

CITY OF ST. THOMAS

BY-LAW NO. _____

A by-law to require the conveyance of land for park or other public recreational purposes within the City of St. Thomas, or the payment of money in lieu of such conveyance (the “Parkland Dedication By-law”)

WHEREAS section 42 of the Planning Act, R.S.O. 1990, c. P.13, as amended, authorizes the council of a local municipality to pass by-laws requiring, as a condition of development or redevelopment, the conveyance of land or the payment of money to the value of the land otherwise required to be conveyed for park or other public recreational purposes;

AND WHEREAS sections 51.1 and 53 of the *Planning Act* authorize the City to require the conveyance of land or payment of money in lieu thereof as a condition of the approval of a plan of subdivision or a consent;

AND WHEREAS the Official Plan of the City of St. Thomas contains policies respecting the provision of parkland and other public recreational purposes;

AND WHEREAS Council has prepared and made available to the public a parks plan that examines the need for parkland in the City, as required by the *Planning Act*;

AND WHEREAS the *Planning Act* authorizes the use of an alternative parkland dedication requirement for residential development and redevelopment where the applicable statutory requirements have been satisfied;

THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law:

“Act” means the Planning Act, R.S.O. 1990, c. P.13, as amended, or any successor legislation;

“Additional Residential Unit” means an additional residential unit as permitted pursuant to the Planning Act and the Zoning By-law;

“Building Permit” means a permit issued pursuant to the Building Code Act, 1992, S.O. 1992, c. 23, as amended;

“City” means The Corporation of the City of St. Thomas;

“Commercial Purposes” means development or redevelopment for uses that are commercial in nature and includes uses permitted within commercial zones or otherwise identified as commercial uses in the Zoning By-law;

“Council” means the Council of The Corporation of the City of St. Thomas;

“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 its size or usability, or the laying out and establishment of a commercial parking lot;

“Dwelling Unit” has the same meaning as set out in the Zoning By-law;

“Floor Area” has the same meaning as set out in the Zoning By-law;

“Industrial Purposes” means development or redevelopment for industrial or employment uses permitted by the Zoning By-law, such as, but not limited to, manufacturing, processing, assembling, repairing, warehousing, distribution, storage and related uses;

“Institution” has the same meaning as set out in the Zoning By-law;

“Land” means the lands subject to an application for development, redevelopment, a plan of subdivision or consent, as applicable;

“Net Residential Units” means the number of residential units proposed after development or redevelopment minus the number of residential units lawfully existing on the land immediately before the development or redevelopment, subject to any exclusions required by the *Planning Act*;

“Official Plan” means the Official Plan of the City of St. Thomas, as amended;

“Owner” means the registered owner of land proposed to be developed, redeveloped or subdivided;

“Parkland” means land for park or other public recreational purposes;

“Payment in Lieu” means a payment of money to the City in lieu of the conveyance of land otherwise required under this By-law;

“Redevelopment” means the removal of buildings or structures from land and the further development of the land, or the substantial renovation of a building or structure and a change in the character, intensity or density of use;

“Residential Purposes” means development or redevelopment for dwelling units or other residential uses permitted by the Zoning By-law;

“Zoning By-law” means the City of St. Thomas Zoning By-law No. 50-88, as amended or replaced.

1.2 Interpretation

1. Unless otherwise defined in this By-law, words and expressions used in this By-law that are defined in the *Planning Act* shall have the same meaning as in the *Planning Act*.
2. Where a term is defined in the Zoning By-law and is used in this By-law, the definition contained in the Zoning By-law shall apply unless otherwise specifically provided for in this By-law.

3. A reference to legislation includes that legislation as amended or replaced from time to time.
4. In the event of a conflict between this By-law and the Planning Act, the Planning Act shall prevail.

APPLICATION AND GENERAL REQUIREMENT

2.1 Application

This By-law applies to all lands within the geographic limits of the City of St. Thomas.

2.2 General Requirement

As a condition of:

- a) development or redevelopment under section 42 of the *Planning Act*;
- b) approval of a plan of subdivision under section 51.1 of the *Planning Act*; or
- c) the granting of a consent under section 53 of the *Planning Act*,

the City may require the Owner to convey land to the City for Parkland or to make a Payment in Lieu of the land otherwise required to be conveyed, in accordance with the *Planning Act* and this By-law.

2.3 Form of Contribution

The City may require the parkland contribution to be provided in the form of:

- a) a conveyance of land;
- b) a Payment in Lieu; or
- c) a combination of land and Payment in Lieu.

The determination of the appropriate form of contribution shall be made by the City having regard to the City's parks planning objectives, the location and characteristics of the land, the amount of land otherwise required to be conveyed and the policies of the Official Plan.

STANDARD PARKLAND REQUIREMENT

3.1 Commercial and Industrial Development

Where land is proposed for development or redevelopment for Commercial Purposes or Industrial Purposes, the required parkland contribution shall not exceed two percent (2%) of the Land.

3.2 Residential Development

Where land is proposed for development or redevelopment for Residential Purposes, and the alternative parkland requirement in Part 4 does not apply, the required parkland contribution shall not exceed five percent (5%) of the Land.

