

**THE CITY OF MORDEN
CAPITAL LEVY BY-LAW 07-2023**

BEING a By-Law of the City of Morden to prescribe levies to be paid as compensation for capital costs incurred as a result of approval of all new lots created by a Subdivision and for all new developments established as a result of Zoning Amendment, Conditional Use, Variance, or Development Permit and to repeal By-Law 06-2021;

WHEREAS pursuant to Part 7 sections 231, 232, and 233 of The Municipal Act, that Council may pass a by-law prescribing fees and levies for services and charges provided by the Municipality for activities that occur on a private property adjacent to highways or municipal roads;

AND WHEREAS Part 8 section 143(1) of The Planning Act provides as follows:

“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.”

AND WHEREAS Part 8 section 135 and Part 9 section 150 of The Planning Act provide as follows:

Part 8 section 135

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

2 Any condition necessary to satisfy the requirements of a municipal by-law, including 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 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;

(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”;

Part 9 section 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:

(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”;

AND WHEREAS the City of Morden has reviewed the existing capital infrastructure of the City and the anticipated future demands for which may be created or accelerated by new development;

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AND WHEREAS it is deemed expedient and in the public interest to establish levies for that purpose, where properties will be developed and require Zoning Amendment, Conditional Use Order, Variance Order, or Development Permit or where properties will be subdivided to create additional building lots, to ensure that property development contributes to the anticipated expansion, repair, renewal, and replacement of the City's capital infrastructure;

AND WHEREAS the City of Morden has established by by-law various reserves for the purpose of funding future capital expenditures for municipal infrastructure and service requirements;

AND WHEREAS the City of Morden desires to enact a by-law prescribing the rate of levies to be paid by an applicant for Zoning Amendment, Conditional Use, Variance, Development Permit, or Subdivision as compensation to the City for capital costs incurred within City boundaries;

NOW THEREFORE the Council of the City of Morden in Regular Session duly assembled hereby enacts as follows:

DEFINITIONS

1. In this By-law,

- (a) "Accessory" when used to describe a building or structure, means a use, building or structure which is incidental, subordinate, and exclusively devoted to the main building, or structure located on the same lot;
- (b) "Apartment" means a DWELLING UNIT in an Apartment BUILDING or in a mixed-use BUILDING;
- (c) "Apartment Building" means the whole of a BUILDING containing five (5) or more separate DWELLING UNITS and which has a single common entrance;
- (d) "Building" includes a well, pipe line, conduit, cut, excavation, fill, transmission line and any structure or erection, and any part of any of those things, and also includes an addition to or extension of any building or any of those things and a chattel that is attached to, or installed in or on, any building or any of those things
- (e) "Calculation Date" means the date on which the Planning and Development Officer for the City of Morden has completed the calculation of the capital levies;
- (f) "Commercial " means lands, buildings or structures used or designed or intended for use in connection with the sale of products and/ or services and includes offices where such uses are accessory to a commercial use;
- (g) "Council" means the Council of the City of Morden
- (h) "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a BUILDING or structure that has the effect of substantially increasing the size or usability thereof;
- (i) "Duplex" means the whole of a two-story BUILDING divided horizontally into two (2) separate above grade DWELLING UNITS, each of which has an independent entrance either directly or through a common vestibule;
- (j) "Dwelling" means a BUILDING, or part thereof, containing one (1) or more DWELLING UNITS, and includes retirement homes and lodges, and special care need units;

