

The Corporation of the Township of Guelph/Eramosa

By-law Number 96/2017

A By-law to require the conveyance of land for park or other public recreational purposes, as a condition of the development or redevelopment of land in the Township of Guelph/Eramosa

WHEREAS sections 42, 51.1 and 53 of the Planning Act, R.S.O. 1990 provide 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(3) of the Planning Act, R.S.O. 1990 provide that the Council of a local municipality may require the payment of money in lieu of accepting a conveyance;

NOW THEREFORE the Council of the Corporation of the Township of Guelph/Eramosa enacts as follows:

1. Definitions

- 1.1 **Township** means the Township of Guelph/Eramosa.
- 1.2 **Council** means the Council of the Township.
- 1.3 **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.
- 1.4 **Environmental Features** means land of the natural environment, including but not limited to:
 - Significant habitat of endangered species or threatened species;
 - Fish habitat;
 - Wetlands;
 - Life Science Areas of Natural and Scientific Interest;
 - Significant valleylands;
 - Significant woodlands;
 - Significant wildlife habitat;
 - Sand barrens, savannahs and tallgrass prairies;
 - Alvars;
 - Permanent and intermittent streams;
 - Lakes (and their littoral zones);
 - Environmentally Significant Discharge Areas and Environmentally Significant Recharge Areas; and
 - Regional Recharge Areas.
- 1.5 **Gross Land Area** means the total area of all lands that are the subject of a development or redevelopment application.
- 1.6 **Mixed-Use** means the use of land, buildings or structures intended and designed to contain both residential and non-residential uses within the same building or on discrete portions of the same site.

1.7 **Net Land Area** means the Gross Land Area minus the area of any Environmental Features and associated buffers within the Gross Land Area that are being conveyed to the Township, or other public authority, at no cost.

1.8 **Redevelopment** means the removal of a building or structure from land, the further development of the land, or the substantial renovation of a building or structure and a change in the use or density of the use in connection therewith.

2. Areas and Uses to which this By-law is Applicable

2.1 This By-law shall apply to all lands within the Township of Guelph/Eramosa.

3. Parkland Dedication Requirements

3.1 As a condition of development or redevelopment of land anywhere in the Township, the conveyance of land for park purposes shall be required as follows:

3.2 Residential and Institutional Uses

3.2.1 Residential Development or Redevelopment shall convey parkland at a rate of five percent (5%) of the Net Land Area.

3.2.2 Residential Redevelopments that increase the number of units shall provide for a dedication based on the number of new units and the applicable rate set out in the Township's Fee By-law.

3.2.3 Institutional Development or Redevelopment shall convey parkland at a rate of five percent (5%) of the Net Land Area.

3.2.4 For Redevelopment, addition, expansion, or extension of an existing Institutional Development, and where parkland was previously conveyed or cash-in-lieu of parkland was previously paid, the required conveyance of land shall be determined by applying the rate in Section 3.2.3 prorated proportionally to the additional Building Floor Area as a percentage of the total Building Floor Area of the development.

3.2.5 In the case of the conversion of land originally used for Commercial or Industrial purposes to Residential or Institutional purposes, parkland shall be conveyed as per the applicable rates in Section 3 of this By-law (or Appendix 'A') minus any parkland previously conveyed or cash-in-lieu of parkland previously paid.

3.3 Commercial or Industrial Uses

3.3.1 Commercial or Industrial Development or Redevelopment shall convey parkland at a rate of two percent (2%) of the Net Land Area. For the purposes of this By-law, Agricultural uses shall be considered Industrial uses and shall be subject to the provisions that apply to Industrial uses.

3.3.2 For Redevelopment, addition, expansion, or extension of an existing Commercial or Industrial Development, and where parkland was previously conveyed or cash-in-lieu of parkland previously paid, the required conveyance of land shall be determined by applying the rate in Section 3 prorated proportionally to the additional Building Floor Area as a percentage of the total Building Floor Area of the development.

