

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 2022-149

**A BY-LAW TO REQUIRE THE CONVEYANCE OF LAND FOR  
PARK OR OTHER PUBLIC RECREATIONAL PURPOSES AS  
A CONDITION OF DEVELOPMENT OR REDEVELOPMENT  
OR THE SUBDIVISION OF LAND**

WHEREAS Section 42 of the Planning Act 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 of lands;

AND WHEREAS Subsection 42(3) of the Planning Act provides for an alternate land conveyance rate of one hectare for each three hundred dwelling units proposed for development provided the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purposes at such rate;

AND WHEREAS subsection 42(6.0.1) of the Planning Act permits the City to require a payment in lieu of land to be conveyed, calculated by using a rate of one hectare for each 500 dwelling units proposed, or such lesser rate as may be determined by the City;

NOWHEREAS the Council of the City of Welland wishes to use these provisions to acquire land and cash to be used for park or other public recreational purposes;

NOW THEREFORE the Council of the City of Welland enacts as follows:

**SECTION ONE: DEFINITIONS**

- 1.1. "Accessory Dwelling Unit" as defined in By-law No. 2017-117 or its successor.
- 1.2. "City" means the Corporation of the City of Welland.
- 1.3. "Development" for the purposes of this By-law, 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 establishing of a commercial parking lot.
- 1.4. "Dwelling Unit" as defined in By-law No. 2017-117 or its successor.
- 1.5. "Gross Land Area" means the total area of all lands contained in the subdivision plan or development or redevelopment application including lands subject to easements.
- 1.6. "Natural Heritage Feature" as defined by the City's Official Plan.
- 1.7. "Net Land Area" means the "Gross Land Area" minus any storm water management facilities to be conveyed to the City, major utility corridors and easements and any "Natural Heritage Features". Notwithstanding the above, where water services, wastewater services, public roads, private roads and/or parking lots are located within the major utility corridor/easement or the "Natural Heritage Features", the respective portion of the lands where the improvements are located are included as part of the Net Land Area.
- 1.8. "Owner" means the registered owner of the land proposed for development or redevelopment.
- 1.9. "Redevelopment" for the purposes of this By-law, means the removal of a building or structure from land and the further development of the land, the substantial renovation of a building or structure, and a change in the use, character or the density of the use in connection therewith.
- 1.10. "Waterfront" means a parcel of land that has direct access to a natural or man-made waterway. For the purposes of this By-law a natural or man-made waterway

shall mean the Welland River, Welland Recreational Canal, Welland Shipping Canal. and Lyons Creek.

## **SECTION TWO: PARKLAND CONVEYANCE**

2. As a condition of the development or redevelopment of land, the owner of the land shall convey to the City for park or other public recreational purposes:
  - 2.1. In the case of land proposed for development or redevelopment for commercial purposes, land in the amount of two percent (2%) of the Net Land Area to be developed or redeveloped;
  - 2.2. In the case of land proposed for development or redevelopment for residential purposes:
    - 2.2.1. Five percent (5%) of the Net Land Area proposed to be developed or redeveloped; or
    - 2.2.2. Alternatively, at a rate of one (1) hectare of the Net Land Area for each 300 dwelling units proposed for development or redevelopment.
  - 2.3. In the case of land proposed for development or redevelopment for a use other than those referred to in Section Two of this By-law, land in the amount of five percent (5%) of the land within the Net Land Area to be developed or redeveloped.
  - 2.4. Where a development or redevelopment will include a mix of uses, the area of the land required to be conveyed to the City for Parkland purposes shall be determined in accordance with whichever single requirement of this Section will result in the greatest total area of the Land being required to be conveyed to the City for park or recreational purposes.
  - 2.5. In the case of lands proposed for residential expansion, the City will require parkland dedication based on the proportion of the number of proposed additional dwelling units to the total number of units after development.
  - 2.6. In the case of lands proposed for commercial, institutional and other non-residential expansion, including a building addition or construction of additional free standing buildings, where no land has been previously dedicated, the City will require parkland dedication based on the proportion of the floor area of the new building addition to the total floor area after development.

## **SECTION THREE: REDEVELOPMENT**

- 3.1. Further to the expansions described above in Section Two, redevelopment may involve a conversion of existing space to another use, a change of density of an Existing Use/space, or the demolition of existing space and construction of new replacement floor space. The same principles apply as noted above with regard to prorating new or converted space or dwelling units to the total floor space or number of dwelling units after construction.
- 3.2. Land or cash-in-lieu required to be conveyed or paid for park or other public recreational purposes pursuant to this by-law shall be reduced by the amount of land or cash-in-lieu previously received by the City pursuant to Section 42 of the Planning Act in respect of the lands being developed or redeveloped.

## **SECTION FOUR: LOCATION OF PARKLAND**

- 4.1. The location and configuration of land required to be conveyed shall be at the sole discretion of the City and all such conveyances shall be free and clear of all encumbrances.
- 4.2. Any conveyance or dedication of Natural Heritage Features, environmental buffer lands, walkways and trails not shown on the City's Trails Master Plan, major utility corridors and easements, floodplain or storm water management facilities are not to be considered a conveyance for park or other recreational

purpose. The City will accept the conveyance of these lands for preservation purposes.

