



## Legislation Text

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**TAMRMS#:** B06

### **Bylaw 13/2021 Off-Site Levy (2nd & 3rd Readings)**

Presented by: Tanya Hynes, Supervisor of Long Term Engineering, Engineering Services

### **RECOMMENDATION(S)**

1. That Bylaw 13/2021 be read a second time.
2. That Bylaw 13/2021 be read a third and final time.

### **PURPOSE OF REPORT**

The report summarizes the off-site levy rates updated for the 2021 construction season, and subsequent bylaw amendment to reflect changes in rates and project lists. The report also highlights key changes to the City's Off-Site Levy Model and how the off-site levies are calculated.

### **ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN**

N/A

### **ALIGNMENT TO LEVELS OF SERVICE DELIVERY**

#### **A) Infrastructure Planning**

- Calculation of levies, the requests to off-set approved projects and ensuring that any work approved is consistent with best practices.

#### **B) Off-Site Levy Program**

- Updated annually in Quarter One.
- Recoveries are recommended annually in Quarter One.

### **ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION**

In accordance with sections 17 to 22 of Off-Site Levy Bylaw 30/2013, the City shall review the Off-Site Levy projects and the Off-Site Levy rates no less than every third year. After the review has been completed, City Council may amend the Bylaw to update the Municipal Infrastructure Off-Site Levy rates. On or before December 31 of each calendar year, the CAO shall prepare and submit to City Council an annual report on the Off-Site Levies imposed and collected by the City in the previous

year.

On March 16, 2020 Council passed the following motion on consent agenda:

(CB-20-034)

That Council approve the amendments to Council Policy C-P&E-08 as shown in the marked up version of that Policy provided as an attachment to the March 9, 2020 agenda report to CGISC entitled "Off-Site Levy Bylaw Update & Annual Review.

On March 15, 2021 Council passed the following motions on consent agenda:

(AR-21-019)

1. That Bylaw 13/2021, being Amendment 8 to Off-Site Levy Bylaw 30/2013, be read a first time.
2. That \$2.5M in the current off-site levy receipts held by the City be allocated and administered as indicated in "2020 OSL Receipt Reconciliation Consistent with Approved Council Policy C-P&E-08", provided as an attachment to the March 15, 2021 agenda report entitled "Off-Site Levies Annual Report and 2021 Bylaw Update".

## BACKGROUND AND DISCUSSION

A municipality may collect all or part of the capital dollars needed to construct new infrastructure required to support growth through the imposition of an off-site levy bylaw. Currently St. Albert's Off-Site Levy (OSL) Bylaw collects off-site levies for:

- New or expanded facilities for the storage, transmission, treatment or supplying of water;
- New or expanded facilities for the treatment, movement or disposal of sanitary sewage;
- New or expanded storm sewer drainage facilities;
- New or expanded roads required for or impacted by a subdivision or development;
- Subject to the regulations, new or expanded transportation infrastructure required to connect, or to improve the connection of, municipal roads to provincial highways resulting from a subdivision or development, and;
- Land required for or in connection with any of the above described facilities.

In addition to the capital cost of facilities described above, an off-site levy may be collected to pay for all or part of the capital cost for any of the following purposes, including the cost of any related appurtenances and any land required for or in connection with the purpose:

- New or expanded community recreation facilities;
- New or expanded fire hall facilities;
- New or expanded police station facilities;
- New or expanded libraries.

Currently these off-site levy categories for recreation facilities, fire hall facilities, police station facilities, and libraries are not included within Bylaw 30/2013.

Generally, infrastructure projects referenced within the OSL Bylaw have a wider benefit beyond the

on-site local improvements to be constructed as a component of a particular proposed development. A developer or the City will “front-end” the cost of those OSL Bylaw projects, and subsequent benefitting developers pay their calculated share of those costs to the City as an OSL, later to be paid out to the front-ending party as a reimbursement.

The OSL projects and corresponding benefitting parties specified within the OSL Bylaw must be reviewed and amended by Council no less than every three years, or sooner if required. This is to ensure that the OSL Bylaw remains up-to-date and in accordance with the master plans and policies that guide it.

