

THE CORPORATION OF THE TOWN OF ERIN Office Consolidation

By-Law #22-41

(Amended by By-law 23-04)

A By-law to require the conveyance of land or payment of cash-inlieu of parkland for public park or other public recreational purposes (Parkland Dedication By-law)

For Reference Purpose Only. Not a legal document/By-law.

Whereas Sections 42, 51.1 and 53 of the *Planning Act*, R.S.O. 1990, Chapter P. 13, as amended, provides that the Council of a local municipality may by by-law require that land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of lands;

And Whereas Sections 42(6) and 51.1(2) of the Act provide for payment of money in lieu of the conveyance of land;

And Whereas the Council for the Corporation of the Town of Erin has adopted policies within its Official Plan regarding the provision of parkland dedication requirements or cash-in-lieu thereof to the Town as a condition of development or redevelopment, as referred to in the Act;

And Whereas the Council for the Corporation of the Town of Erin deems it to be appropriate and in the public interest to enact a by-law to provide for the provision of lands for park or other public recreational purposes and the use of alternative requirements, pursuant to Section 42 of the *Planning Act*.

Now therefore, the Council of the Corporation of the Town of Erin Enacts as Follows:

1. That By-law No. 13-40, is hereby repealed in its entirety.

Geographic Applicability:

2. That By-law 22-41 applies to all land within the territorial limits of the Corporation of

the Town of Erin.

Definitions:

- 3. The following definitions apply in this By-law:
 - a. "Act" means the *Planning Act*, R.S.O. 1990, c.P.13, as amended.
 - b. "Agricultural use" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use.
 - c. "Bona fide farm uses" means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Ontario Property Assessment Corporation.
 - d. "Building Permit" means a building permit issued pursuant to the Ontario Building Code Act, as amended.
 - e. "Cash-in-lieu" means a payment of money for park or other public recreational purposes which is collected in lieu of a conveyance of land which would otherwise be required to be conveyed pursuant to the parkland provisions of the *Planning Act* as incorporated into this by-law.
 - f. "Commercial" 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 the effect of increasing the size of usability thereof, and includes redevelopment.
 - g. "Consent" means the process referred to in Section 53 of the Act.
 - h. "Development", which includes redevelopment, 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, or the laying out and establishment of a commercial parking lot, or the creation of dwelling units, or any application that requires approval under the *Planning Act*.
 - "Dwelling unit" means 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.
 - j. "Environmental Lands" means lands designated Core Greenlands and Greenlands by the County of Wellington Official Plan, or lands that are determined by a subwatershed study or environmental impact study to contain features and areas of sensitivity or significance which would be included in the Core Greenlands and Greenlands designation.

- k. **"Existing"** means the number, use and size that existed as of the date this by-law was passed.
- I. "Industrial" means 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, 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" means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable (registered in accordance with the Income Tax Act), educational or benevolent objectives and not for profit or gain.
- n. "Mixed Use" means the use of land, buildings and structures intended and designed to contain both residential and non-residential uses within the same building or on discrete portions of the same property.

Amended by By-law 23-04

- o. "Net Residential Units" shall be determined by subtracting the number of residential units on the land immediately before the proposed development or redevelopment from the number of residential units that will be on the land after the proposed development or redevelopment.
- p. "Gross Floor Area" has the same meaning as in the Town of Erin's Development Charges By-law 19-32, as amended or replaced.
- q. "Land area" means a legal land parcel, including the portion of land which is to be conveyed for park purposes, but shall not include: stormwater management areas; lands identified for future road widenings; lands identified for future burying of hydro or related utility facilities; floodplain lands; natural heritage features and hydrologic features identified in the *Town* Official Plan or Zoning By-Law; natural heritage features and hydrologic features identified by a required Environmental Impact Study; or floodplain lands.
- r. "Official Plan" means the Official Plan for the Town of Erin, as amended from time to time.
- s. "Owner" means the registered owner of the land to be developed, redeveloped, or subdivided.
- t. "Public Use" means the use of lands for public purposes by a public authority including a Federal, Provincial, County or municipal government or a publicly-funded school, college or university.
- u. "Redevelopment" shall have the same meaning as *Development*.
- v. "Residential use" means the use of a building or structure or portion thereof for one or more dwelling units. This also includes a dwelling unit on land that is used for an agricultural use.

