

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

BEING a By-Law of the Rural Municipality of Rosser (the "Municipality"), as it relates to the lands known as the Rosser CentrePort Lands ("RCPL") and which are depicted in the sketch attached as Schedule "A":

- A. to provide for the imposition of capital levies on lots affected by the amendment of a zoning by-law;
- B. to provide for the imposition of capital levies on lots affected by the making of a variance order;
- C. to provide for the imposition of capital levies on lots where uses may be permitted under the zoning by-law and are subject to specific standards which are similar to a conditional use under the Planning Act of Manitoba (Permitted Uses with Specific Standards);
- D. to provide for the imposition of capital levies as on all new lots created by subdivision of lands and Units/buildings created by Condominium Property Regime within the RCPL and all units/buildings in the Condominium;
- E. to regulate fees and charges for professional and like services required in consideration of zoning by-law amendments, variance orders, Permitted Uses with Specific Standards 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.
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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.
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III. As to approving a conditional like use (Permitted Use with Specific Standards)

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.
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THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

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.

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

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, fees and charges in order that the owner/developer/agent is responsible for said capital levies, fees 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 within the RCPL which may be placed on the infrastructure, and on 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 lots affected by zoning by-law amendments, variance orders, and permitted uses with specific standards applications for lands/lots within the RCPL and relating to all new lots created by subdivision within the RCPL to ensure that the capital levies, fees and charges are obtained to contribute to the anticipated necessary capital development, capital repairs, expansion, replacement and renewal of the capital infrastructure of the RCPL and the Municipality.

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

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 permitted use with specific standards application and all new lots 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 RCPL and 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 fees and other 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

(a) regulate or prohibit;

(b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;

(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,

(ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,

(iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval is granted,

(iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and

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

(f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters;

(g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality; and

(h) require pawnbrokers to report all transactions by pawn or purchase to the head of council or to the police.

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

NOW THEREFORE BE IT ENACTED as a by-law of the Rural Municipality of Rosser as follows:

1. THAT this By-law shall effect all and only the lands within the RCPL.
2. THAT where additional studies, professional opinions, technical studies, public hearings, studies are required prior to a zoning by-law amendment, variance application, permitted use with specific standards application or a subdivision receiving consideration from Council, the owner/developer/agent shall agree that the Actual Cost of any and all services required will be borne by the owner of the lands.
3. THAT where Council approves the zoning by-law amendment, variance application, permitted use with specific standards application or subdivision subject to a Development Agreement, the owner/developer/agent is responsible to pay all technical, professional, consultative, or other services required by the Municipality to prepare and register the Development Agreement on all lands affected by the Development Agreement.
4. THAT Actual Costs incurred by the Municipality may be billed to the owner/developer/ agent in interim stages. All costs incurred 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.
5. THAT a capital levy be assessed, charged and imposed upon any applicant for a zoning by-law amendment, a variance application, a permitted use with specific standards application and from all new lots or units in any building within the RCPL and the Municipality granted subdivision approval in accordance with the prescribed fees set forth in Schedule "C" to this By-law.
6. THAT a capital levy be calculated and charged upon any applicant requiring a building permit for a unit in any new building in accordance with the prescribed fee structure set forth in this By-law.
7. THAT all capital levies collected pursuant to this By-law shall be transferred to the related Municipality replacement reserves in an apportionment equal to the calculated Land, Utility and People proportion of the assessment.
8. THAT the Municipality may in their absolute discretion in the development agreements allow for a decrease in capital lot levies where the subdivision, variance or permitted use with specific standards will not immediately require services or where the lot sizes are consider by Council, in their absolute discretion, such that capital lot levies, on a per acre basis, should be altered.
9. THAT Dedication fees shall be paid as a condition of zoning by-law amendments, variance applications, permitted use with specific standards applications and subdivision approvals and said matter shall not be approved:
 - a. Except subject to a condition requiring the payment of the applicable capital levies, fees and charges;
 - b. Until such capital levies, fees and charges have been paid or arrangements satisfactory to the Municipality for the payment of the capital levies, fees and charges have been made, including, if required, the posting of security to ensure payment of the capital levies, fees and charges in accordance with such arrangement;
10. THAT the Municipality has created reserve funds 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.