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- (k) "Dwelling Unit" means a self-contained set of rooms, used as residential premises, located in a BUILDING, mobile home, park model home or trailer designed to be used year round as a building and which contains kitchen and bathroom facilities which are used only by the occupants of the unit, is used as a single housekeeping unit in which no occupant has exclusive possession of any part of the unit, and which unit has a private entrance from outside the BUILDING or from a common hallway;
- (l) "Equivalent Single-Detached Dwelling" in the calculation of the water and wastewater levies means the estimated water demand (or wastewater discharge) volume as the case may be of the proposed development, as determined by the City at its sole discretion, divided by the average annual water consumption of a customer with a 5/8" water meter. The minimum equivalent shall be 1.
- (m) "Fourplex" means the whole of a BUILDING, divided into four (4) separate DWELLING UNITS, each of which has an independent entrance either directly from the outside or through a common vestibule but does not include a TOWNHOUSE or STREET TOWNHOUSE;
- (n) "Gross Floor Area"(GFA) means the total floor area measured between the outside of exterior walls or virtual walls or between the outside of exterior walls or virtual walls and the centre line of party walls dividing the building from another building, of all floors and mezzanines above the average level of finished ground adjoining the building at its exterior walls;
- (o) "Industrial Use" means land, buildings or structures used for or in connection with,
- i. manufacturing, producing, processing, storing or distributing something;
 - ii. research or development in connection with manufacturing, producing or processing something;
 - iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
 - iv. self-storage buildings;
 - v. office or administrative purposes, if they are,
 - 1. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - 2. are attached or accessory to the building or structure used for that manufacturing, producing, processing, storage or distribution
- (p) "Institutional " means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public and non-profit purpose and includes offices where such uses are accessory to an institutional use;

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- (q) "Rows and Other Multiple Dwellings" mean a TRIPLEX DWELLING, a FREEHOLD TRIPLEX, a FOURPLEX DWELLING, a multiple attached DWELLING, a STREET TOWNHOUSE DWELLING or a TOWNHOUSE;
- (r) "Mixed Use Building" means a building that contains one or more dwelling units and non-residential uses.
- (s) "Mobile home" means a portable dwelling unit
- (t) "Multiple attached dwelling" means a type of Low Density Multiple Dwelling with 2 or more dwelling units including a Two Unit Residential House, but not including an Apartment Building and other types of dwelling/uses defined as Rows and Other Multiple Dwellings;
- (u) "Municipality" is as defined in Section 1 of the Municipal Act means the City of Morden;
- (v) "Non-Residential Use" means a building or structure used exclusively for any purpose other than human habitation and ancillary purposes, including industrial use, commercial use and institutional use but does not include dwelling units on agricultural lands;
- (w) "Non-Residential Storage Lot" means a non-residential lot 10,000 sq.ft. in size as described in the City's Zoning By-Law for "MG" zones that is used primarily for outdoor storage and has no major buildings or structures as determined by the City at its sole discretion;
- (x) "Residential Use" means use or intended use for human habitation and ancillary purposes, and includes such use related to agricultural use, but does not include such use related to institutional use;
- (y) "Semi-Detached Dwelling" means the whole of a BUILDING divided vertically into two single DWELLING UNITS by a solid common wall extending throughout the entire STRUCTURE, from the base of the foundation to the highest point of the roof line with each unit having an independent entrance directly from the outside;
- (z) "Single-Detached Dwelling" means a separate residential BUILDING containing only one DWELLING UNIT;
- (aa) "Street Townhouse" means a TOWNHOUSE with each DWELLING UNIT on a separate LOT with FRONTAGE on a STREET;
- (bb) "Townhouse" means a BUILDING divided vertically into not less than four (4) and not more than eight (8) attached, non-communicating DWELLING UNITS;
- (cc) "Triplex" means the whole of a BUILDING, divided into three (3) separate DWELLING UNITS, each of which has an independent entrance whether directly from the outside or through a common vestibule;
- (dd) "Two Unit Residential House" means a house containing two (2) dwelling units only, but does not include a Duplex or a Semi-detached dwelling.

LANDS SUBJECT TO THIS BY-LAW

2. This By-law shall apply to all lands within the City of Morden.

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3. a) Subject to Subsection (2), Capital Levies shall apply and shall be calculated and collected in accordance with the provisions of this By-law on the lands where the development requires:
- i. approval of an application for Subdivision or approval of a Zoning Amendment, Conditional Use, Variance, or Development Permit will require the Municipality to incur capital costs, wholly or in part, as a result of that Subdivision, Zoning Amendment, Conditional Use, Variance, or Development Permit; and
 - ii. where the applicable levy has not already been paid in full, the applicant shall pay those levies or charges more particularly set out in the form attached hereto as Schedule "A" to this By-Law

