

BY-LAW NO. 103-2019

BEING A BY-LAW OF THE CORPORATION OF THE TOWN OF CARLETON PLACE RESPECTING THE CONVEYANCE OF LAND FOR PARK PURPOSES OR CASH IN LIEU OF PARKLAND CONVEYANCE.

WHEREAS Section 69 (1) of the *Planning Act*, R.S.O. 1990, CP13, as amended (the “Act”), provides that the Council of a municipality may, by By-law, establish a tariff of fees for the processing of applications made in respect of planning matters;

AND WHEREAS Sections 42, 51.1 and 53 of *the Planning Act, R.S.O. 1990, CP13*, as amended, authorizes Council to pass a By-law requiring land or cash-in-lieu of the land to be conveyed to the municipality of park or other public recreational purposes as a condition of development, redevelopment, or subdivision of lands(s)

NOW THEREFORE the Council of the Corporation of the Town of Carleton Place hereby enacts as follows;

1.0 DEFINITIONS

1.1 Definitions in this by-law,

“**Act**” means the *Planning Act*, R.S.O. 1990, c.P.13 as amended from time to time.

“**Appraisal Value**” means the price in terms of money which a property should bring in a competitive and open market, as of the specified date, under all conditions requisite to a fair sale, the buyer and seller, each acting prudently knowledgeable and assuming price is not affected by undue stimulus.

“**Building Permit**” means a Building Permit issued under the Ontario Building Code.

“**Cash-in-Lieu**” means the payment of funds equivalent to the value of the amount of land that the Town would otherwise have been entitled to require to be conveyed for park or other public recreation purposes as part of a Development. The payment of Cash-in-Lieu is usually required as a condition of subdivision or development permit approval and is assessed as the value of the land the day before the Town grants approval for the Development under Section 51.1, or the day before the day the first building permit is issued under Section 42, as specified in the *Planning Act*.

“**Consent**” means the process referred to in Section 53 of the *Act*.

“**Commercial Use**” – means the use of any land, building or structure for the purpose of offices or retail buying or selling of commodities, but does not include uses for warehousing, manufacturing or assembling of goods.

“Development” means the creation of a new lot, a change in land use, or the construction of buildings and structures, or addition to buildings or structures requiring approval under the Act.

“Dwelling Unit” means a building occupied or capable of being occupied as the home or residence of one or more persons, where food preparation and sanitary facilities are provided, but shall not include a boarding house, hotel, motel, rental cottage or cabin or similar use of a private or semi-private institution,

“Eligible Project” means:

- i. Acquisition of land for public park purposes.
- ii. Capital projects for the development of new public parks which may include any associated site preparation and drainage; the provision of park facilities, such as, play equipment, sports fields and pathways.
- iii. Capital projects to increase the capacity of existing public parks to accommodate more intensive public use; the provision of additional park facilities, such as play equipment, splash pads and site furniture.

“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.

“Industrial Use” means the use of land, buildings or structures for, or in connection with:

- i. manufacturing, processing, producing, storing or distributing of something;
- ii. research or Development in connection with manufacturing, producing or processing something;
- iii. retail sales by a manufacturer, producer or processor of something manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production or processing takes place;
- iv. offices for administrative purposes, if;
- v. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and,
- vi. in or attached to the building or structure used for that manufacturing, producing or processing, storage or distribution.

“Market Appraisal” means a written opinion of fair market value of one or more parcels of land subject to Development or Redevelopment supported by presentation and analysis of relevant data by a certified accredited appraiser in good standing in the Province of Ontario.

“Minor Development” means a Development proposal that consists of additions of less than 200m² (2,152ft²) or 25% of the gross floor area, a change of use, an interior renovation, an existing Development which is

not presently governed by a Development Permit Agreement and a townhouse Development that has been approved as part of a larger Subdivision approval process.

“Net Hectare” means the actual land used for the development of all lands exclusive of land required for roads, parks, stormwater management and other amenities.

“Redevelopment” means the removal of a building or structure from land and the further development of the land or the substantial renovation of a building or structure and a change in the character or density of the use in connection therewith. It may also mean the development of high-density residential block, or commercial or industrial block within a plan of subdivision that requires approval through a Development Permit By-law process.

“Residential” refers to dwelling units at various densities used for human habitation.

“Serviced” means the installation of sanitary, water, storm water, electrical, gas and communication utilities of appropriate size

“Subdivision” means the process referred to in Section 51 of the Act.

“Town” means the Town of Carleton Place

2.0 GENERAL PROHIBITION

- 2.1** No person shall undertake the subdivision, development or redevelopment of land within the Town unless the owner of the land has either conveyed or agreed to convey to the Town the amount of land for parkland or other public recreational purposes as determined under this By-law
- 2.2** Notwithstanding Section 2.1 above, the Town may require the payment of cash-in-lieu of accepting a conveyance of land as set out in Section 7 of this By-law.