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

11. 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 *Inland Port Special Planning Authority* dated after this date.

12. THAT By-law No. 16-2014 is repealed upon third reading and passing of this by-law.

DONE AND PASSED by the Council of the Rural Municipality of Rosser, in Council, duly assembled at 0 077E PR221, Rosser in the Province of Manitoba, this 12th day of July, 2016.

RURAL MUNICIPALITY OF ROSSER

Original signed by "Frances Smee"
Frances Smee, Reeve

Original signed by "Beverley Wells"
Beverley Wells, Chief Administrative
Officer

RECEIVED First Reading June 28, 2016

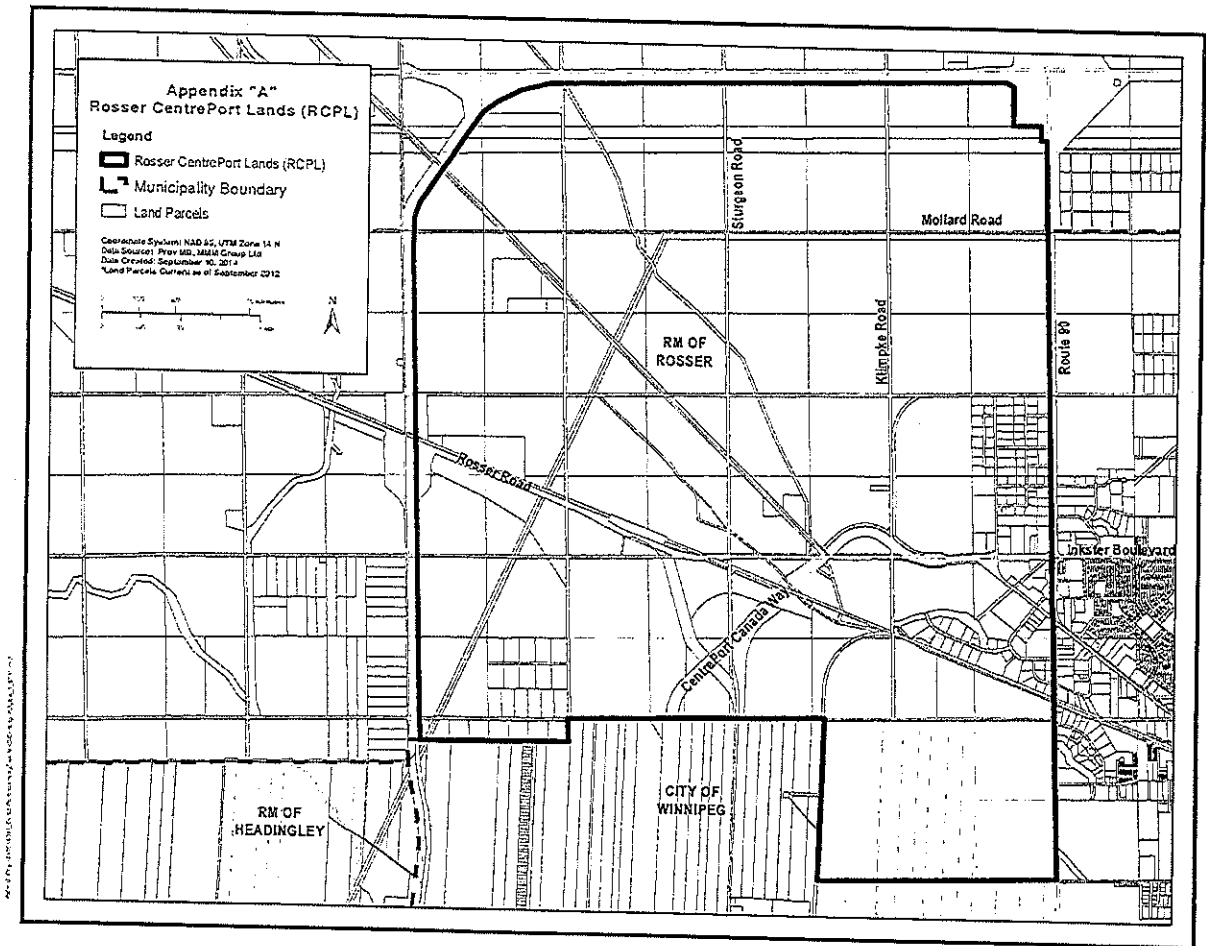
RECEIVED Second Reading July 12, 2016

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By-law No. 5-2016

SCHEDULE "A" TO BY-LAW NO. 5-2016



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By-law No. 5-2016

SCHEDULE “B” TO BY-LAW NO. 5-2016

1. Drainage Study/system;
2. Water and sewage treatment and distribution system;
3. Fire and Police (protection services) and major equipment purchase;
4. Roads and road systems (maintenance and improvement of existing roads);
5. Public works building(including protective services) and major equipment (long term planning);
6. Parks and walkways;
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.

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 5-2016

SCHEDULE "C" TO BY-LAW NO. 5-2016

Capital Development Levies

As a condition of approval of subdivision, variance application or permitted use with specific standards, the applicant shall pay a capital levy of:

Development Charge/Fee	Fixed Amount	Amount Per Acre
Contribution to Public Forum Expenses/Electronic Access		
	\$1,200.00	
Administration Fee	\$2,500.00	
ⁱ Actual Costs for: Legal, Consulting, Engineering & Advertising Costs	Actual Costs	
ⁱⁱ Dedication Fee	10% of assessed land value	
Capital Lot Levy for Fire		\$1,143.00