- A. The first step in updating the rates is for Council to approve any changes to the OSL project list referenced in the Bylaw, estimated construction costs, and allocation of costs to benefitting parties.
- B. The second step is for Council to approve the reconciliation of all of the OSL receipts collected to date.

#### Significant Changes to the Off-Site Levy Bylaw

In addition to repealing and replacing Schedules “A”, “B” and “C” in the OSL Bylaw, sections 2.b and 2 g. have been amended to add public utility lots dedicated for a permanent stormwater management facility to these definitions. This was done to confirm the City’s practice of not charging levies for stormwater management facilities.

During the OSL Bylaw’s development, it was decided that a flat rate for intensity would be applied to all developable lands, with the exception of lands to be dedicated for arterials roads, environmental reserve, and municipal reserve. Those excepted lands are not subject to off-site levy payments. The effect of the flat rate for intensity is that the levies are calculated exclusively based on the net developable area. At the request of Urban Development Institute (UDI), lands required for stormwater management have also effectively been removed from net developable area calculation, which effectively excepts these lands as well. It was recommended that the definitions in the OSL Bylaw be updated to formalize this practice.

As part of the City’s annexation application analysis, an updated Corvus OSL Model was provided to the City. As the City has submitted its application for annexation approval and it does not appear this application will be disputed, Administration decided to utilize this model for this year’s update and subsequent updates. If the City’s annexation application is successful, this model can be used to incorporate any annexed lands and any future required OSL infrastructure projects into the City’s OSL program. This model is a newer version than the City’s existing model, but it does mean some important changes will be adopted in how the OSL rates are calculated moving forward.

#### Development Timeframe

The City of St. Albert was one of the first municipalities to adopt the Corvus OSL model and was based on a 35-year development timeframe. This meant that the full cost of the developer’s share of the OSL projects was included in the OSL rates. According to Corvus, most other municipalities use a 25-year development timeframe as it is felt that a more reasonable approach is to focus developers’ costs today more so on the infrastructure that benefits development today, and less so on

infrastructure that will be built in the future.

The model contains a calculator that determines a cost per year for each project and then includes a pro rata amount in current rates based on the projects planned year of construction. For example, if the 25-year timeframe is from 2021 to 2045 and a project is planned to be constructed in 2040, then the calculator would include six years' worth of costs for that project in today's rates. As the development timeframe extends out further in subsequent years, the amount included in the rates changes and more project costs are gradually entered into the rates. If a project is constructed, all of the costs are included in the rates, regardless of when land is developed.

### Staging

The current off-site levy rates, the rates calculated before staging is applied, assume all of the OSL infrastructure projects will be built immediately and all lands will be developed immediately, and therefore all of the required off-site levies required to pay for the infrastructure will be collected immediately. However, this is not reflective of how development actually occurs.

The OSL model contains a staging adjustment. This adjusts OSL rates by taking into account inflation, when projects will be constructed, when levies will be collected, and interest impacts on reserve accounts. At times off-site levy reserves will not be sufficient to fund project construction. During these times, front-ending will be required. When the reserve balance is in a positive position, it earns interest based on the City's short-term average rate of return. When the reserve balance is negative (i.e., during times when front ending is required), the reserve is charged interest based on the Loans to Local Authorities' 20-year debenture rate.

The staging cost adjustment determines how much the rates have to be adjusted to deal with the impacts of staging so that at the end of the 25-year development timeline the reserve balances are at zero. Sometimes the staging adjustment will result in levies increasing in some categories and decreasing in others.

As the City has not been collecting levies that take into account the staging adjustment, there have been some fluctuations in rates this year, a portion of which can be attributed to the inclusion of staging. While the Off-Site Levies Regulation provides a municipality the flexibility to determine the methodology on which to base the calculation of the levy and the OSL Bylaw has been in accordance with the Regulations, the municipality must include a requirement for a periodic review of the calculation of the levy. Adopting the new OSL model with a 25-year development timeframe which also accounts for staging considerations will bring the City into alignment with how other municipalities are managing their OSL programs.

