**Reference: PDD-19-2022**

# THE CORPORATION OF HALDIMAND COUNTY

By-law Number /22

**Being a by-law to provide for the conveyance of land for park or other public recreational purposes and/or cash-in-lieu of parkland dedication within Haldimand County**

**WHEREAS** Sections 42, 51.1, and 53 of the Planning Act, R. S. 0. 1990, c. P. 13, as amended, authorizes the Council of The Corporation of Haldimand County to pass a by-law requiring land or cash-in-lieu of the land at the County's approval to be conveyed to the County for park or other public recreational purposes as a condition of subdivision of land(s);

**AND WHEREAS** the Council of The Corporation of Haldimand County has established an Official Plan that contains specific policies with respect to the provision of lands for park or other public recreational purposes and this by-law is intended to be in conformity with such policies,

**NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:**

## 1. Definitions

1.1 That for the purposes of this by-law, the following shall apply:

a) **"Commercial or Industrial Uses"** means the use of land, structure or building for all uses except Residential Use, Institutional Use, and Special Residential Uses;

b) "**Council**" shall mean the Council of the Corporation of Haldimand County.

c) "**County**" shall mean the Corporation of Haldimand County.

d) **"Dwelling Unit"** means any property that is used or designed for a use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

e) "**Eligible Project**" means:

i. Acquisition of land for park or other public recreational purposes;

ii. Capital projects for the development of new public parks which may include any associated site preparation and drainage;

iii. Capital projects to increase the capacity of existing public parks to accommodate more intensive public use;

iv. The provision of park facilities, including but not limited to play equipment, sports fields, pathways, splash pads, and site furniture.

f) "**Gross Land Area**" means the total area of the land to be developed excluding constrained lands such as, without limitation: wetlands, unstable slopes, ravines, water courses, flood plains, environmentally-protected areas, required railway buffers, and other similar constraint lands.

g) **"Institutional Use"** means the use of land, structure, or building for religious, charitable, educational, benevolent, health or welfare purposes by a not for profit or gain organization, group or association.

h) **"Payment-in-Lieu"** shall mean the payment of funds equivalent to the value of the amount of land that the County would otherwise have been entitled to acquire for park or other public recreational purposes as part of a development. The Payment-in-Lieu is usually required as a condition of a site plan, draft plan of subdivision or draft plan of condominium approval.

i) **"Residential Use"** means the use of land, structure, or building for human habitation.

## 2. Parkland Acquisition

2.1 This by-law shall apply to all lands within the County.

2.2 The purpose of this by-law is to enable the County to provide land for parks or other public recreational purposes. The County is permitted to require the conveyance of parkland as a condition of approval of development or a draft plan of subdivision or condominium as regulated under the Planning Act. Land conveyed to the County under this by-law shall be used for parks or other public recreational purposes, subject to the policies of the Official Plan and this by-law.

2.3 As a condition of the development of land, the County shall require that land be conveyed to the County for park or other public recreational purposes as follows:

a) For lands subject to a site plan or draft plan of subdivision or condominium for residential purposes, an area of land equal to the greater of five percent (5%) of the Gross Land Area to be developed or one hectare of land for every 300 housing units proposed to be developed;

b) For lands subject to a site plan, draft plan of subdivision or draft plan of condominium for commercial, industrial, or institutional purposes, an area of land equal to two percent (2%) of the gross land area to be developed or redeveloped;

c) For lands subject to a site plan, draft plan of subdivision or draft plan of condominium for uses other than those referred to in subsection 2.3(a) and 2.3(b), such as mixed uses, an area of land equal to five percent (5%) of the Gross Land Area to be developed or redeveloped.

2.4 Land dedicated to the County for park or other public recreational purposes shall be chosen in consultation with County staff and shall be leveled, serviced, top-soiled and seeded to the specifications of the County. In the case of a disagreement, the County will have the final decision as to the appropriate lands.

2.5 Only those lands suitable for municipal parks development will be accepted as part of the required parkland dedication.

2.6 The County may, at its own discretion, accept additional lands over and above the required parkland dedication and may incorporate these lands into the County's park system. Such lands may include:

a) Lands for storm water management areas;

b) Lands having environmental or physical conditions which render them unsuitable for development; and,

c) Lands which are suitable for the development of corridors throughout the County for such uses as wildlife, pedestrian or biking trails.

2.7 Trail development within Plans of Subdivision may be used in the calculation of the required parkland dedication, at the sole discretion of the County.