3.3 Institutional and Other Development

Where land is proposed for development or redevelopment for purposes other than Commercial Purposes or Industrial Purposes, the required parkland contribution shall not exceed five percent (5%) of the Land.

3.4 Mixed-Use Development

Where development or redevelopment includes a combination of uses, the required parkland contribution shall be calculated proportionately based upon the applicable requirement for each component of the development.

Where the different uses are located within the same building, the proportion attributable to each use may be determined based on the Floor Area allocated to each use.

The total parkland contribution shall be the sum of the contributions attributable to each component of the mixed-use development.

ALTERNATIVE PARKLAND REQUIREMENT FOR RESIDENTIAL DEVELOPMENT

4.1 Alternative Requirement

Subject to the *Planning Act*, where land is proposed for development or redevelopment for Residential Purposes, the City may apply the alternative parkland requirement.

Where the alternative parkland requirement applies, the amount of land required to be conveyed shall be calculated at a rate of:

one (1) hectare for each six hundred (600) Net Residential Units proposed

or at the applicable standard requirement established in Part 3, whichever amount is greater.

4.2 Payment in Lieu Under the Alternative Requirement

Where the alternative parkland requirement applies and the City requires a Payment in Lieu rather than a conveyance of land, the Payment in Lieu shall be calculated using a rate of:

one (1) hectare for each one thousand (1,000) Net Residential Units proposed

or at the applicable standard requirement established in Part 3, whichever amount is greater.

4.3 Maximum Alternative Requirement

Notwithstanding sections 4.1 and 4.2, where the alternative parkland requirement applies, the maximum conveyance of land or Payment in Lieu required shall not exceed:

- a) ten percent (10%) of the Land or the value of the Land, as applicable, where the Land proposed for development or redevelopment is five (5) hectares or less in area; or
- b) fifteen percent (15%) of the Land or the value of the Land, as applicable, where the Land proposed for development or redevelopment is greater than five (5) hectares in area.

4.4 Statutory Exclusions

Where required by the *Planning Act*, affordable residential units, attainable residential units or other residential units specifically excluded by statute shall not be included in the calculation of Net Residential Units.

PREVIOUS CONVEYANCES AND CREDITS

5.1 Previous Conveyance or Payment

Where land has previously been conveyed to the City for park or other public recreational purposes, or where a Payment in Lieu has previously been paid or is owing in respect of the land, no additional conveyance or Payment in Lieu shall be required in respect of the same development or redevelopment except as otherwise permitted by the *Planning Act*.

5.2 Increase in Development

Where there is:

- a) an increase in the number of residential units or the density of development; or
- b) a conversion from a use subject to a lower parkland requirement to a use subject to a higher parkland requirement,

the City may determine the additional parkland contribution attributable to the increase or conversion, taking into account any previous conveyance or Payment in Lieu.

5.3 Parkland Credits

Where an Owner has previously conveyed land in excess of the amount required under this By-law, the City may, at its sole discretion, recognize all or part of the excess conveyance as a credit against a future parkland requirement.

Any parkland credit:

- a) shall be subject to the approval of the City;
- b) may be limited to lands owned or controlled by the same Owner or developer;
- c) may be subject to a parkland dedication agreement or other legal agreement satisfactory to the City; and
- d) shall not be transferable except with the written approval of the City.

PAYMENT IN LIEU AND VALUATION

6.1 Authority to Require Payment in Lieu

The City may require a Payment in Lieu of the conveyance of land where authorized by the *Planning Act*.

6.2 Valuation Date

The value of land for the purpose of determining a Payment in Lieu shall be determined in accordance with the *Planning Act*.

Without limiting the generality of the foregoing:

- a) for development or redevelopment under section 42 of the *Planning Act*, the value shall be determined in accordance with the applicable valuation provisions of the *Planning Act*; and,
- b) for a plan of subdivision or consent, the value shall be determined in accordance with the applicable valuation provisions of sections 51.1 and 53 of the *Planning Act*.

6.3 Appraisal

Where required by the City, the Owner shall provide an appraisal prepared by a qualified professional appraiser acceptable to the City.

The City may:

- a) accept the appraisal;
- b) obtain an independent appraisal at the Owner's expense where permitted by law or agreement; or
- c) use another valuation methodology agreed to by the City and Owner and consistent with the *Planning Act*.

6.4 Dispute Regarding Value

Where there is a dispute respecting the value of land for the purposes of determining a Payment in Lieu, either the City or the Owner may exercise any right of appeal or application available under the *Planning Act*.

LANDS ACCEPTABLE FOR PARKLAND CONVEYANCE

7.1 General Requirements

Land conveyed to the City for Parkland shall:

- a) be in a location and configuration satisfactory to the City;
- b) be suitable for park or other public recreational purposes;

- c) be appropriately graded and, where required, serviced and restored to the satisfaction of the City;
- d) be free and clear of encumbrances, easements or other interests that would restrict the intended use of the land, unless otherwise accepted by the City;
- e) satisfy all applicable environmental requirements; and
- f) be conveyed in a condition satisfactory to the City.