SERVICES INCLUDED

4. Capital Levies against land to be developed as provided in this By-law shall be based upon the following services provided by the Municipality:
- (a) Water;
 - (b) Wastewater;
 - (c) Roads;
 - (d) Parks; and
 - (e) Studies

TIMING AND PAYMENT OF CAPITAL LEVY

5. a) The Capital Levies under this By-law shall be calculated using the rate effective on the calculation date with respect to such development and shall be payable at the time of signing the development agreement except if the City allows payment at the time of sale of the lot or issuance of the development permit whichever comes first.
- b) Where two or more actions described in Section 3(1) hereof are required before land to which a Capital Levy applies can be developed, only one Capital Levy charge shall be calculated and collected in accordance with the By-law.
 - c) Notwithstanding Subsection (b), if two or more of the actions described in Section 3(1) occur at different times and the subsequent action has the effect of increasing the need for municipal services, an additional Capital Levy Charge shall be calculated and collected in accordance with this By-law.
 - d) Where a Capital Levy or part thereof applies pursuant to this By-law, no Development permit shall be issued until the applicable Development Charge has been paid.
 - e) WHERE appropriate, the Municipality may, at its sole discretion, relieve an applicant from strict compliance with the requirements of Section 3(1).
 - f) Where any Capital Levy, or part thereof, remains unpaid after the due date, the unpaid amount shall be added to the tax roll, shall be collected in the same manner as taxes and the Treasurer is hereby authorized and directed to do so.

RESIDENTIAL CAPITAL LEVIES

6. a) The amount of Capital Levies in respect of a residential development shall be set out in Schedule "A".

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- b) The Capital Levies set out in Schedule "A" shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed-use building or structure, on the residential uses in the mixed-use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.
- c) The residential Capital Levies shall be calculated by multiplying the number of residential units of each type by the respective per dwelling unit charge for each service set out in Schedule "A".

NON-RESIDENTIAL CAPITAL LEVIES

- 7. a) The Capital Levies in respect of a non-residential development, except for non-residential storage lots, shall be as set out in Schedule "B" to this by-law.
- b) The Capital Levies in respect of a non-residential storage lot shall be as set out in Schedule "C" to this by-law.
- c) The Capital Levies as set out in Schedule "B" shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed-use building or structure, on the non-residential uses in the mixed-use building or structure, and calculated with respect to each of the services according to the total floor area of the non-residential use and the number of equivalent Single Detached Dwellings based on water and wastewater volumes, as the case may be.
- d) The non-residential Capital Levies for all services except water and wastewater shall be calculated by multiplying the building's Gross Floor Area in ft² by the respective per square foot charge for each service as set out in Schedule "B".
- e) The Capital Levies as set out in Schedule "C" to this by-law shall be imposed on non-residential storage lots.
- f) The non-residential Capital Levy for water shall be equivalent to the water charge for a Single-Detached Dwelling multiplied by the number of equivalent Single-Detached Dwellings based on the water demand volumes (in imperial gallons) as set out in Schedules "B" and "C".
- g) The non-residential Capital Levy for wastewater shall be equivalent to the wastewater charge for a Single-Detached Dwelling multiplied by the number of equivalent Single-Detached Dwelling based on wastewater discharge volumes (in imperial gallons) as set out in Schedules "B" and "C".
- h) The water and/or wastewater component of the Capital Levies imposed in Schedules "B" and "C" shall not be charged for non-residential development where water and/or wastewater service connections are not installed.
- i) Notwithstanding 7 f), g) and h), water &/or wastewater levies set out in Schedules "B" and "C" shall apply if, on a date subsequent to the Calculation Date the :
 - (i) property use changes; or
 - (ii) water and/or wastewater connections are required; or
 - (iii) the actual water demand and/ or wastewater discharge volumes significantly exceed the volume used to calculate the charge on the Calculation Date.