The examples below illustrate how OSL rates are impacted by adopting the new OSL model.

### Examples

Other Stakeholder Share = Outside City Boundary- no funds currently being collected.

Developer Cost Beyond 25 Years = no funds currently being collected.

OSL Share = funds currently being collected in the OSL per hectare rate.

### **1. A. Unconstructed Water Project Old Model- 35-year development timeframe:**

-	Estimated Project Cost		= \$61,075,000
-	Other Stakeholder Share	47%	= \$28,075,250
-	OSL Share	53%	= \$32,369,750

Funds Collected to Date towards project (2019): \$ 5,526,739

Balance of OSL Funds to be Collected: \$26,843,011

Portion of OSL rate allocated to this project = \$27,897.67/ha x 962.20ha = \$26,843,138

### **1. B. Unconstructed Water Project New Model- 25-year development timeframe with Staging:**

-	Estimated Project Cost		= \$61,075,000
-	Other Stakeholder Share	47%	= \$28,075,250
-	Developer Cost Beyond 25 Years	10.6%	= \$ 6,473,950
-	OSL Share	42.4%	= \$25,895,800

Funds Collected to Date towards project (2020): \$ 6,857,550

Balance of OSL Funds to be Collected: \$19,038,250

Portion of OSL rate allocated to this project = \$20,549.68/ha x 926.45ha = \$19,038,251

### **2.A. Constructed Transportation Project Old Model- 35-year development timeframe:**

-	Estimated Project Cost		= \$15,896,361
-	OSL Share	100%	= \$15,896,361

Funds Collected to Date towards project (2019): \$ 4,910,105

Balance of OSL Funds to be Collected: \$10,986,256

Portion of OSL rate allocated to this project = \$11,417.90/ha x 962.20ha = \$10,986,303

### **2. B. Constructed Transportation Project New Model- 25-year development timeframe with Staging:**

-	Estimated Project Cost		= \$16,098,208
-	OSL Share	100%	= \$16,098,208

Funds Collected to Date towards project (2020): \$ 5,351,742

Balance of OSL Funds to be Collected: \$10,746,466

Portion of OSL rate allocated to this project = \$11,599.62/ha x 926.45ha = \$10,746,468

### **Off-Site Levy Update**

As part of the annual update of the off-site levy program, the costs for projected infrastructure are reviewed to best reflect changes in the current market and any new project cost estimates or relevant information. The 2021 rates provide an update for realized and estimated construction costs.

### Net Development Area

The Net Development Area (NDA) has been amended from the 2020 OSL Bylaw update. Reductions to the NDA were based on areas included in executed development agreements and slight variations in areas as a result of moving to the new Corvus OSL model. The remaining NDA for the start of 2021 is 926.45 hectares (2,289.3 acres). To retain consistency with the past model's assumption that all lands within the City's current boundary would be developed within 35 years of the 2007 annexation, all lands have been included within the 25-year development timeframe and will not be updated until the City adopts a new utility master plan or other Planning document that shows a change in the predicted timing of development for those areas.

### Transportation Infrastructure

No additional transportation infrastructure projects were added for 2021. However, Project 11- Giroux Road West-from the western City limits to Ray Gibbon Drive had project costs reassociated with it as portions of this road are planned to be upgraded and expanded to service the Range Road 260 Area Structure Plan. The Bylaw currently includes 34 transportation projects for roadways and intersections. The reinstatement of project costs for Project 11, the City taking out a \$4.5 million debenture for Project 20- St. Albert Trail, increases in costs of completed work for projects under construction, and the new calculation of OSL rates has resulted in a moderate increase to the transportation OSL.

### Water Infrastructure

No additional water infrastructure projects were added for 2021. The Bylaw currently includes 15 water infrastructure projects. The new calculation of OSL rates has resulted in a significant decrease to the water OSL.

### Sanitary Infrastructure

No additional sanitary infrastructure projects were added for 2021. The Bylaw currently includes 12 active sanitary infrastructure projects. Based on detailed design, the estimated project cost for Sanitary Project 8- Phase 2B North Interceptor increased by \$2.5 Million. Other projects saw incremental increases in project costs and another project cost decreased due to receipt of an outstanding developer contribution. These influences as well as the new calculation of OSL rates resulted in the varied changes to the sanitation OSL.

