

Land vaA By-Law to Provide for the Conveyance of Land for Park Purposes, or Cash-in-lieu of Parkland Conveyance

WHEREAS under Section 42 of the Planning Act, R.S.O., 1990 as amended, municipalities may require the conveyance of land for park or other public recreational purposes or the payment of cash-in-lieu of conveyance of parkland or a combination of the two as a condition of development or redevelopment of land;

AND WHEREAS the City of Cornwall has determined that it will require, as a condition of development or redevelopment, the conveyance of land for park or other public recreational purposes or the payment of cash-in-lieu of such conveyance

NOW THEREFORE, the Council of the city of Cornwall hereby enacts as follows:

Part 1 – Definitions

1.1 That for the purposes of this By-Law, the following definitions shall apply:

- (a) **Affordable Rental Dwelling Unit** – A rental dwelling unit is leased at a rate at or below the average alternate monthly rent in the City of Cornwall and approved by the City’s Human Services Department with reference to materials published by the Canadian Mortgage and Housing Corporation and the Ministry of Municipal Affairs and Housing.
- (b) **City** – The Corporation of the City of Cornwall.
- (c) **Commercial Use** – Any use of land, structures or buildings for the purposes of buying or selling commodities and services, including but not limited to hotels, motels, motor inns and boarding, lodging and rooming houses but excluding industrial or agricultural uses.
- (d) **Convey** – To deed or transfer title to land.
- (e) **Council** – The Council of The Corporation of the City of Cornwall.

- (f) **Designate** – a person who is an employee of The Corporation of the City of Cornwall and who has been appointed by the Manager of Recreation and Facilities to administer all or part of this By-Law on behalf of the Manager of Recreation and Facilities.
- (g) **Development** – the creation of a new lot, a change in land use, or the construction of buildings and structures 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 or creating dwelling units, requiring approval under the *Planning Act*.
Redevelopment has a corresponding meaning.
- (h) **Dwelling Unit** – Any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.
- (i) **Employment land** – Land designated as Employment Area Light, Employment Area General or Employment Area Heavy in Zoning Bylaw No. 2022-001, as amended and/or replaced from time to time.
- (j) **Gross Floor Area** – The aggregate of the horizontal areas of each floor, whether any such floor is above or below grade, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, exclusive of any part of the building or structure used for heating equipment or mechanical equipment, parking, lockers, laundry facilities, common hallways, common corridors, common stairwells, elevator shafts and other voids, steps and landings.
- (k) **Gross Land Area** – Gross land area of the entire Development site, including the parcel of land which is to be dedicated for parks purposes or easements, but shall not include any lands designated as Environmental Constraint in Zoning Bylaw No. 2022-001, as amended and/or replaced from time to time.
- (l) **Industrial Use** – Lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, distribution centres, and includes office uses and the sale of

commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club.

- (m) **Institutional Use** – Land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain.
- (n) **Long-term Care Uses** – A residence which is licensed by the Province of Ontario or approved by the Ministry of Long-term Care to operate a long-term care bed, and which provides care to meet the physical, emotional, social, spiritual and personal needs of persons. Long-term care facilities include homes for the aged, nursing homes, and chronic care facilities.
- (o) **Manager** – The Manager of Recreation and Facilities of the City.
- (p) **Market appraisal** – A written opinion of fair market value of one or more parcels of land subject to Development supported by presentation and analysis of relevant data by a certified accredited appraiser.
- (q) **Market value** – The price in terms of money which a property should bring in a competitive and open market, as of the specified date, under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming price is not affected by undue stimulus.
- (r) **Municipal Assessor** – An employee of the City of Cornwall who determines the value of properties for taxation purposes or for the purposes of determining the value of cash in lieu of parkland dedication.
- (s) **Not-for-Profit Organization** – A corporation registered as a charity and regulated under the *Not-for-Profit Corporations Act, 2010* or regulated by one or more provincial and/or federal act(s).

- (t) **Parkland** – Lands that are suitable for the development of playing fields, play apparatuses, and community recreational and leisure facilities and that satisfy the criteria of Section 3.3 of this By-Law.
- (u) **Parkland Reserve Fund** - [Definition to be included]
- (v) **Residential Use** – The use of a building or structure or portion thereof for one or more Dwelling Units, including a Dwelling Unit on land that is used for an agricultural use. Despite the foregoing, a Residential Use does not include an Institutional Use as defined herein.

