



THE CORPORATION OF THE TOWNSHIP OF MULMUR

BY-LAW NO. 12 - 2023

BEING A BY-LAW TO REQUIRE THE CONVEYANCE OF LAND OR CASH-IN-LIEU OF PARKLAND FOR PARKS OR OTHER PUBLIC RECREATIONAL PURPOSES

WHEREAS sections 42 and 51.1 and 53 of the Planning Act, R.S.O. 1990, c P.13 (the 'Planning Act'), as amended, provides that local municipalities may, by by-law, require the conveyance of land or payment of money in lieu of the conveyance of land, be conveyed to the local municipality for park or other public recreational purposes as a condition of development or redevelopment of land, the subdivision of land, or the granting of provisional consent;

AND WHEREAS the Council of the Corporation of the Township of Mulmur has adopted policies within its Official Plan pertaining to the conveyance of land or cash-in-lieu thereof to the Township;

AND WHEREAS the Council of the Corporation of the Township of Mulmur desires to repeal and replace By-law 41-2018 with an updated by-law to provide for the conveyance of land and cash-in-lieu thereof for park and other public recreational purposes;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MULMUR ENACTS AS FOLLOWS:

1.0 SHORT TITLE

1.1 This By-law may be referred to as the Parkland Dedication By-law.

2.0 DEFINITIONS

Appraiser means a certified professional appraiser of real estate who is designated as an Accredited Appraiser by the Appraisal Institute of Canada (AIC), and who is a member in good standing of the AIC;

Building means a building as defined in the Ontario Building Code, O Reg. 332-12, as amended, or any successor thereto;

Building Code Act means the Building Code Act, S.O. 1992 c. 23 and includes any amendments thereto, successor legislation, and where the context requires includes precursor legislation;

By-law means the Parkland Dedication By-law;

Cash-in-lieu means a payment of money for parks and other public recreational purposes, 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;

Cemetery means land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains;

Chief Administrative Officer (CAO) means the Chief Administrative Officer as appointed by By-law for the Township of Mulmur.

Commercial Purposes means the use of non-residential land, buildings or structures for offices, sales and services, other than for Agricultural, Industrial, or Institutional purposes;

Council means the Council for the Corporation of the Township of Mulmur;

Develop means:

- a) The construction, erection or placing of one or more buildings on land;
- b) The making of an addition or alteration to a building that has the effect of substantially increasing the size by increasing the Gross Floor Area of the *building* by fifty-percent (50%) or more, or by substantially increasing the usability thereof;
- c) The addition of one or more new Dwelling Unit(s);
- d) The laying out and establishment of a commercial parking lot;
- e) The regulatory actions undertaken by the Township to carry out the approval of Planning Act applications including but not limited to provisional consent, plan of subdivision and site plan control as the Planning Act permits;
- f) “Developed”, “Development”, “Redevelop”, “Redeveloped” and “Redevelopment” have their corresponding meanings;

Dwelling Unit(s) means any building that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

Gross Floor Area has the same meaning given to Floor Area, Gross in the Township of Mulmur Comprehensive Zoning By-law;

Industrial Purposes means the use of land, buildings or structures used for or in connection with:

- a) Manufacturing, producing, fabricating, processing, storing or distributing goods;
- b) Research or development in connection with manufacturing, producing, fabricating or processing goods;
- c) Retail sales by a manufacturer, producer, fabricator, or processor of goods they manufacture, produce, fabricate or process, if the retail sales are at the site where the manufacturing, producing, fabricating or processing takes place; or
- d) Office or administrative purposes if they are:
 - i. Carried out with respect to manufacturing, producing, fabricating, processing, storing or distributing of goods; and
 - ii. In or attached to the *building* or structure used for that manufacturing, producing, fabricating, processing, storing or distributing;

Institutional Purposes means the use of land, buildings or structures for a public or non-profit purpose including a religious, charitable, educational, health or welfare purpose, and without limiting the generality of the foregoing, may include such uses as a school, hospital, places of worship, recreation facilities, community centres and government buildings;

Land means for the purposes of this *By-law*, the lesser off the area defined as:

- a) The whole of a parcel of property or parcels of property associated with the Development or Redevelopment; or
- b) The whole of a lot(s) or a block(s) on a registered plan of subdivision or a unit(s) within a vacant land condominium that is associated with the Development or Redevelopment;
- c) For Industrial or Commercial Redevelopment, the portion of property where the Development or Redevelopment is occurring;

Market Value means the value of Land determined in accordance as nearly as may be with section 14 of the Expropriations Act, R.S.O. 1990 c. E. 26, as amended or any successor thereto, as of the day before the day of the issuance of the first building permit for the Development;