### Storm Infrastructure

No additional storm water infrastructure projects were added for 2021. The Bylaw currently includes 10 active stormwater infrastructure projects. Based on a pre-design report, the estimated project cost for Stormwater Project 5- Northeast Storm Trunk increased by \$8.6 Million. The proposed timing for construction for portions of the Northwest Storm Trunk Outfall (Projects 1 to 4) resulted in significant decreases to current OSL rates for those projects as a large portion of the project cost has been allocated to development beyond 25 years. These changes had a strong impact on the stormwater OSL.

## 2020 Off-Site Levy Annual Report

The annual off-site levy update report provides a detailed account of the functionality of the off-site levy program over the previous and coming year. It includes comparative tables outlining all changes to each project, and growth and projected collection reserves throughout the long-term management of the off-site levy program.

- The report provides a detailed account for the identified off-site levy infrastructure constructed during the previous calendar year, as well as the actualized construction costs of the existing built off-site levy environment. The estimated construction costs for each infrastructure project identified within the program is accounted for, as well as the amounts of off-site levies collected.

## OSL Reserves

As of December 31, 2020, there is approximately:

- \$1.75M in transportation levy reserves;
- \$14.0M in water levy reserves;
- \$760K in sanitary levy reserves; and
- \$24.9K in storm levy reserves.

The levy reserves are reflective of smaller subdivisions being developed later in 2020 and the OSL for the private lake in Jensen Lakes being paid in installments as a Private Recreational Amenity, as per Council Policy C-P&E-08.

## OSL Receipt Reconciliation

As per the OSL Framework Policy, Administration is recommending the allocation of levy receipts collected to the end of 2020 against any front-ending owing on identified and approved OSL projects under the OSL Bylaw. The total front-ending value for constructed OSL infrastructure, based on updated spent construction values, is \$32,418,375.83. The City is required by regulation to manage OSL accounts by each OSL type. Repayment to front-ending parties for the costs of constructing various "leviable" projects referenced in the OSL Bylaw must be made from the applicable OSL account.

Summary of current owed front-ending parties claiming reimbursement:

Transportation Infrastructure: \$9,725,031.16 is owed to three parties:

- City of St. Albert is owed \$8,462,558.13
- Landrex Hunter Ridge Inc. is owed \$568,687.02
- Genstar is owed \$693,786.01

Water Infrastructure: there are no front-ended projects.

Sanitary Infrastructure: \$22,243,395.13 is owed to two parties:

- City of St. Albert is owed \$21,799,401.14

- Landrex Hunter Ridge Inc. is owed \$443,993.99

Storm Infrastructure: \$449,949.54 is owed to two parties:

- Beaverbrook St. Albert Ltd. Is owed \$245,124.18
- Landrex Hunter Ridge Inc. is owed \$204,825.36

Because the off-site levy program collects calculated levies as development occurs within the City, if there are no owed front-ending parties (or front-ending parties are owed less than the funds that are held within each of the off-site levy reserve accounts) then that money will continue to be held in trust for the program.

As of December 31, 2020, there are multiple front-ending parties that are claiming reimbursement as referenced in the March 15, 2021 Council Recommendation 2.

## **STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT**

During consultation with the Urban Development Institute (UDI) in 2019, they expressed concern that they were not having enough input into project prioritization, suggesting alternative solutions, or providing feedback on proposed designs. In response to this, Administration held a virtual workshop on transportation off-site levies with interested UDI members in June 2020. The purpose of this workshop was to provide background information on how projects have been added to the OSL Bylaw, what projects are included in the OSL Bylaw, how far along those projects are, and how those projects are being funded. The second portion of the workshop functioned more as an open discussion. It focussed on how the City determines which projects to front-end, how all front-ending parties are reimbursed, what costs are currently recoverable, and discussed ways in which the transportation OSL program could be updated.