3.3.3 In the case of the conversion of land originally used for Residential or Institutional purposes to Commercial or Industrial purposes, parkland shall be conveyed as per Section 3.3 of this By-law minus any parkland previously conveyed or cash-in-lieu previously paid.

3.4 Mixed-Use

3.4.1 In the case of a Mixed-Use Development or Redevelopment, the residential component of the conveyance shall be determined in accordance with Section 3.2 of this By-law. The commercial component of the conveyance shall be determined in accordance with Section 3.3 of this By-law. Both rates will be based on the Net Land Area prorated proportionally to the Building Floor Area allocated to each use.

4. Condition of Land for Conveyance

4.1 Lands conveyed to the Township for park or other recreational purposes shall be conveyed in a condition satisfactory to the Township, free and clear of all encumbrances unless otherwise agreed to by the Township, meeting minimum standards in terms of drainage, grading and site conditions.

4.2 The Township will not consider any land that has been or is to be conveyed to the Township for stormwater management facilities, for flood plain or conservation purposes, for highways, roadways, walkways, servicing or other non-parkland purpose, as contributing towards the required parkland dedication.

4.3 The Township retains the right not to accept the conveyance of any land that is considered by the Township to be unsuitable for park or other public recreation purposes and without restricting the generality of the foregoing, land having any of the following features:

4.3.1 Environmental Features;

4.3.2 Hazardous or flood prone lands;

4.3.3 Steep or unstable slopes;

4.3.4 Where the location and configuration of the lands are constrained or undesirable as determined by the Township;

4.3.5 Any lands having unsuitable or unstable soil conditions;

4.3.6 Utility rights-of-way or easements, including but not limited to hydro, gas, cable and telecommunications;

4.3.7 Lands that are contaminated or are suspected of being contaminated;

4.3.8 Any land containing an easement, encumbrance, or right-of-use that limits or restricts the Township's use of the land; or

4.3.9 Lands that are within or form part of a stormwater management facility.

4.4 Where it has been determined by the Township that the lands to be conveyed have been physically disturbed by the dumping of debris, unconsolidated fill or other refuse, or by stripping the topsoil or by any other means or works, the owner shall be responsible for restoring the land to a condition satisfactory to the Township before the Township accepts such lands.

4.5 Any legal or administrative costs associated with the conveyance of land as per this By-law shall be the responsibility of the transferor.

5. Cash-in-Lieu of Parkland

- 5.1 At the discretion of the Director of Parks and Recreation or his/her designate, a payment of money, in lieu of the conveyance of some or all of the land for park purposes referred to in Section 3, may be required equal to the value of the lands otherwise required to be conveyed.
- 5.2 Without restricting any right of the Township, cash-in-lieu of land for park purposes may be generally considered:
- 5.2.1 Where there is no land that is either usable or functional on the site for parkland or recreational purposes, as determined by the Township;
- 5.2.2 Where the required land dedication fails to provide an area of suitable shape, size or location for public parkland, as determined by the Township;
- 5.2.3 Where the required dedication of land would render the remainder of the site unusable or impractical for development or redevelopment, as determined by the Township;
- 5.2.4 Where the Township has identified land in a preferred location that is to be acquired by the Township;
- 5.2.5 Where the area being developed or redeveloped is already well served by existing park and recreational facilities, as determined by the Township.

6. Previous Parkland Dedication or Cash-in-lieu Payment

- 6.1 In determining the amount of land required to be conveyed or the cash-in-lieu equivalent pursuant to Sections 3 and 5, the amount shall be reduced by any previous parkland conveyance or cash-in-lieu payment made to the Township.
- 6.2 For Residential Development or Redevelopment, including the residential component of Mixed-Use Developments, the amount owing shall be reduced by a percentage equal to the number of units that existed on the site at the time of previous parkland conveyance or cash-in-lieu payment divided by the number of units in the new Development or Redevelopment.
- 6.3 For Institutional, Commercial and Industrial Development or Redevelopment, including components of Mixed-Use Developments, the amount owing shall be reduced by a percentage equal to the gross floor area that existed on the site at the time of previous parkland conveyance or cash-in-lieu payment divided by the gross floor area of the new Development or Redevelopment.

