

## THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

### BY-LAW NUMBER 2765 –16

Being a By-law to require the conveyance of land for park or other recreational purposes or the payment of cash-in-lieu thereof, as a condition of the development or redevelopment of land.

**WHEREAS** Sections 42, 51.1 and 53 of the *Planning Act*, as amended, provide that, as a condition of the development or redevelopment of land, the Council of a local municipality may, by by-law, or as a condition of the approval of a plan of subdivision, or as a condition of the giving of a provisional consent, require that land be conveyed to the municipality for park or other public recreational purposes;

**AND WHEREAS** the Council of The Corporation of the Township of North Dumfries considers it desirable to enact a by-law in accordance with the provisions of the *Planning Act* for the purposes of acquiring parkland and/or cash-in-lieu of parkland for the purposes of providing enhanced parkland and/or recreational facilities for the use and enjoyment of the residents of the Township of North Dumfries;

**NOW THEREFORE** the Council of The Corporation of the Township of North Dumfries enacts as follows:

#### 1.0 Definitions and Interpretations

##### 1.1 In this By-law:

- a) "*Agricultural or farm purposes*" means the use of land, buildings or structures that are used for the purposes of or in conjunction with animal husbandry, the growing of crops including grain and fruit, market gardening, horticulture or any other use that is customarily associated with a farming operation of a bona fide farmer;
- b) "*Bona fide farmer*" means an individual or corporation currently actively engaged in a farm operation with a valid Farm Business Registration Number in the Township and the primary income of that individual or corporation is established through agricultural or farm purposes;
- c) "*Cash-in-Lieu*" means the payment of funds equivalent to the value of the amount of land that the Township would otherwise would have been entitled through the conveyance for park purposes as part of a development or redevelopment.
- d) "*Commercial purposes*" means the use of non-residential land, buildings or structures other than for agricultural, industrial or institutional purposes;
- e) "*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, or the layout out and establishment of a commercial parking lot;
- f) "*Industrial purposes*" means the use of land, buildings or structures used for or in connection with:
  - i) Manufacturing, producing, processing 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) Warehousing, distribution and logistics centres, transportation terminals or similar activity; or,
  - v) Office and administrative purposes if they are at the site and are directly affiliated with the manufacturing, producing, processing of something, or, the warehousing, distribution, storage and transportation of a good or material.
- g) "*Institutional purposes*" means the use of land, buildings or structures for a public or non-profit purpose including religious, charitable, educational, health or welfare purpose, and without limiting the generality of the foregoing, may include such uses as schools, hospitals, places of worship, recreational facilities, community centres and government buildings;
- h) "*Mixed use*" means land, buildings or structures used or designed or intended to be used for a combination of residential uses and non-residential uses;
- i) "*Redevelopment*" means the removal land, buildings or structures from land and the further development of the land or, the expansion or renovation of a building or structure which results in a change in the character or density of use in connection therewith;
- j) "*Residential purposes*" means land, buildings or structures used or designed or intended to be used as a dwelling or residence of one or more persons;
- k) "*Township*" means The Corporation of the Township of North Dumfries.

## **2.0 Parkland Dedication**

- 2.1 As a condition of development or redevelopment of land, the Township shall require the conveyance of land for park or other public recreational purposes as follows:
- a) In the case of lands proposed for residential purposes, at a rate of five percent (5%) of the gross area of the land to be developed or redeveloped;
  - b) In the case of lands proposed for commercial and industrial purposes at a rate of two percent (2%) of the gross area of the land to be developed or redeveloped;
  - c) In the case of lands proposed for institutional purposes at a rate of five percent (5%) of the gross area of the land to be developed or redeveloped;
  - d) In the case of a mixed use development or redevelopment, the rate applicable shall be that which yields the maximum parkland dedication.
- 2.2 The location, grades, site servicing requirements and configuration of the land required to be conveyed, shall be determined by and at the discretion of the Township. All conveyances shall be free and clear of any and all encumbrances.
- 2.3 Lands to be conveyed to the Township for park purposes shall be graded, serviced, topsoiled, seeded and fenced to the specifications and satisfaction of the Township.
- 2.4 The Township will not accept as part of the parkland conveyance calculation window street view and vista corridors, walkway blocks and/or lands that are designated as environmentally sensitive.