- w. "Subdivision" means the process referred to in Section 51 of the Act.
- x. "**Town**" means the corporation of the Town of Erin or the land within the geographic limit of the corporation of the Town of Erin as the context requires.

Parkland Dedication Requirements:

- 4. As a condition of development or redevelopment of lands, including by way of site plan, provisional consent or draft plan of subdivision, (collectively or individually the "Development Approval") Council hereby requires that land be conveyed to the Town for park or other public recreational purposes (collectively "Parkland") in an amount not exceeding:
 - a. in the case of lands proposed for Development Approval for a commercial use or an industrial use, two percent (2%) of the lands that are the subject of the Development Approval;
 - b. in the case for all other development, five percent (5%) of the lands that are the subject of the Development Approval;
- Amended by By-law 23-04
- 5. As an alternative to requiring a conveyance in the case of lands proposed for Development Approval for a residential use, the Town, in its sole discretion, may require that Parkland be conveyed to the Town at a rate of 1 hectare (2.471 acres) for each 600 net dwelling units proposed. The number of existing residential units is excluded from the parkland dedication requirements.
 - 6. The alternative requirement may not be imposed unless the Town's Official Plan, or any amendment thereto, contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement.
 - 7. The alternative requirement shall not require a conveyance or payment in lieu that is greater than:

Amended by By-law 23-04

- a. 10 per cent of the land or value of the land for land that is five hectares or less in area; and
- b. 15 per cent of the land or value of the land for land that is greater than 5 hectares in area
- 8. Where a single parcel of land is proposed for two or more uses, the rate for each use shall be applied in the same proportion as the area of the lands subject to the Development Approval proposed to be devoted to each of the uses.
- 9. The location and configuration of the Parkland required to be conveyed within lands subject to Development Approval shall be at the sole discretion of the Town and all such conveyances shall be free of all encumbrances; and in a condition satisfactory to the Town and in accordance with the requirements of the Town's Official Plan and other policies respecting the acquisition of real property.

- a. The conveyance of the following lands shall not be considered a conveyance of Parkland for the purposes of this By-law:
 - natural heritage features, hydrologically sensitive features, or the associated vegetation protection zones/buffer areas, as defined by a Conservation Authority or in the County or Town's Official Plan or any amendments thereto;
 - ii. utility or hydro right-of-ways or easements;
 - iii. stormwater management facilities;
 - iv. remnant vista parcels and pedestrian pathways;
 - v. lands unsuitable for park or other public recreational purposes due to size, configuration, road frontage, topography, soil condition or other like matters, as determined by the Town.
- b. The Town may require that a Record of Site Condition be filed in respect of the property prior to accepting the conveyance of a portion of the Land for Parkland required under this By-law.

Determination of Parkland Dedication:

10. The amount of land or payment in lieu required for applications made on and after November 28, 2022 pursuant to this By-law, shall be determined as follows:

Amended by By-law 23-04

- a. the day an application for an approval of development in a site plan control area is made:
- b. if 10.a. does not apply, the day an application for an amendment to a bylaw based under 34 of the Planning Act is made; or
- c. if neither 10.a or 10.b applies, the day a building permit was issued, or if more than one building permit is required, the day the first permit was issued.
- 11. If a development was subject to more than one application referred to in Section 10.a. and 10.b., the later one is deemed to be the applicable application for the purposes of determining parkland dedication.
- 12. Section 10.a. and 10.b. does not apply where on the date the first building permit is issued, is more than two years since the application referred to in Section 10.a. and 10.b. was made.

Timing of Conveyance:

13. The conveyance of land for public park or other public recreational purposes pursuant to this By-law, shall be required as follows:

- a. As a condition of approval of a plan of **subdivision** or condominium prior to the release of the plan for registration;
- b. Prior to the approval of a description under Section 50 of the Condominium Act, R.S.O. 1990, Chapter c.76;
- c. As a condition of approval of a consent prior to release of conditions for a consent;
- d. Prior to the execution of a site plan agreement;
- e. Prior to the issuance of a building permit for land proposed for **development** or **redevelopment**; or
- f. Otherwise in accordance with the terms of an agreement entered into between the owner of the land and the **Town**.