7. Valuation

- 7.1 Where the payment of cash-in-lieu of parkland conveyance is required, the value of the payment shall be in accordance with the rates set out in the Township's Fee By-law and Attachment 'A' to this By-law. If an owner or applicant wishes to dispute the Township's rate, they may obtain, at their own cost, an appraisal

from an accredited real-estate appraiser. The Township may accept the alternate appraisal, or negotiate a mutually acceptable compromise.

7.2 The rates set out in the Township's Fee By-law shall be adjusted from time to time, by the Township. Such periodic updates shall occur at intervals not exceeding five years.

8. Timing

8.1 Title for the land to be conveyed or the payment of cash-in-lieu thereof for any development or redevelopment under Section 42 of the Planning Act, R.S.O. 1990, as amended, shall be received by the Township prior to the issuance of any building permit for the proposed development or redevelopment.

8.2 Title for the land to be conveyed or the payment of cash-in-lieu thereof shall be received by the Township in accordance with the conditions of approval of a plan of subdivision pursuant to Section 51 of the Planning Act, R.S.O. 1990, as amended or the conditions of provisional consent pursuant Section 53 of the Planning Act, R.S.O. 1990, as amended.

9. Exemptions

9.1 No conveyance of land or payment of cash-in-lieu of such conveyance is required in the case of development or redevelopment of:

9.1.1 A building that was accidentally damaged or demolished by fire or other natural causes and where:

9.1.1.1 The building is repaired or replaced and re-occupied before the expiry of two years; and

9.1.1.2 The building continues to be used for the same purpose after it is repaired, replaced or rebuilt.

9.1.2 Council may opt to exempt Federal, Provincial or Municipal development from the requirements for parkland dedication.

9.1.3 Other uses as determined by Council upon the request of the applicant.

10. Effective Date of Applications

10.1 The provisions of the By-law shall take effect and will apply in regard to applications which:

10.1.1 Have not been deemed complete by the Township, Chief Building Official or the County of Wellington prior to the enactment of this By-law, in the case of consent, subdivision or building permit applications;

10.1.2 Have not been given final approval by the Township prior to the enactment of this By-law, in the case of Site Plan applications;

10.1.3 Are submitted after the enactment of this By-law;

10.1.4 The Township will honour development agreements that were executed prior to the passing of this By-law, with respect to parkland dedication requirements

provided the development does not change from that which is described in the agreement.

11. Administration

11.1 The administration of this By-law and the determination of the application of this By-law shall be made by the Township's Director of Parks and Recreation or his/her designate.

12. By-law Repeals

12.1 By-laws 40/2002 and 29/2017 are hereby repealed.

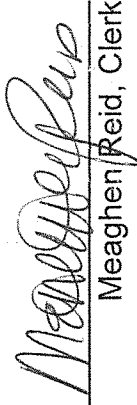
13. Implementation

13.1 This By-law shall come into force and effect on the date of its passage.

READ three times and finally passed
this **18th** day of **December, 2017**.



Chris White, Mayor



Meaghan Reid, Clerk

APPENDIX 'A' – VALUATION

Residential: as per the Township's Fee By-law

Commercial: 2% of the value of the land, as determined by an independent accredited real estate appraiser

Industrial: 2% of the value of the land, as determined by an independent accredited real estate appraiser

Institutional: 5% of the value of the land, as determined by an independent accredited appraiser

Valuation

The value of the land shall be determined:

- As of the day before the granting of draft approval for development by way of plan of subdivision;
- The day before the granting of provisional consent for a consent application; or
- As of the day before the issuance of a building permit for a development or redevelopment approved under Section 42 of the Planning Act, R.S.O. 1990, as amended. Where more than one building permit is required for the development or redevelopment, the value shall be determined as of the day before the day the first permit is issued.