Parkland means land for parks and other public recreational purposes

Planning Act means the Planning Act, R.S.O. 1990 c. P.13 and includes any amendments thereto, successor legislation, and where the context requires includes precursor legislation;

Place of Worship means a premises used by one or more religious groups for the practice of religious services;

Record of Site Condition means a record of site conditions under Part XV.1 of the Environmental Protection Act, R.S.O. 1990 c. E.19, as amended, or any successor thereto;

Temporary means a *building* or structure constructed, erected or placed on land with the explicit understanding that such *building* or structure is to be demolished by a set time, as indicated in a legal agreement with the Township;

Township means the Corporation of the Township of Mulmur;

3.0 GENERAL REQUIREMENTS

- 3.1 All lands within the geographic limits of the Township is hereby established as an area for which the conveyance of a portion of *Land* or the payment of *cash-in-lieu* of such conveyance, shall be required as a condition of Development or Redevelopment.
- 3.2 The Township may determine, at its discretion, whether it seeks a conveyance of a portion of *Land* for *Parkland*, a payment of *cash-in-lieu*, or both.
- 3.3 No person shall *Develop* or *Redevelop Land* with the Township unless they have first conveyed a portion of the *Land* to the Township for *Parkland*, or paid *cash-in-lieu* of such conveyance, in accordance with this *By-law*.
- 3.4 Any costs associated with a conveyance of a portion of *Land* for *Parkland* purposes, or a payment of *cash-in-lieu*, as required under this *By-law*, including but not limited to costs related to the preparation and registration of document, surveys or reference plans, appraisals, and any applicable taxes, shall be borne by the property owner seeking to *Develop* or *Redevelop* the *Land* at no cost to the Township.
- 3.5 Any requirement to convey a portion of *Land* to the Township for park and other recreational purposes is fulfilled only when title of that portion of the *Land* is transferred to the Township.

4.0 CONVEYANCE OF LAND

- 4.1 Where it has been determined that a portion of the *Land* will be required to be conveyed to the Township as *Parkland*, the following shall apply:
 - a) Where *Land* in the Township is to be *Developed* or *Redeveloped* for *Commercial* or *Industrial* purposes, 2 per cent (2%) of the total area of the *Land* shall be conveyed to the Township;

- b) Where *Land* in the Township is to be *Developed* or *Redeveloped* for residential purposes, the greater of:
 - a. a rate of one hectare (1 ha) per 600 *dwelling units*; or
 - b. a rate of five per cent (5%) of the total area of the *Land* shall be conveyed to the Township.
- c) Where *Land* in the Township is to be *Developed* or *Redeveloped* for any use other than for *Commercial, Industrial, Institutional* or residential purposes, a portion of the *Land* at a rate of five per cent (5%) of the total area of the *Land* shall be conveyed to the Township.
- d) With respect to a *development* or *redevelopment* that includes affordable residential units or attainable residential units, as defined in subsection 4.1 (1) of the *Development Charges Act, 1997*, or residential units described in subsection 4.3 (2) of that Act, the community benefits charge applicable to such a *development* or *redevelopment* shall not exceed the amount determined under subsection (32) multiplied by the ratio of A to B where,
 - a. “A” is the floor area of all *buildings* that are part of the *development* or *redevelopment* minus the floor area of all affordable residential units, attainable residential units and residential units described in subsection 4.3 (2) of the *Development Charges Act, 1997*; and
 - b. “B” is the floor area of all *buildings* that are part of the *development* or *redevelopment*.

4.2 Where a *Development* or *Redevelopment* will include a mix of uses, and two or more of the requirements under section 4.1 of this *By-law* may apply to the *Development* or *Redevelopment*, the area of the *Land* required to be conveyed to the Township as *Parkland* shall be determined solely in accordance with whichever single requirement under section 4.1 of this *By-law* applies to the *Development* or *Redevelopment* which results in the greatest total area of the *Land* being required to be conveyed to the Township for *Parkland*.

5.0 ACCEPTANCE OF LANDS FOR PARKLAND CONVEYANCE

5.1 Any portion of *Land* required to be conveyed to the Township for *Parkland* shall be:

- a) Free of encumbrances except as may be satisfactory to the Township; and
- b) In a condition satisfactory to the Township and in accordance with the requirements of the Town’s Official Plan and other policies respecting the acquisition of real property.

5.2 The Township may require that a *Record of Site Condition* be filed in respect of the *Land* prior to accepting the conveyance of a portion of the *Land* for *Parkland* required under this *By-law*.

