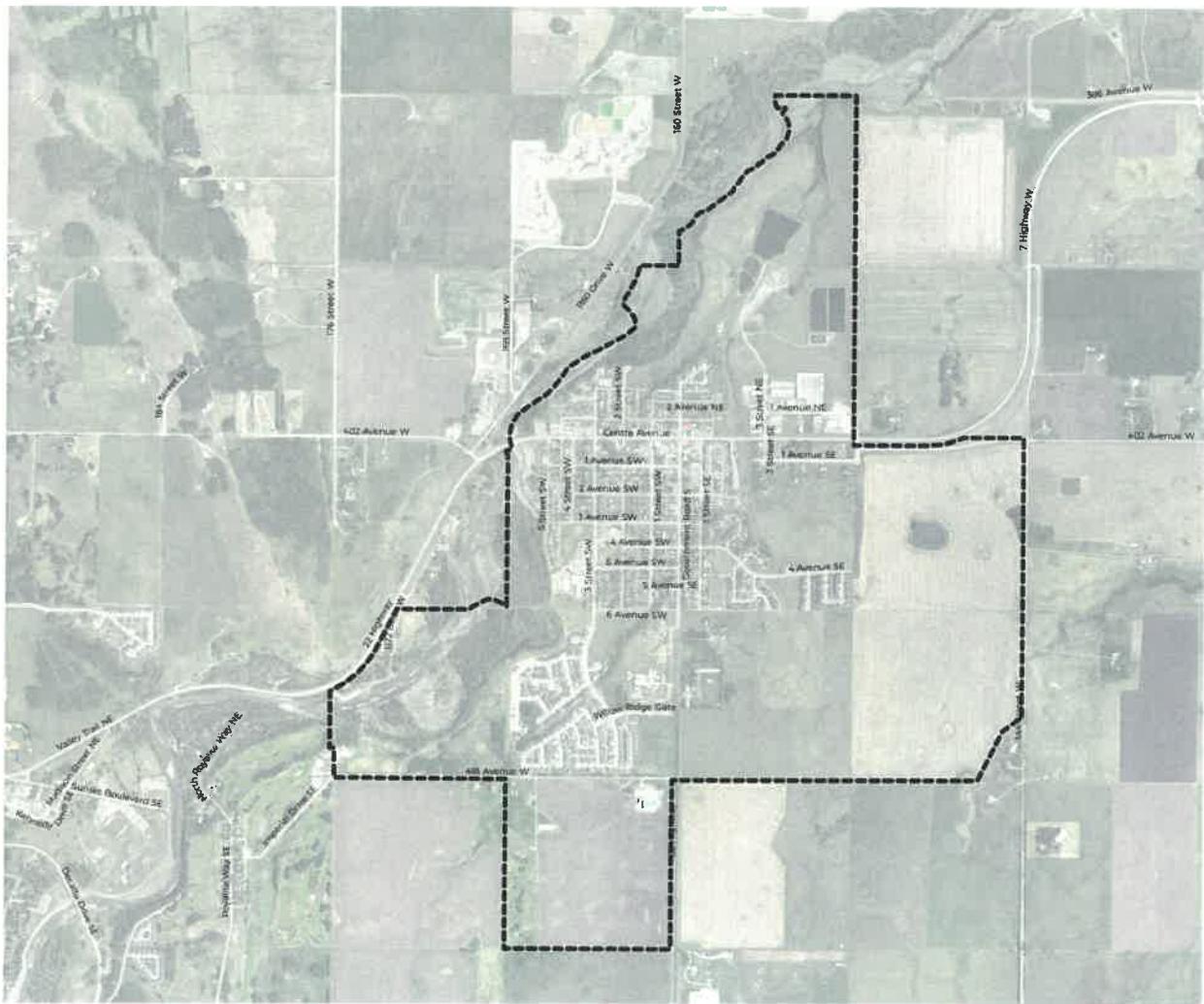
LEGISLATIVE SERVICES MANAGER

November 2, 2022
Date signed

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Schedule A

Development Area Figure



Development Area

Legend

--- Development Area
(Town Boundary)



Off-Site Levy Update

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Schedule B

Off Site Levy Rates Table

Off Site Levy Rates	Effective Until December 31, 2022	Effective Until December 31, 2023	Effective Until December 31, 2024	Effective Until December 31, 2025	Application
Water Supply, Treatment, Storage, and Pumping	\$8,084	\$8,246	\$8,411	\$8,579	Town-Wide
Sanitary Sewage Treatment and Disposal	\$11,894	\$12,131	\$12,374	\$12,622	Town-Wide
Water Distribution	\$7,926	\$8,085	\$8,246	\$8,411	Town-Wide
Sewage Collection					
SC1: East Sanitary Main	\$7,047	\$7,188	\$7,332	\$7,478	Area-Specific
SC2: 1 Ave SE Sanitary Main	\$1,743	\$1,778	\$1,814	\$1,850	Area-Specific
SC3: Hydraulic Connection to Westend Sanitary Sewer	\$4,282	\$4,368	\$4,455	\$4,544	Town-Wide
Transportation - HWY Intersections	\$26,612	\$27,144	\$27,687	\$28,241	Town-Wide

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Schedule C

Off Site Levy Background Report