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REDEVELOPMENT

8. a) If Application is made for a Development permit in respect of a parcel of land upon which a building existed within ten (10) years prior to the date of such Application, but which premise has been demolished or destroyed before the date of such Application, then the amount of Capital Levies payable upon issuance of the said Development permit shall be reduced by the net amount, calculated pursuant to this By-law at the current Capital Levy rates, that would be payable as Capital Levies in respect of the demolished or destroyed premise, provided that such reduction shall not exceed the Capital Levies otherwise payable. For purposes of this subsection, “net” means the excess of the Capital Levies for premises constructed, over the Capital Levies for premises demolished or destroyed.
- b) Notwithstanding Section 8 (a) capital levies on redevelopment with the same use and footprint of the original development shall not be subject to a capital levy
- c) If a development includes the conversion of a premise from one use (the “first use”) to another use, then the amount of Capital Levies payable shall be reduced by the amount, calculated pursuant to this By-law at the current Development Charge rates, that would be payable as Capital Levies in respect of the first use, provided that such reduction shall not exceed the Capital Levies otherwise payable.

AGREEMENTS

9. Notwithstanding Section (6) to Section (8) hereof, the Municipality may, by Agreement enacted pursuant to Part 8 section 135 and Part 9 section 150 of The Planning Act, permit an Owner to perform work that relates to a service in exchange for credit towards the Capital Levy Charge payable by an owner to the municipality.
10. a) Where two or more actions described in Section 3(a) hereof are required before land to which a Development Charge applies can be developed, only one Capital Levy charge shall be calculated and collected in accordance with the By-law.
- b) Notwithstanding Subsection (a), if two or more of the actions described in Section 3(a) occur at different times and the subsequent action has the effect of increasing the need for municipal services, an additional Capital Levy Charge shall be calculated and collected in accordance with this By-law.

EXEMPTIONS

11. The following buildings shall be exempt from the capital levy charges:
- (a) Buildings or structures that are accessory to residential uses.

ANNUAL ADJUSTMENTS

12. The Capital Levies prescribed herein shall be adjusted annually, without amendment to this By-law, as of the 1st day of January 2024 in accordance with the latest Statistics Canada Quarterly, “Building Construction Price Index” for Manitoba.

REFUNDS

13. A full refund of Capital Levies shall be provided to the payee without interest where a project is abandoned, development permit revoked, and no construction has occurred.
14. Notwithstanding Section 13 an application subsequent to the initial application for which the refund was provided shall be subject to the capital levies imposed under this by-law.

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RESERVE FUNDS AND TREASURER'S STATEMENTS

15. a) Monies received from payment of Capital Levies shall be maintained in two (2) separate reserve funds established pursuant to Section 168 of *The Municipal Act* as follows: Roads, Fire, Parks and Studies; and Water and Wastewater. Funds from each reserve fund shall be used only for growth related projects for the respective services.
- b) The Treasurer of the Municipality shall, in each year, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year.
- c) Borrowing for the reserve fund, or from one designated municipal service fund to another, for municipal financial purposes shall be permitted as authorized from time to time by resolution or By-law of Council provided interest is paid.

EFFECTIVE DATE

16. This By-law shall be known as the "Capital Levies By-law 2023" for the City of Morden
17. This By-law shall become effective on the date that it is passed.
18. This by-law may be amended or replaced at anytime by resolution of Council.
19. That By-law No.06-2021 shall be repealed upon the coming into force of this By-law.

DONE AND PASSED in open Council assembled on this **29th** day of **May**, A.D.2023.

CITY OF MORDEN



MAYOR



CITY MANAGER

Read a first time this 30th day of January A.D. 2023

Read a second time this 29th day of May A.D. 2023

Read a third time this 29th day of May A.D. 2023

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City of Morden
SCHEDULE "A" to By-law No. 07-2023

2023 Capital Levy - Residential

Service	Non-Residential Charge per Storage Lot 10,000 Sq.Ft. in Size			
	Single / Semi-Detached/ Duplex	Apartments	Rows & Other Multiples	Mobile Home
Water	\$ 2,968.11	\$ 1,761.10	\$ 2,228.65	\$ 2,592.91
Wastewater	\$ 3,995.27	\$ 2,370.56	\$ 2,999.91	\$ 3,490.23
Roads	\$ 2,105.53	\$ 1,249.30	\$ 1,580.97	\$ 1,839.37
Fire	\$ 226.27	\$ 134.25	\$ 169.90	\$ 197.67
Parks	\$ 333.95	\$ 198.15	\$ 250.75	\$ 291.73
Studies	\$ 120.38	\$ 71.43	\$ 90.39	\$ 105.16
Total Charge	\$ 9,749.51	\$ 5,784.79	\$ 7,320.57	\$ 8,517.07

The Capital Levies calculated above shall be adjusted annually as of the 1st day of January 2024 in accordance with the latest Statistics Canada Quarterly, "Building Construction Price Index" for Manitoba.