2.8 Any land that has been or is to be conveyed to the County for stormwater management facilities, for flood plain or conservation purposes, for roadways, walkways or any other non-parkland purpose, will not be credited against the required parkland conveyance or cash-in-lieu of parkland conveyance.

**3. Cash-in-Lieu of Parkland Dedication**

3.1 In lieu of requiring the conveyances noted in section 2 above, the County may require the payment of money as a Cash-in-Lieu payment. The County may require a Cash-in-Lieu payment, as provided by the Planning Act, under the following circumstances:

a) Where the amount of parkland to be dedicated, in accordance with the Planning Act, is of insufficient size, in the opinion of Council, to be useable for normal public recreational activities;

b) Where an area is adequately served by municipal or other open space lands;

c) Where the County wishes to combine the parkland dedications of a number of small developments to provide for one large park area; or,

d) Where the required dedication would render the remainder of the site unsuitable or impractical for development.

3.2 Council shall, in those cases where it is deemed advisable to accept Cash-in-Lieu of a conveyance, require the payment of an amount calculated as follows:

a) Two percent (2%) of the appraised value for commercial, industrial, or institutional land uses;

b) Five percent (5%) of the appraised value for residential and all other land uses, or the value of one hectare of land for every 500 housing units proposed to be developed, whichever is greater;

c) Five hundred dollars ($500) per lot created through consent.

3.3 The payment so required shall be paid to the County:

a) For a plan of subdivision or condominium, prior to the plan registration;

b) For a site plan, prior to the issuance of a building permit;

c) For consent, prior to final approval and receipt of the certificate confirming that all conditions have been satisfied and therefore the consent for severance has been granted and is in effect.

3.4 Determination of the value of the land for payment-in-lieu of parkland dedication shall be as follows:

a) For conveyance of parkland under Section 42 of the Planning Act, the value shall be determined as of the day before the first building permit is issued with respect of the development or redevelopment;

b) For parkland dedication requirements imposed as a condition to the approval of a plan of subdivision under Section 51.1 of the Planning Act, the value shall be determined as of the day before the day of the approval of the draft plan of subdivision.

**4. Mixed-Use Developments**

4.1 In the case of land proposed for development or redevelopment for more than one purpose, the owner shall be required to convey land at the rate applicable to the predominant proposed use of the land and all of the land proposed for development or redevelopment shall be included for the purpose of calculating the amount of land required to be conveyed.

**5. Appraisal**

5.1 To determine the Cash-in-Lieu payment required, where applicable, the landowner seeking the approval for the site plan, draft plan of subdivision or draft plan of condominium is required to submit an Appraisal Report, completed by a qualified appraiser, to the County for review. The appraiser is to be approved by the County.

5.2 The cost of the Appraisal Report shall be the responsibility of the landowner.

5.3 The Appraisal Report will be reviewed by staff and the landowner will be notified of the required payment.

## 6. Eligible Projects

6.1 Cash-in-Lieu shall only be used for eligible projects permitted by the Planning Act as further defined by this by-law.

## 7. Exemptions

7.1 Notwithstanding any other provisions of this by-law, no conveyance of land or payment of cash will be required where development or redevelopment is for the purposes of:

a) Replacement of an existing commercial, industrial or institutional building in which the increase in gross floor area of the new commercial industrial or institutional building is no greater than 50 percent of the replaced building;

b) The enlargement of an existing residential dwelling unit;

c) The construction of up to two additional residential dwelling units in an existing residential dwelling unit provided that the total gross floor area of the additional dwelling unit or the additional dwelling units combined is not greater than the gross floor area of the existing residential dwelling unit;

d) The replacement of any building or structure that is a direct result of fire or other causes beyond the control of the owner provided that no intensification or change of use is proposed;

e) Development on a lot for which cash-in-lieu of parkland has already been paid within the last 10 years;

f) Development of property owned by the municipality.

## 8. Delegation of Authority

8.1 Subject to the provisions above, Council hereby delegates authority to the Chief Administrative Officer, General Manager of Financial & Data Services, Treasurer, and the General Manager of Community & Development Services to establish budgets, access Cash-in-Lieu funds, and approve expenditures of Cash-in-Lieu funds for eligible projects associated with an existing park or for the creation of a new park that is not associated with the development review process.

## 9. Enactment

9.1 That this by-law comes into force and effect on the date of its passing.

READ a first and second time this 16th day of May, 2022.

READ a third time and finally passed this 16th day of May, 2022.

DEPUTY MAYOR

CLERK