5.3 The following *Lands* shall not be accepted by the Township for *Parkland* conveyance:

- a) *Lands* designated as Natural Area, Escarpment – Natural Area or Escarpment – Protected Area, in the Township’s Official Plan or Niagara Escarpment Plan.
- b) Any natural heritage feature or hydrologic feature identified by the Provincial Policy Statement (PPS) as significant, or as identified as provincially or locally significant through other Provincial, County, local authority or an Environmental Impact Study including but not limited to:
 - Hazardous or flood prone *lands*;
 - Wetlands and woodlots retained for conservation purposes;
 - Steep or unstable slopes;
- c) Any *Land* having unsuitable soil conditions for intended recreation facilities;
- d) Stormwater management facilities;
- e) *Lands* that are deemed to be contaminated;
- f) *Land* for trails or active transportation purposes;
- g) *Lands* used for utility corridors or any other infrastructure; and
- h) Any *land* containing an easement, encumbrance, or right-of-way use that limits or restricts the Township’s use of the *land*.

6.0 PAYMENT OF CASH-IN-LIEU

- 6.1 Where it has been determined that the payment of *cash-in-lieu* will be required as an alternative to the conveyance of *Land* for *Parkland*, the Township shall require the conveyance of the *cash-in-lieu* equivalent to that required by section 4, to the Township.
- 6.2 As a condition of *Development* or *Redevelopment* of *Lands*, the Township shall require the conveyance of *land*, *cash-in-lieu* or a combination of both to the Township in accordance with section 4.
- 6.3 Notwithstanding section 4 of this *By-law*, for *Development* or *Redevelopment* of *Lands* other than *Commercial* or *Industrial purposes*, the Township may collect *cash-in-lieu*, at a flat rate value of \$10,000 per lot, adjusted annually without amendment to this *by-law*, on the first day of January in each year, beginning with January 1, 2024, in accordance with the then most recent Statistics Canada Quarterly, Construction Price Index (Toronto).
- 6.4 Any payment of money required under this *By-law* shall be made in the form of certified cheque, bank draft, electronic funds or wire transfer or another form acceptable to the Township.
- 6.5 All money received by the Township in lieu of the conveyance of a portion of *Land* for *Parkland*, or received on the sale of any property that has been conveyed to the Township pursuant to this *By-law*, shall be paid into a special

account established in accordance with section 42(15) of the *Planning Act*, and only as permitted under the *Planning Act*.

- 6.6 If payment of *cash-in-lieu* is required, no person shall apply for a building permit under the *Building Code Act* or construct a *building* on the *Land* proposed for *Development* or *Redevelopment* unless the payment has been made or arrangements for the payment satisfactory to the Township have been made.

7.0 DETERMINATION OF MARKET VALUE

- 7.1 Where the payment of *cash-in-lieu* is required in lieu of a conveyance of a portion of the *Land* for *Parkland*, the person who seeks to *Develop* or *Redevelop* the *Land* may elect to have the *Market Value* of the *Land* to be used in calculating any payment required.
- 7.2 Where the owner has elected to use the *Market Value* in calculating the payment required, the owner shall obtain and furnish the Township with an appraisal of the *Market Value* of the *Land* from an *Appraiser*, at no expense to the Township. All appraisals must comply with the current Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) as adopted by the Appraisal Institute of Canada. No limiting conditions will be accepted that restricts distribution of the appraisal report, in part or in whole, to the owner(s) of the subject property, any representative of the owner(s), or representative of the Township.
- 7.3 Where the Township is satisfied with the *Market Value* determined by the appraisal submitted in accordance with this *By-law*, that value shall be used in the determination of the payment required.
- 7.4 Where the Township is not satisfied with the *Market Value* determined by the appraisal submitted in accordance with this *By-law*, the Township may obtain its own appraisal of the *Market Value* of the *Land* from an *Appraiser*.
- 7.5 Where the Township has obtained its own appraisal under section 7.4 of this *By-law*, the owner of the *Land* may agree to fix the *Market Value* of the *Land* in accordance with the appraisal obtained by the Township, or the Township and the owner of the *Land* may agree to fix the *Market Value* of the *Land* at another amount, which shall in no case be less than the lowest estimate of *Market Value* in either appraisal or more than the highest estimate of *Market Value* in either appraisal.
- 7.6 Where the Township has obtained its own appraisal under section 7.4 of this *By-law*, and the Township and the owner of the *Land* cannot agree on the *Market Value* of the *Land* to be used in determining the required payment, the *Market Value* may be fixed in accordance with subsections 42(10) and 42(13) of the *Planning Act*.

7.7 Appraisals submitted to or obtained by the Township for the purpose of this *By-law* shall be considered valid for a maximum period of six (6) months from the date the appraisal was completed, or such lesser time as may be specified in the appraisal.