From this workshop, an Off-Site Levy Infrastructure Projects Working Group was established; the group consists of seven permanent representatives with voting privileges: three from the City and four from the Development Industry- 3 UDI members and one non-UDI member. The group also consists of two UDI- appointed consultants, additional members at large, and technical support staff are able to participate as required. The purpose of the working group is to work together to formulate recommendations for consideration by City Council to ensure the continued efficient operation of the OSL Bylaw, specific to OSL Infrastructure projects. It provides a forum where amendments and improvements to the OSL Bylaw and its associated policies can be developed and tested. Once deemed acceptable by the Working Group, a recommendation will be formalized and presented to the City's Executive Leadership for consideration. Following support from Executive Leadership, necessary documents will be prepared for the formal approval process or implementation, as necessary. It is important to note this Working Group cannot direct any work of the City.

Administration hosted a virtual information session in February 2021 with a presentation on the Off-Site Levy update, followed by a question and answer period. Attendees were invited to submit comments to Engineering. Comments collected will be used to inform the long-term management of the OSL program. Administration is committed to working actively with our development community and has received positive feedback from the development industry on some of its latest consultation initiatives.



Feedback from the development community resulted in the OSL model being rerun in March 2021. Initially the Net Development Area had been adjusted based on the annexation application analysis which excluded 106.01 hectares (261.96 acres) from the 25-year development timeframe. The OSL bylaw was originally predicated on the idea that it would take 35 years to develop all of the lands contained within the current City boundary, and since the bylaw has been in effect for more than 10 years, it would be acceptable to continue that assumption. By including the lands within the 25-year development timeframe, it is anticipated the lands within the current boundary will be developed ~35 years after the City adopted the original model. In the new OSL model, all lands within the current boundary will be included to be developed by 2045 (within 25 years of 2021) until we receive an updated Utility Master Plan or other public Planning documents that indicate the pace of development for an area within our existing boundary is changing.

Additionally, the new OSL model added an interest calculation on debenture interest which the City has never charged before. If the City was to wish to start this practice it would engage with the development community on this change and add it as a go-forward item. These charges are not included in this year's rates.

Finally, OSL reference Area 11 had to be split into three areas due to changes in the servicing schematic for this area. This area is now broken into reference areas 11, 21, and 41. It was possible to reassign two existing reference areas already included in the model as they have never had any lands included in them and thus were unused. As the model is complex and has many linkages and interdependent formulas, this was the best solution to mitigate the risk of introducing errors into the model. This change only impacts areas in the original OSL reference area 11.

For 2021, Administration is planning to review the project cost estimates in the OSL model to ensure they are still relevant. Any significant changes will be included in future OSL Bylaw updates.

## **IMPLICATIONS OF RECOMMENDATION(S)**

### Financial:

The financial implications of the OSL Bylaw update to the City of St. Albert are complex and are included in the attached reports, "City of St. Albert 2020 Off-Site Levy Annual Report and 2021 Bylaw Update Off-Site Levy Update" and "Corvus Template showing data used to inform Bylaw 13/2021".

### Legal / Risk:

The master planning documents used within the OSL Bylaw underwent substantial consultation with the development industry and the public during their development.

Updating the OSL Bylaw annually ensures the required projects and estimated project costs are reflective of best available information.

Moving to a 25-year development timeframe for calculating levies does increase risk to the City as the model is underfunded until all lands are developed and project costs are collected. Risk can be mitigated by continuing to update the model annually and by not approving construction of projects that are not within the 25-year development timeframe unless the OSL Bylaw is updated to include those project costs within the levy rate calculation.

Program or Service:

None at this time.

Organizational:

None at this time.

## **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

Alternative 1. That the agenda report Off-Site Levies Annual Report and 2021 Bylaw Update, be received as information.

This would demonstrate Administration completed the annual update report as per Council Policy C-P&E-08 Off-Site Levy Framework. However, this would not update the Bylaw, off-site levy infrastructure projects, or rates for 2021.

Report Date: April 6, 2021

Author: Tanya Hynes

Committee/Department: Engineering

Deputy Chief Administrative Officer: Kerry Hilts

Chief Administrative Officer: Kevin Scoble