Regional Water Treatment Plant, Trunk Line to the Reservoir, Reservoir and Pump Station		\$2,000.00
Capital Water Feedermain Contribution Levy		\$14,259.00
Capital Sewer Forcemain & Interceptor Contribution Levy		\$25,675.00
Development related plans/studies including storm water management, transportation, and land use planning		\$200.00
Parks and Walkways		\$600.00
Transit		\$1,200.00
Municipal Roads and Related Infrastructure including signalization		\$4,000.00

ⁱⁱⁱ City of Winnipeg - Up-Front Fee:	Set Amount
Based upon developed assessed market value for each New Property that is a commercial, industrial and other non-residential property, a charge equal to Three Thousand (\$3,000.00) Dollars for each Five Hundred Thousand (\$500,000.00) Dollars of Developed Assessed Market Value	Unknown

^{iv}City of Winnipeg - Utilities Buy-In Charge:

Sewer Services Buy-In Charge 2015		Recommended Rate/property 2015	Recommended Rate/property 2016	Recommended Rate/property 2017	Recommended Rate/property 2018
Water Meter Size (inches)	MWD (litres/sec)				
5/8"	0.0-0.9	\$2,300	\$2,350	\$2,400	\$2,450
3/4"	0.91-1.3	\$3,400	\$3,500	\$3,550	\$3,600
1"	1.31-2.4	\$5,700	\$5,800	\$5,900	\$6,000
1 1/2"	2.41-3.8	\$11,400	\$11,700	\$11,900	\$12,100
2"	3.81-7.6	\$18,200	\$18,600	\$19,000	\$19,300
3"	> 7.6	\$34,100	\$34,800	\$35,500	\$36,200

Sub-total Fixed Amounts: \$3,700.00
Sub-total Per Acre Amounts: \$49,077.00

^vSub-Total: **\$52,777.00**

ⁱ Actual Costs to be paid in addition to Capital Lot Levies

ⁱⁱ Dedication Fee to be paid in addition to Capital Lot Levies

ⁱⁱⁱ City of Winnipeg Up-Front Fee to be paid in addition to Capital Lot Levies

^{iv} City of Winnipeg Utilities Buy-In Charge, to be amended from time to time by the City of Winnipeg, to be in addition to Capital Lot Levies

^v Sub-Total does not include Actual Costs, Dedication Fee, City of Winnipeg Up-Front Fee or City of Winnipeg Utilities Buy-In Charge