**3.0 Cash-in-Lieu of Parkland Dedication**

- 3.1 As an alternative to the conveyance of land, the Township may require, at its discretion, the payment of cash equivalent to the value of the lands otherwise required to be conveyed under this by-law, or a combination of land and cash.
- 3.2 The payment of the cash-in-lieu of parkland dedication is applicable under the authority of Sections 51(25), 53(12) or 42(1) of the *Planning Act* as a result of development or redevelopment of property through applications received and approvals conferred by the Township for Plans for Subdivisions / Condominiums (Section 51.1), Consents (Section 53) and/or Site Plan Control (Section 41)
- 3.3 The calculation of cash will be determined, at the discretion of the Township, through one of the following methods:
  - a) The submission of a current appraisal conducted by a qualified individual; or,
  - b) In the case of a consent application, based upon the value or rate as established in the Township's Fee By-law.
- 3.4 In the case of a mixed use development or redevelopment, the rate applicable shall be that which yields the maximum cash value.
- 3.5 In the case of industrial, institutional or commercial building expansions greater than 50% of the gross floor area of the existing building, the amount of cash in respect of the expansion shall be calculated on the amount by which the expansion exceeds 50% of the gross floor area of the existing industrial or commercial building before the expansion.
- 3.6 In the case of industrial, institutional or commercial building replacements greater than 50% of the gross floor area of the replaced building, the amount of cash in respect of the replacement shall be calculated on the amount by which the replacement exceeds 50% of the gross floor area of the replaced industrial, institutional or commercial building before the replacement.
- 3.7 For the submission of current appraisals, the determination of value shall be made in accordance with the provisions of the *Planning Act* and this By-law.
- 3.8 Funds received by the Township shall be directed to the Cash-in-Lieu of Parkland Reserve Account.
- 3.9 If cash-in-lieu payments are a condition of development or redevelopment as determined by the Township, the valuation shall be determined by a qualified individual through the completion of an appraisal. The valuation of the cash-in-lieu payment shall be calculated in a manner consistent with the provision of Section 42 (6.4) of the *Planning Act*. Therefore the value of the land shall be determined as of the day before the day the building permit issued in respect of the development or redevelopment, as of the day before the day the first permit is issued.
- 3.9 In accordance with Section 42(6) of the *Planning Act* no person shall construct a building or structure on the land proposed for development or redevelopment unless the payment has been made or arrangements for the payment that are satisfactory to the Council have been made.
- 3.10 The Treasurer on an annual basis shall report to Council the Year End Opening and Year End Closing Valuations of the Cash-in-Lieu of Parkland Reserve Account, and, the valuation of transactions (deposits / withdrawals) that have occurred within the Year.

#### 4.0 Prior Conveyance and Payments

- 4.1 If land or cash has previously been provided to the Township for park or other public recreation purposes, no additional conveyance of land or the payment of cash-in-lieu will be required, with the exception of the following:
- a) Where land, originally proposed or utilized for commercial, industrial or institutional development or redevelopment, is now proposed for development or redevelopment for other purposes. The amount of land and/or cash will be determined in accordance with Sections 2.0 and 3.0 of this By-law. No credit for or refunds of previously paid cash will apply; and,
  - b) Where land, originally proposed or utilized for residential development or redevelopment, is now proposed for development or redevelopment for a greater dwelling unit yield or density. The amount of land and/or cash will be determined in accordance with Sections 2.0 and 3.0 of this By-law. No credit for or refunds of previously paid cash will apply.

#### 5.0 Exemptions

- 5.1 Notwithstanding any other provisions of this by-law to the contrary, no conveyance of land or payment of cash will be required where the development or development is for the purposes of:
- a) Additions and/or alterations to any commercial, industrial or institutional building that is equal to or less than 50% in gross floor area of the existing building;
  - b) Replacement of an existing commercial, industrial or institutional building in which the increase in gross floor areas is no greater than 50% of the replaced building;
  - c) The enlargement of an existing residential dwelling unit
  - d) 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 space or the additional dwelling units combined is not greater than the gross floor area of the existing dwelling unit;
  - e) The addition of a garden suite as a temporary use as permitted under Section 39.1 of the *Planning Act*;
  - f) Land, buildings or structures developed or redeveloped by and used for the purposes of:
    - i) A board as defined in Subsection 1(1) of the *Education Act*;
    - ii) A college or university that is eligible to receive funding from the government of the Province of Ontario;
    - iii) A hospital as defined in Section 1 of the *Public Hospitals Act*;
    - iv) The Ontario Provincial Police or the Waterloo Regional Police Service ;
    - v) The Township or any local board thereof;
    - vi) The Regional Municipality of Waterloo or any local board thereof; or,
    - vii) The Grand River Conservation Authority
  - g) Development or redevelopment of any land for a non-residential agricultural building or structure, used for agricultural or farm purposes by a bona fide farmer;

- h) 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;
- i) A temporary building or structure, provided such building or structure is in existence for a period of time not longer than eight (8) months in duration;
- j) Unoccupied industrial buildings or structures having exterior walls and/or roof, up to a maximum gross floor area of 700 m<sup>2</sup>;

**6.0 General Provisions**

- 6.1 All study, survey, appraisal and legal costs, associated with the conveyance of lands and the payment of cash, shall be at the expense of the Owner.
- 6.2 In the event that any provision, section or part of a section of this By-law is declared invalid by a court or tribunal of competent jurisdiction, it is the intention of Council that the remainder of the by-law will continue to operate in full force and effect.
- 6.3 This By-law shall come into force and effect on May 3<sup>rd</sup>, 2016.

This By-law being read a first and second time this 2<sup>nd</sup> day of May, 2016

This By-law being read third time and passed this 2<sup>nd</sup> day of May, 2016

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Acting Clerk  
*Debra*