**SECTION FIVE: CASH-IN-LIEU OF PARKLAND DEDICATION**

- 5.1. In lieu of the conveyance of land under this By-law, the City may require the payment of money to the value of the land otherwise required to be conveyed under this By-law, or a combination of land and money
- 5.2. Cash-in-lieu of parkland dedication for Residential Uses shall be fixed at the following dollar amounts per unit, subject to indexing as described in Section 6.

| Dwelling Type                | Fixed Rate Per Dwelling Unit | Fixed Rate Per Waterfront Dwelling Unit |
|------------------------------|------------------------------|-----------------------------------------|
| Single Detached Dwellings    |                              |                                         |
| Up to 11.99 m lot frontage   | \$9,500.00                   | \$16,250.00                             |
| 12 m to 14.99 m lot frontage | \$11,500.00                  | \$18,250.00                             |
| 15 m to 17.99 m lot frontage | \$13,250.00                  | \$20,000.00                             |
| 18 m or greater lot frontage | \$15,000.00                  | \$21,750.00                             |
| Two Unit Dwellings           | \$7,500.00                   | \$14,250.00                             |
| Street Townhouse Dwellings   | \$4,750.00                   | \$11,500.00                             |
| Multiple Dwellings           | \$3,000.00                   | \$4,750.00                              |
| Apartment Dwelling Unit      | \$1,500.00                   | \$3,300.00                              |

- 5.3. Notwithstanding 5.2, the City retains the right to require cash-in-lieu of parkland dedication for Residential Uses at the alternative rate of one (1) hectare per 500 Dwelling Units.
- 5.4. The City will use the following land values per hectare to determine the alternative dedication rate for cash-in-lieu of parkland dedication, subject to indexing as described in Section 6:

**Value of Land for Alternative Dedication Rate Calculations**

|                            |                     |
|----------------------------|---------------------|
| Low Density Development    | \$1,800,000/hectare |
| Medium Density Development | \$3,200,000/hectare |
| High Density Development   | \$3,900,000/hectare |

- 5.5. To determine the cash-in-lieu value of land for Commercial, Institutional, and other non-residential uses, the value of the land for which payment is being made in lieu of a conveyance shall be established by way of an appraisal of the fair market value of the land by a certified property appraiser. The appraisal shall be obtained by the City.

**SECTION SIX: INDEXING**

6. Without an amendment to this By-law, the fixed rates and land values referred to in Sections 5, starting the year following the year this By-law is passed, shall be the result, rounded to the nearest five dollars, of a review undertaken by an independent certified property appraiser on an bi-annual basis to ensure that all values listed reflect the current market value.

**SECTION SEVEN: VALUATION**

- 7.1. Where the City requires the payment of money to the value of the land otherwise required to be conveyed, such payments shall be made prior to the issuance of the building permit for the land to be developed or redeveloped
- 7.2. The value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first building permit.

7.3. The value of land referenced in Subsection 7.2 shall be determined using the values referenced in Section 5.

#### **SECTION EIGHT: PREVIOUS LAND DEDICATION OR CASH-IN-LIEU**

8.1. Land or cash-in-lieu equivalent required to be conveyed to the City for park or other public recreational purposes pursuant to this By-law shall be determined having regard to the amount of land conveyed or cash-in-lieu of parkland equivalent previously paid to the City pursuant to Sections 42 of the Planning Act and no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment will be required by the City in respect of subsequent development or redevelopment unless:

8.1.1. There is a change in the proposed development or redevelopment which would increase the density of development; or,

8.1.2. Land originally proposed for development or redevelopment for Commercial, Industrial, or Institutional purposes or uses exempted from parkland dedication is now proposed for development or redevelopment for other purposes.

#### **SECTION NINE: CONVEYANCE OVER CASH-IN-LIEU**

9.1. At its discretion, the City will opt to require conveyance of parkland over cash-in-lieu for developments and redevelopments where reasonably practical for:

9.1.1. Applications for development or redevelopment on large parcels of land including but not limited to applications for Plans of Subdivision;

9.1.2. Areas of the City where it is determined that there is need for a park or other public recreational purposes by consulting the City's Parks, Recreation, and Culture Master Plan or its successor plan, Community Trails Strategy or its successor plan, Official Plan, Northwest Welland Secondary Plan.

#### **SECTION TEN: EXEMPTIONS**

10. This by-law shall not apply to:

10.1. Development or redevelopment of land, buildings or structures owned by the City.

10.2. Development or redevelopment of land, buildings or structures owned by the Regional Municipality of Niagara.

10.3. An Accessory Dwelling Unit permitted by the City's Comprehensive Zoning By-law.

10.4. Land proposed for development or redevelopment for Industrial purposes.

10.5. Land proposed for development or redevelopment for Agricultural purposes.

#### **SECTION ELEVEN: TRANSITION**

11.1. An application for Building Permit accepted by the City's Building Division in accordance with the requirements of City of Welland Building Permit By-law 2020-140, as amended, on or prior to August 18, 2022 shall be subject to the provisions of Parkland Dedication By-law 2014 – 101.

11.2. This By-law shall come into force and By-law 2014-101 is repealed on AUGUST 19th, 2022.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL  
THIS 18TH DAY OF AUGUST, 2022.

 \_\_\_\_\_ MAYOR  
 \_\_\_\_\_ CLERK