

## THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

### BY-LAW NO. 006-2018

Being a by-law to require the conveyance of land or payment of cash-in-lieu of parkland for public park or other public recreational purposes.

**WHEREAS** Section 42, 51.1 and 53 of the *Planning Act*, R.S.O., 1990, c. 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 public 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 Official Plan for the County of Wellington contains approved policies regarding the provisions of parkland dedication requirements, as referred to in the **Act**;

**AND WHEREAS** the Council of the Corporation of the Township of Puslinch is desirous of repealing By-law 17/08 and incorporating and amending Resolution No. 2 passed at the Council meeting held on May 7, 2008;

**NOW THEREFORE** the Council of the Corporation of the Township of Puslinch hereby enacts as follows:

#### DEFINITIONS

1. For the purposes of interpretation of this by-law, the following definitions shall apply:
  - (a) “**Act**” means the *Planning Act*, R.S.O. 1990, c.P.13, as amended.
  - (b) “**Consent**” means the process referred to in Section 53 of the **Act**.
  - (c) “**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.
  - (d) “**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.
  - (e) “**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.
  - (f) “**Net Area of the Lands**” means the total area of the lands proposed for **development** or **redevelopment** less any storm water management facilities to be conveyed to the **Township** and **Environmental Lands**.
  - (g) “**Official Plan**” means the Official Plan for the County of Wellington, as amended from time to time.
  - (h) “**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.
  - (i) “**Redevelopment**” means the removal of a building or structure 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 use, character or the density of the use.

- (j) “**Subdivision**” means the process referred to in Section 51 of the **Act**.
- (k) “**Township**” means the corporation of the Township of Puslinch or the land within the geographic limit of the corporation of the Township of Puslinch as the context requires.

## **GEOGRAPHIC APPLICABILITY**

- 2. This By-law applies to all lands within the **Township**.

## **DEDICATION OF PARKLAND**

- 3. 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:
  - (a) In the case of lands proposed for **development** or **redevelopment** for residential or institutional purposes five per cent (5%) of the **Net Area of the Lands**.
  - (b) In the case of lands proposed for **development** or **redevelopment** for commercial or industrial purposes two per cent (2%) of the **Net Area of the Lands**.
  - (c) In the case of a **mixed-use development** or **redevelopment**, the component of the conveyance shall be determined in accordance with Section 3(a), (b) and (c) of this By-law. The rates will be based on the **Net Area of the Lands** prorated proportionally to the Building Floor Area allocated to each use.

## **CONDITION OF CONVEYANCE**

- 4. The location and configuration of land required to be conveyed pursuant to this By-law shall be determined by the **Township** and all such lands shall be free of all encumbrances.
- 5. Any conveyance or dedication of storm water management facilities or **environmental lands** shall not be considered a conveyance for park or other recreational purposes pursuant to the requirements of sections 3 above.

## **TIMING OF CONVEYANCE**

- 6. 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 **Township**.

## CASH-IN-LIEU OF PARKLAND

7. In lieu of requiring the conveyances referred to in sections 3 of this By-law, the **Township** may require the payment of cash for the value of the lands otherwise required to be conveyed.

## VALUATION AND APPRAISAL

8. Where the payment of cash-in-lieu of parkland conveyance is required, the owner will retain an independent accredited real-estate appraiser to provide an opinion of value, conducted to the satisfaction of **Township** staff, with all costs associated with the appraisal to be borne by the owner of the property.
9. The value of land shall be determined subject to Section 42 of the **Act**:
  - (a) 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** or **redevelopment**, as of the day of the issuance of the first building permit.
  - (b) Notwithstanding section 8, in the case of a **consent** for residential purposes, prior to 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** or **redevelopment**, as of the day of the issuance of the first building permit:
    - (i) a fixed value of \$13,500.00; or,
    - (ii) the owner has the option to retain an independent accredited real-estate appraiser to provide an opinion of value, conducted to the satisfaction of the **Township** staff, with all costs associated with the appraisal to be borne by the owner of the property.

## TIMING OF PAYMENT

10. For a **subdivision**, condominium, **consent**, site plan or building permit, cash-in-lieu of parkland shall be paid prior to the issuance of a building permit.

## PROVISIONALLY APPROVED CONSENTS

11. For **consents** provisionally approved prior to the passing of this By-law, and where a condition has been imposed requiring the payment of cash-in-lieu of parkland, cash-in-lieu of parkland shall be collected by the **Township** in the amount payable provided for in sections 8 and 9 of this By-law, or any amending By-law, and paid in accordance with the imposed condition.

## CREDIT FOR PREVIOUS CONVEYANCES

12. In accordance with Section 42(7) of the **Act**, land and/or cash-in-lieu required to be conveyed and/or paid to the **Township** for park or other public recreation purposes pursuant to this by-law shall be reduced by the amount of land or cash-in-lieu previously received by the **Township** pursuant to sections 42, 51.1 or 53 of the **Act** in respect of subsequent **development** or **redevelopment**.

## EXEMPTIONS

13. Notwithstanding any other provisions of this By-law, this By-law shall not apply to any of the following:
  - (a) Where the proposed **development** or **redevelopment**, pursuant to section 41 or 51 of the **Act**, is for a **Public Use** as defined in this By-law;

- (b) Where the **development** or **redevelopment** consists of making an addition or alteration to a residential building provided the number of dwelling units within the residential building is not increased;
- (c) Where the **development** or **redevelopment** of an existing residential, commercial, industrial, institutional or **mixed-use** building or structure if the total floor area is enlarged by not more than 50% or 230 m<sup>2</sup>, whichever is less. The area of the existing building or structure shall be calculated by reference to the first building permit which was issued in respect of the building or structure for which the exemption is sought.

**REPEAL**

- 14. By-law 17/08 is hereby repealed and incorporates and amends Resolution No. 2 passed at the Council meeting held on May 7, 2008.

**READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 24th DAY OF JANUARY, 2018.**

---

Dennis Lever, Mayor

---

Karen Landry, Clerk