Part 2 – Application of This By-law

2.1 This By-law shall apply to all lands within the geographical boundaries of the City of Cornwall.

Part 3 – Parkland Conveyance

3.1 Requirements for Parkland Conveyance

- (a) As a condition of the Development or Redevelopment of land, the City shall require the owner of the land to convey or be agree to convey to the City land for park purposes in amounts not exceeding the following:

| Type of Development or Use | Requirement |
|--|--|
| Commercial and Industrial Purposes | Parkland requirement is 2% of the gross land area of the site being developed |
| Residential purposes at densities of 15 dwellings per hectare or more | Parkland requirement calculated as one (1) hectare for every three hundred (300) dwelling units, but shall not exceed 10% of the land area being developed |
| Residential purposes at less than 15 dwelling units per hectare | Parkland requirement is 5% of the gross land area of the site being developed |

| Type of Development or Use | Requirement |
|---------------------------------|--|
| Mixed-Used Development | Parkland requirement is calculated as follows: <ul style="list-style-type: none"> • Where land is developed for a mix of land uses that are located on discrete parts of the site, the parkland will be calculated based upon the proportion of the site devoted to each use at the rates identified above. • Where land is developed for a mix of uses within a building, the parkland requirement for each use will be based upon the above rates prorated proportionally to the gross floor area allocated to each use. |
| Long Term Care Home Uses | Parkland requirement is 2% of the gross land area of the site being developed |
| Other Uses | Parkland requirement is 5% of the gross land area of the site being developed |

3.2 Requirements for Parkland Conveyance for Lots Created by Consent

- (a) For a single residential lot created by consent to sever for the purpose of developing a single detached dwelling, a semi-detached dwelling, duplex or triplex, a flat rate of \$750 shall be applied. The flat rate shall be adjusted annually in accordance with the Statistics Canada Consumer Price Index on January 1st. This section shall not apply to Development within a plan of subdivision

- (b) Should there be a dispute concerning the payment of the flat rate, the provisions of Part 5 – Section 5.22 shall apply to determine the value of cash-in-lieu of parkland conveyance.

3.3 Lands Suitable for Parkland Conveyance

- (a) The City shall, at its sole discretion, determine the suitability of land for Parkland purposes.
 - (i) Without limiting the City’s discretion, the City may consider the following factors in making a determination regarding the suitability of lands for park and other recreational uses:
 - (1) Quality of access, including pedestrian access, from a public right of way;
 - (2) Adequate size and configuration to accommodate park amenities such as sports fields, playgrounds, and programmable open space as required;
 - (3) A centralized location within the proposed Development;
 - (4) Abutting complementary neighbouring land uses;
 - (5) Consistency with the Official Plan policies for the area; and,
 - (6) Contribution to creating a city-wide multi-use trail network.
 - (ii) The City may accept, at its discretion, the conveyance of Parkland that is proximate to but outside the boundaries of a Development site provided that the value of the land off-site is approximately equal to the value of the lands from the subject Development site.
 - (iii) Without limiting the City’s discretion to make a determination regarding the suitability of lands for park and recreational purposes, the City will not accept as a Parkland Conveyance the following:
 - (1) Lands designated as Environmental Constraint in the City’s Official Plan;

- (2) Hazardous or flood prone lands;
- (3) Wetlands and woodlots retained for conservation purposes;
- (4) Steep or unstable slopes;
- (5) Any land having unsuitable or unstable soil conditions for intended recreation facilities;
- (6) Lands encumbered by rights-of-way or easements in favour of Hydro Ontario;
- (7) Any land subject to an easement, encumbrance, or right-of-way that would meaningfully limit or restrict the City's use of the land as a park or for recreational purposes; and,
- (8) Any land required for stormwater management infrastructure or railway safety berms.

3.4 Timing of Determination of Parkland Conveyance Requirements

For Development or Redevelopment, the Parkland Conveyance requirements will be determined at the time of development review and the amount of land will be identified as conditions of approval.

Part 4 – Exemptions from Parkland Conveyance Requirements and Reductions in Cash in Lieu Payments

4.1 Exemptions

- (a) The Conveyance of land or the payment of cash-in-lieu for park purposes is not required for development, redevelopment, subdivisions or consents, where it can be demonstrated to the satisfaction of the City that the requirement for a Parkland Conveyance or cash in-lieu thereof has been previously satisfied in accordance with the *Planning Act*, unless:
 - (i) there is a change in the proposed Development or Redevelopment that would increase the density providing a net unit gain; or

- (ii) land originally proposed for Development or redevelopment for commercial or industrial purposes is now proposed for Development or Redevelopment for other purposes.
- (b) No Parkland Conveyance is required for:
- (i) Renovations to an existing residential building provided that the renovations do not increase the number of Dwelling Units above the number that lawfully existed prior to the renovation;
 - (ii) The enlargement of an existing Dwelling Unit;
 - (iii) The addition of an Additional Residential Unit in a single detached, semi-detached, or rowhouse dwelling;
 - (iv) The addition of an Additional Residential Unit in an accessory building to a single detached, duplex, semi-detached, or rowhouse dwelling;
 - (v) Development proposed by the City of Cornwall, local boards, other levels of government, and hospitals;
 - (vi) Primary and secondary schools, and post-secondary institutions as defined in section 1(1) of the Education Act where the school provides for the students' outdoor recreational needs on-site at the time of Development;
 - (vii) A place of worship to the extent that it is exempt from taxation under Section 3 of the *Assessment Act*;
 - (viii) A home-based occupation as defined by The City of Cornwall's Zoning By-law (By-law 2022-001);
 - (ix) An addition or alteration to an existing commercial or industrial building that does not require site plan control approval as per the Planning Act or the Site Plan Control By-law;
 - (x) A building that was accidentally damaged or demolished and where:

- (1) the building is repaired or replaced and re-occupied before the expiry of two years; and
 - (2) the building continues to be used for the same purpose after it is repaired, replaced or rebuilt; and
 - (3) there is no increase in number of dwelling units or gross floor area; and,
- (xi) An on-farm diversified use; or an agriculture-related use.

4.2 Reductions in Cash-in-Lieu

- (a) Where the City has determined that a Parkland Conveyance is not possible or desirable, and cash-in-lieu of Parkland Conveyance has been deemed acceptable by the City in accordance with Part 5 of this By-law, the cash-in-lieu requirements may be reduced only in the following circumstances:
- (i) When land is developed to include Affordable Rental Housing Units and the Owner enters into an Agreement with the City to provide for the maintenance of rents at affordable rates approved by the City's Human Services Department for a minimum of 5 years, the City may apply a 50% reduction for the component of the Development or Redevelopment comprised of Affordable Rental Housing Units.
 - (ii) When a Development or Redevelopment is being undertaken by a not-for-profit or charitable organization providing a public service, the cash-in-lieu of Parkland conveyance requirement may be reduced at the discretion of the Department of Planning, Development and Recreation. The amount of the reduction shall not exceed \$25,000. Any reduction above \$25,000 shall require Council approval.

Part 5 – Cash-in-lieu of Parkland Conveyance

5.1 Use of Cash-in-lieu Provisions

- (a) The City, at its sole discretion, may accept the payment of money, or a combination of land and the payment of money, equal to the value

of the land otherwise required to be Conveyed in lieu of a Parkland Conveyance, including in the following circumstances:

- (i) Where no opportunity exists to provide suitable Parkland on the Development site;
 - (ii) Where the land where the Development will be situated is too small, inappropriately configured, or poorly located to meet Parkland requirements;
 - (iii) Where the Conveyance of Parkland would render the remainder of the site unusable or impractical for Development or Redevelopment, as determined by the City;
 - (iv) Where the City has identified land in a more appropriate or accessible location for a park or for a recreational use, which has been or is to be acquired by the City;
 - (v) Where the area being developed or redeveloped is already well served by existing Parkland; and
 - (vi) Where either cash-in-lieu or a combination of land conveyance and cash-in-lieu is deemed preferable by the City.
- (b) All money received by the City through payments of cash-in-lieu of parkland shall be paid into the Parkland Reserve Fund.

5.2 Land Valuation and Prohibition

- (a) When cash-in-lieu of a Parkland Conveyance is required, the value of the land which shall be determined
 - (i) By market appraisal or a letter of opinion from a Certified Appraiser reviewed and accepted by the City's Municipal Assessor and determined as of:
 - (1) The day before the day the building permit is issued in respect of the Development or Redevelopment or, if more than one building permit is required for the Development or Redevelopment, as of the day before the day the first permit is issued, or;

- (2) The day before the approval of the draft plan of subdivision as applicable; or,
- (3) the day before the granting of provisional consent for a consent application in the event of a dispute as contemplated in Section 3.2(b) of this By-law.

Or;

- (ii) The most recent land sale record of the relevant property, no more than 24 months prior to the date the application that has been reviewed and accepted by the Municipal Assessor, provided that the sale was at market value and there has been no change that may impact the land value, including but not limited to changes in the zoning, Official Plan designation or severance.

Part 6 – Administration

- 6.1** This By-Law shall be administered by the Manager of Facilities and Recreation or their designate.
- 6.2** No building permit shall be issued until all Parkland Conveyance requirements have been satisfied as established in this By-Law.
- 6.3** No person shall construct a building on the land proposed for Development or Redevelopment unless the payment of money in-lieu has been made or arrangements, that are satisfactory to the City, have been made for the payment.
- 6.4** Any legal or administrative costs associated with the Conveyance of Parkland in accordance with this By-law shall be the responsibility of the transferor.
- 6.5** In the event of a dispute between the City and an owner of land on the determined amount of land and/or the value of land for cash-in-lieu conveyance, either party may apply to the Ontario Land Tribunal to have the value determined and the Tribunal shall make a final determination of the matter, in accordance with the *Planning Act*.
- 6.6** This By-Law may be reviewed by the City every 3 years to ensure its ongoing validity in the evolving development context within the City.

6.7 This By-Law shall come into force and take effect on the date of its passing.

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