Cash-in-Lieu of Parkland Dedication:

- 14. Unless the Town requires the conveyance of Parkland, the payment of money to the value of the Parkland otherwise required to be conveyed by this By-law (the "Cashin-Lieu") shall be required and paid.
- 15. The Town, in its sole discretion, may accept a combination of a Cash-in-Lieu and conveyance of Parkland.
- 16. Cash-in-Lieu shall be calculated at the rates set out in Schedule "A" to this By-law.
- 17. The appraised value of lands to be conveyed as Parkland shall be determined through an appraisal report prepared by a qualified land appraiser at the expense of the owner of the lands (the "Owner").
- 18. The appraisal report shall be prepared to the satisfaction of the Director of Finance and, and at the Town's sole discretion, may be subject to a peer review by another qualified land appraiser retained by the Town at the Owner's expense.
- 19. The appraisal report shall estimate the current market value of the Parkland as of the day before the day the building permit is issued, or, if more than one building permit is required, as of the day before the day the first building permit is issued. The appraisal report shall be current to within 6 months prior to:
 - a. issuance of the first building permit where the Development Approval consists of site plan approval pursuant to s. 41 of the Planning Act;
 - b. the issuance of the certificate of consent pursuant to subsection 53(42) of the Planning Act;
 - c. the date of registration of a plan of subdivision, or the first phase of a plan of subdivision where registration is to occur in multiple phases, pursuant to section 51 of the Planning Act.

- 20. Where Parkland has been conveyed or is required to be conveyed to the Town or Cash-in-Lieu has been received or will be received by the Town, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required in respect of subsequent development or redevelopment unless,
 - a. there is a change in the proposed development or redevelopment which would increase the density of development; or
 - land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes.
- 21. Where additional Parkland is required, any previous conveyance of Parkland or payment of Cash-in-Lieu shall be appropriately credited against the calculation of Parkland or Cash-in-Lieu otherwise required in connection with the Development Approval for the subsequent development or redevelopment.

Reductions and Exemptions:

22. The following is a list of developments exempt from the parkland dedication requirements:

Amended by By-law 23-04

- a. Non-profit housing development, as defined in the *Development Charges Act*.
- b. The creation of a second residential unit in a detached house, semidetached house or rowhouse; and a residential unit in a building or structure, which includes a garden suite, ancillary to a detached house, semi-detached house or rowhouse; or a residential unit in a building or structure, which includes a garden suite, ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land which has no more than two residential units.
- 23. The Town may consider a reduction and/or an exemption from Parkland and/or Cashin-Lieu requirements of this By-law for a Development Approval with respect to:
 - a. A public service facility, as defined in the Provincial Policy Statement applicable to a Development Approval.
 - b. A Development Approval for residential uses that include affordable housing as defined in the Provincial Policy Statement applicable to the Development Approval, and group homes as defined by the Town zoning by-law.

Amended by By-law 23-04

- c. The expansion of an existing commercial or industrial building by 50% where the size of the lot upon which the existing building is located is not increased.
- d. Non-residential buildings or structures used for an agricultural purpose;

	e.	A temporary building or structure, excluding a second dwelling, required for arm help.	
Passed in Open Council on September 8, 2022.			
			Mayor, Allan Alls
			Clerk, Lisa Campion
			Cierk, Lisa Campion

SCHEDULE "A" TO BY-LAW NO. 22-41

PARKLAND DEDICATION REQUIREMENTS **DEDICATION**

2% of Land Area

CASH-IN-LIEU

2% of Appraised Value

land uses 2. All land uses other than The higher of: The higher of: Amended by commercial or industrial 5% of Land Area; or 5% of Appraised Value; 1ha per 600 net or residential units* 1ha per 1000 net residential units* 3. Each additional lot created N/A 5% of Appraised Value through consent (subject or remainder) for which a residential dwelling unit is or will be permitted 4. Each additional N/A 5% of Appraised Value permanent residential

CATEGORY 1. Commercial or industrial

dwelling not provided through amendment to Section 4.25 of Zoning Bylaw 07-67, as amended.

By-law 23-04

^{*} Subject to the provisions within Section 7.