3.0 PURPOSE

- 3.1** The purpose of this by-law is:
- i** To identify the amount of land which is to be conveyed to the Town or in lieu of the conveyances the amount of payment of money based on the value of the land and intended use;
 - i** To identify the purposes for which funds, in the Town’s cash-in-lieu of parkland accounts, may be used;
 - ii** To ensure that funds in ‘cash-in-lieu’ accounts are used for Eligible Projects; and
 - iv.** To identify the circumstances under which the Chief Administrative Officer, the Manager of Recreation and Culture and the Treasurer have delegated authority from Council to

access and use funds in 'cash-in-lieu' accounts.

- 3.2** The Town shall ensure a consistent approach to parkland conveyance or cash-in-lieu of parkland dedication and the appropriate use of all funds collected for the provision of park and recreational purposes, pursuant to Sections 42 and 51.1 of the Act, by defining the purposes for which 'cash-in-lieu' may be used and by establishing the mechanisms by which the 'cash-in-lieu' funds are accessed and accounted.

4.0 GENERAL PROVISIONS

- 4.1** This by-law applies to all land located within the geographic boundaries of the Town of Carleton Place.
- 4.2** During the review process of a draft plan of Subdivision or condominium, Development Permit By-law Amendment or Development Permit Process or Consent application, the application and any associated plans, during its circulation process, will be reviewed by the appropriate Department Head for their comment as to the suitability and desirability of parkland. Following the review, the Department Head will recommend acquiring new parkland, the acceptance of cash-in-lieu of parkland dedication or an appropriate combination thereof in accordance with this by-law.
- 4.3** The applicant for the Subdivision of land or the owner responsible for its Development or Redevelopment shall dedicate land to the Town as required by "the Act" or shall provide conveyance and/or cash-in-lieu as required by the Town as set out in this by-law. Conveyance of land is required unless deemed inappropriate as outlined in Section 7.1 or as determined by staff.
- 4.4** Where an owner and the Town wish to enter into a front ending agreement regarding the development of a park, park/sports equipment, trees, fencing and other site plan details shall be provided by the developer to the satisfaction of the Town.
- 4.5** If land has been conveyed or is required to be conveyed to the Town for park purposes or a payment in lieu of such conveyance has been received by the municipality or is owing to it under section 51.1 or 53 of the Act, no additional conveyance or payment will be required by the municipality in respect of subsequent Development or Redevelopment unless:
- i. there is a change in the proposed Development or Redevelopment which would increase the density of the Development; or,
 - ii. land originally proposed for Development or Redevelopment for Commercial or Industrial purposes is now proposed for Residential or other uses
 - iii. development of a high-density block under a Development Permit application, whose density was unknown at the time of original

draft or final approval.

- 4.6** This by-law does not apply to funds collected pursuant to the *Development Charges Act*

5.0 CONVEYANCE OF LAND

- 5.1** As a condition of Subdivision or the Development or Redevelopment of lands in the Town of Carleton Place the owner is required to convey to the Town land for park or other public recreational purposes as follows:

5.1.1 For lands proposed for Development or Redevelopment for Residential purposes, at a rate of 1 ha per 300 residential units of the Gross land area being developed or redeveloped;

5.1.2 For lands proposed for Development or Redevelopment for Commercial or Industrial purposes, land in the amount of two per cent (2%) of the Gross land area to be developed or redeveloped;

5.1.3 For lands proposed for Development for use other than those referred to in subsections 5.1.1 and 5.1.2, such as Institutional uses, land in the amount of five per cent (5%) of the Gross land area to be developed or redeveloped.

5.1.4 Land dedicated to the Town for park purposes shall be graded, top-soiled, and, seeded to the specifications of the Town.

5.1.5 Land dedicated to the Town for park purposes may be required to be Serviced at the discretion of the Town and depending on the uses to be included in the respective park.

6.0 SUITABILITY OF LAND

- 6.1** Only those lands suitable for park development will be accepted as part of the required parkland dedication. These lands shall be, in the opinion of Council, suitable for use as municipal parkland and such criteria may include lands:

- i. adjacent to established parks, school yards or stormwater management areas;
- ii. located near any area of multiple Residential Development;
- iii. with adequate street frontage to provide for visibility and safety;
- iv. that are level, regularly shaped and not susceptible to major flooding, poor drainage, or other environmental or physical conditions which would interfere with their Development or use for public recreation.

- 6.2** The Town may accept additional lands over and above the required parkland dedication and may incorporate these lands into the Town's park system. Such lands would be important to the Town's open space

resources and may include lands:

- i. for storm water management areas;
- ii. having environmental or physical conditions which render the land unsuitable for Development; and,
- iii. which are suitable for the Development of corridors throughout the Town for such uses as wildlife or pedestrian or biking trails.