Schedule B

Capital Levy - Non-Residential

Service	Non-Residential Charge per Storage Lot (\$ per square foot of GFA)	Non-Residential Charge for Water & Wastewater
Water ^{1,3}		\$ 2,968.11 x "X"
Wastewater ^{2,3}		\$ 3,995.27 x "Y"
Roads	\$ 0.96	
Fire	\$ 0.10	
Parks	\$ 0.14	
Studies	\$ 0.05	
Total Charge⁴	\$ 1.25	

1. "X" = No. of Equivalent Single Detached Dwellings based on a Water Demand Volume of 29,754 imperial gallons as calculated by the City every 5 years at its sole discretion. The equivalency shall be calculated as follows: "Estimated Water Demand Volume of New Development in imperial gallons as determined by the City at its sole discretion divided by 29,754. The minimum equivalency shall be 1".

2. "Y" = No. of Equivalent Single Detached Dwellings based on a Wastewater Demand Volume of 29,754 imperial gallons as calculated by the City every 5 years at its sole discretion. The equivalency shall be calculated as follows: "Estimated Wastewater Discharge Volume of New Development in imperial gallons as determined by the City at its sole discretion divided by 29,754. The minimum equivalency shall be 1".

3. There shall be no water or wastewater charge if there is no sewer connection to the property. However the going charge shall apply if the property use changes or a connection is installed at a later date

4. The Total Charge is the charge per s.f. times the GFA plus the water and wastewater charges as calculated above.

The Capital Levies calculated above shall be adjusted annually as of the 1st day of January 2024 in accordance with the latest Statistics Canada Quarterly, "Building Construction Price Index" for Manitoba.

Schedule C

Capital Levy - Non-Residential Storage Lots

Service	Non-Residential Charge per Storage Lot 10,000 Sq.Ft. in Size
Water ^{1,3}	\$ 2,968.11 x "X"
Wastewater ^{2,3}	\$ 3,995.27 x "Y"
Roads ⁴	\$ 2,105.53
Fire ⁴	\$ 226.27
Parks ⁴	\$ 333.95
Studies ⁴	\$ 120.38
Total Charge⁵	\$ 2,786.13 plus the Water & Wastewater Charges

1. "X" = No. of Equivalent Single Detached Dwellings based on a Water Demand Volume of 29,754 imperial gallons as calculated by the City every 5 years at its sole discretion. The equivalency shall be calculated as follows: "Estimated Water Demand Volume of New Development in imperial gallons as determined by the City at its sole discretion divided by 29,754. The minimum equivalency shall be 1".

2. "Y" = No. of Equivalent Single Detached Dwellings based on a Wastewater Demand Volume of 29,754 imperial gallons as calculated by the City every 5 years at its sole discretion. The equivalency shall be calculated as follows: "Estimated Wastewater Discharge Volume of New Development in imperial gallons as determined by the City at its sole discretion divided by 29,754. The minimum equivalency shall be 1".

3. There shall be no water or wastewater charge if there is no water or sewer connection to the property. However the going charge shall apply if the property use changes or a connection is installed at a later date.

4. The charges for these services are equivalent to the charge for a Single-Detached Dwelling and shall apply per lot.

5. The Total Charge is the sum of the charges per 10,000 sq.ft. lot for Roads, Fire, Recreation & Studies plus the water and wastewater charges as calculated above.

The Capital Levies calculated above shall be adjusted annually as of the 1st day of January 2024 in accordance with the latest Statistics Canada Quarterly, "Building Construction Price Index" for Manitoba.