8.0 PREVIOUS CONVEYANCE OR PAYMENT IN LIEU

8.1 If *land* has been conveyed or is required to be conveyed for park or other public purposes, or *cash-in-lieu* has been received or is owing, under this *By-law* or as a condition imposed under section 51.1 or 53 of the *Planning Act*, 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
- b) *Land* originally proposed for *Development* or *Redevelopment* for *Commercial* or *Industrial* purposes is now proposed for *Development* or *Redevelopment* for other purposes.

8.2 Where a change referred to in section 8.1 has occurred, any conveyance that has previously been made or is required to be made for *Parkland*, or any payment of money in lieu of such conveyance has previously been made or is required to be made, as the case may be, shall be deducted from the portion of the *Land* required to be conveyed for *Parkland*, or the payment of *cash-in-lieu* of such conveyance required under this *By-law*.

9.0 EXEMPTIONS FROM GENERAL REQUIREMENTS

9.1 This *By-law* does not apply to the following classes of *Development* or *Redevelopment*:

- a) *Development* or *Redevelopment* of *Land* owned by and used for the purposes of the Township, County of Dufferin, Provincial or Federal governments;
- b) *Development* and *Redevelopment* of *Land* owned by and used by a Board of Education as defined in the Education Act, RSO 1990, c E.2, as amended or any successor thereto;
- c) *Development* and *Redevelopment* of a hospital as defined in section 1 of the Public Hospitals Act as amended or any successor thereto;
- d) *Development* or *Redevelopment* that consists solely of the replacement of any *building* destroyed or demolished, provided however a *building* permit for the replacement of such *building* must be submitted within 2 years of demolition, and further provided that there may be no increase to the total number of *Dwelling Units* or expansion of the size of the *Gross Floor Area* of the original *building*, by more than fifty-percent (50%);

- e) The enlargement of an existing residential *dwelling unit* provided that the enlargement does not result in more than three (3) *dwelling units*, or increase the *Gross Floor Area* by more than fifty-percent 50%;
- f) *Development* or *Redevelopment* consisting solely of an Additional Residential *Dwelling Unit* permitted by the Township's Official Plan or Zoning By-law;
- g) *Development* or *Redevelopment* that consists solely of a *temporary building* or structure;
- h) Non-residential *buildings* or structures used for an agricultural purpose;
- i) *Development* or *Redevelopment* of a *Place of Worship* or of a *Cemetery* or burial ground exempt from taxation under the Assessment Act, R.S.O. 2990, c. A.31, or any successor thereof;
- j) *Development* or *Redevelopment* of non-profit housing, attainable housing units and affordable housing units required by an inclusionary zoning (IZ) by-law;
- k) Such other *land* uses, projects or specific *Development* or *Redevelopment* as may be exempted by resolution of *Council*;
- l) Any other such exemption as may be identified in the *Planning Act*, as amended, from time to time.

10.0 ADMINISTRATION

- 10.1 The authority to determine whether a conveyance of a portion of the *Land* associated with *Development* or *Redevelopment* for *Parkland* or the payment of *cash-in-lieu* of such conveyance is required, is hereby delegated to the CAO, any successor thereto, or an officer or employee of the Township designated by the CAO, or their successor.
- 10.2 The determination of whether a conveyance of a portion of the *Land* for *Parkland* or the payment of *cash-in-lieu* of such conveyance, shall be made in accordance with the relevant policies of the Township's Official Plan, and generally in accordance with any other policies and guidelines established by the Township from time to time for that purpose.
- 10.3 The Treasurer shall maintain a record of all *lands* and *cash-in-lieu* received and including all expenditures from the *cash-in-lieu Parkland Reserve Fund*. The *cash-in-lieu parkland* dedication records and associated financial statements shall be reported to *Council* and made available to the public on an annual basis pursuant to this *By-law* in accordance with the requirements of subsection 42 (16) of the *Planning Act*.
- 10.4 *Council* retains the authority to determine at its discretion an alternative process to that set out in this *By-law* to determine the *Market Value* of the *Land*.

11.0 SEVERABILITY

- 11.1 If a court of competent jurisdiction declares any provision or part of a provision of this *By-law* to be invalid, illegal, unenforceable or of no force and effect, it is the

intention of *Council* in enacting this *By-law* that the remainder of this *By-law* will continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

12.0 REPEAL

12.1 That By-law 41-2018, being the Parkland Dedication By-law, is hereby repealed immediately upon the coming into force of this Parkland Dedication By-law.

13.0 EFFECTIVE DATE

13.1 This by-law shall come into force and effect upon date of the enactment.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED on this 3rd day of MAY, 2023.

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JANET HORNER, MAYOR

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TRACEY ATKINSON, CAO/CLERK