7.0 CASH-IN-LIEU OF PARKLAND DEDICATION

7.1 In lieu of the conveyances noted in Sections 4.0 and 5.0 above, the Town may require the payment of money at the time of the creation of any new lots either by way of a plan of Subdivision or by consent or the Development or Redevelopment of lands within the Town, where the Town is entitled to receive a conveyance for park or other recreational purposes under Sections 51(25), 53(12) or 42(1) of the Act, Council may require payment of money by the owner of the land pursuant to Sections 51.1(3) and 42(6).

7.2 The Town may require cash-in-lieu of parkland, as provided by the Act, under the following circumstances:

- i. Where the amount of parkland to be dedicated, in accordance with the Act, is of insufficient size, in the opinion of Council, to be usable for normal public recreational activities;
- ii. Where an area is adequately served by municipal or other open space lands;
- iii. Where the Town wishes to combine the parkland dedications of a number of small Developments to provide for one large park area; or,
- iv. Where the required dedication would render the remainder of the site unsuitable or impractical for Development.

7.3 In the case where it is deemed advisable to accept Cash-in lieu of a conveyance, Council shall require payment as set out on Schedule A attached.

7.4 The Appraised Value of the land shall be determined as of the day before the date of issuance of the building permit in respect of the Development or Redevelopment or where more than one building permit is required, as of the day before the date of the issuance of the first building permit.

7.5 The payment so required shall be paid to the Town:

- 7.5.1 For the Development or Redevelopment of land, prior to the issuance of a Building Permit;
- 7.5.2 For a plan of Subdivision, prior to the issuance of a Building Permit; and,
- 7.5.3 For a Consent (severance), prior to final approval and receipt of a provisional certificate under the "Act".

8.0 ADDITIONS

Notwithstanding any other provision in this By-law, this By-law shall not apply where the Development or Redevelopment consists of the making of an addition or alteration to an existing building or structure used for Commercial or Industrial purposes, provided that the addition or alteration is used for Commercial or Industrial purposes and considered Minor Development.

9.0 MARKET APPRAISAL

- 9.1** To determine the cash-in-lieu payment required, where the proponent is required to pay a percentage of the value of the land as a result of Development or Redevelopment, the owner shall submit to the Town for review a Market Appraisal of the subject lands specific to their proposed use.
- 9.2** The cost of the Market Appraisal shall be the responsibility of the Owner.
- 9.3** The Market Appraisal will be reviewed by Town staff and the Owner will be notified of the payment required.
- 9.4** Where there is a disagreement between the owner and the Town regarding the validity of the Market Appraisal, the report may be peer reviewed at the Owner's cost.
- 9.5** If there is a dispute as to the value of the land, Council will make a final determination as to the Appraisal Value.
- 9.6** The Market Appraisal shall occur within six (6) months prior to draft approval for all applications under Section 51.1 of the Planning Act and prior to application of a building permit, at the time of signing of a Development Permit Agreement for all development and re-development projects under Section 42 of the Planning Act.

10.0 ELIGIBLE PROJECTS

- 10.1** Cash-in-lieu shall only be used for 'Eligible Projects' permitted by the Act and as defined by this By-law.
- 10.2** Cash-in-Lieu funds collected and allocated shall be available for use for any 'Eligible Project' as defined in this By-law except in the following circumstances:
 - i. Payments of Cash-in-Lieu which are being held by the Town subject to an appeal by an owner under "the Act". These funds shall not be committed to or used for any purpose until the appeal process is completed.
 - ii. Funds that are collected through the Development process that is for the acquisition of specific parkland already identified.

11.0 EXTENSION OF DRAFT CONDITIONS

If there is a request for an extension of draft conditions, or changes to the plan, including redline changes prior to registration of the subdivision agreement, or through Part Lot Control, as well as any projects requiring a Development Permit Agreement, cash-in-lieu of parkland will need to be re-evaluated through a revised assessment value of the lands with their proposed uses. These may be evaluated under Section 51.1 or 42 dependent on the situation.

12.0 SHORT TITLE

12.1 This By-law may be referred to as the "Parkland By-law".

13.0 ENACTMENT

13.1 This By-law shall come into effect on the day it is passed.

READ A FIRST TIME, SECOND TIME AND A THIRD TIME AND FINALLY PASSED
THIS 12th DAY OF NOVEMBER 2019.

Doug Black, Mayor

Stacey Blair, Clerk

SCHEDULE 'A'
TO BY-LAW 103-2019

The money to be paid in lieu of parkland to the Town shall be calculated as follows:

CONVEYANCE AND/OR CASH-IN-LIEU OF PARKLAND
TOWN OF CARLETON PLACE

Development Type	Conveyance and/or Cash-in-Lieu Amount
Commercial or Industrial land uses	2% of appraised value
Residential	1ha for every 300 units
All other land uses, such as Institutional	5% of appraised value
For each new lot on a public road created through consent in a settlement area (subject or remainder) upon which a Residential Dwelling Unit would be permitted.	Fixed rate of \$3,500.00 per lot and that the cash-in-lieu rate is automatically increased each year by the same percentage rate that is applied to the Development Charge rate.