7.2 Lands That May Not Be Accepted

The City may refuse to accept land as Parkland where the land includes or is comprised primarily of:

- a) hazardous lands, flood-prone lands or lands subject to erosion or slope instability;
- b) significant natural heritage features, significant hydrologic features or ecological functions where the primary purpose of the conveyance is environmental protection rather than park or recreational use;
- c) wetlands;
- d) stormwater management facilities;
- e) utility corridors or infrastructure lands;
- f) contaminated land or land with unsuitable soil conditions;
- g) lands affected by easements or other encumbrances that restrict the City's use;
- h) lands with inadequate size, location, configuration or access for park or recreational purposes; or
- i) any other land that, in the opinion of the City, is unsuitable for the intended purpose.

7.3 Acceptance of Constrained Lands

Notwithstanding section 7.2, the City may accept constrained lands as part of a parkland contribution where:

- a) the lands contribute to an integrated park, open space or trail system;
- b) the lands provide an appropriate connection to other public lands or recreational facilities;
- c) the acceptance of the lands is consistent with the Official Plan and applicable City plans; and
- d) the City determines that the lands provide a public benefit.

The acceptance of constrained lands shall be at the sole discretion of the City.

TIMING OF CONVEYANCE OR PAYMENT

8.1 Development and Redevelopment

Where a development or redevelopment is subject to site plan control, the required conveyance of land or Payment in Lieu shall be secured through the applicable development approval process and shall be provided at the time specified by the City or any applicable agreement.

Where development or redevelopment is not subject to site plan control, the required conveyance or Payment in Lieu shall be provided before the issuance of the applicable Building Permit, unless otherwise provided by agreement or authorized by law.

8.2 Plans of Subdivision

The conveyance of land or Payment in Lieu required in connection with a plan of subdivision shall be provided in accordance with the conditions of draft approval, any subdivision agreement and the Planning Act.

8.3 Consents

The conveyance of land or Payment in Lieu required in connection with a consent shall be provided in accordance with the conditions of provisional consent and the *Planning Act*.

8.4 Phased Development

Where development or redevelopment is proposed to proceed in phases, the City may calculate and require the parkland contribution on a phase-by-phase basis, provided that the requirements of the *Planning Act* are satisfied.

EXEMPTIONS

9.1 Additional Residential Units

No parkland conveyance or Payment in Lieu shall be required in respect of an Additional Residential Unit where the Planning Act prohibits the imposition of such a requirement.

9.2 Replacement Following Accidental Destruction

A parkland conveyance or Payment in Lieu shall not be required for the replacement of a building destroyed by fire or another accidental cause beyond the control of the Owner, provided that:

- a) the replacement does not increase the number of Dwelling Units;
- b) there is no increase in the Floor Area or other applicable measure of development that would otherwise generate an additional parkland requirement; and
- c) there is no material change in use that would result in a higher parkland requirement.

9.3 Additions and Alterations

A parkland conveyance or Payment in Lieu shall not be required solely in respect of an addition or interior alteration where:

- a) a previous parkland conveyance or Payment in Lieu has been provided in respect of the existing development; and
- b) the addition or alteration does not result in an increase in residential density or a change of use that would generate an additional parkland requirement.

9.4 Municipal Parkland

This By-law does not apply to development or redevelopment undertaken by the City on land forming part of the City's existing parkland inventory, unless otherwise required by law.

ADMINISTRATION

10.1 Administration

This By-law shall be administered by the City's Planning and Building Services Department, Parks and Recreation Department and Treasury and Corporate Services Department, or their successor departments.

10.2 Delegation

Council delegates to the Chief Administrative Officer/Director of Planning and Building Services/Director of Parks and Recreation/Treasurer, as appropriate the authority to administer this By-law and to determine, in consultation with other appropriate City staff:

- a) whether land or Payment in Lieu will be required;
- b) the amount of land or Payment in Lieu required;
- c) the location and configuration of land to be conveyed;
- d) whether land proposed for conveyance is suitable for Parkland;
- e) the value of land for the purpose of calculating a Payment in Lieu;
- f) whether a parkland credit may be recognized; and
- g) the terms of any agreement necessary to implement this By-law.

Any delegation under this section shall be carried out in accordance with applicable City by-laws, policies and the *Municipal Act*, 2001.

10.3 Records

The City shall maintain records respecting:

- a) land conveyed for park or other public recreational purposes;

- b) Payments in Lieu received; and
- c) expenditures from the City's parkland reserve fund,

in accordance with the *Planning Act* and other applicable legislation.

GENERAL

11.1 Agreements

The City may require an Owner to enter into an agreement satisfactory to the City to secure the conveyance of land, Payment in Lieu, parkland credits or any other matter necessary to implement this By-law.

11.2 No Restriction on Other Authority

Nothing in this By-law restricts the authority of Council to require a conveyance of land or Payment in Lieu as a condition of approval under sections 51.1 or 53 of the *Planning Act* or any other applicable authority.

11.3 Severability

If any provision or part of a provision of this By-law is declared invalid or inoperative by a court or tribunal of competent jurisdiction, the remainder of the By-law shall remain in full force and effect.

11.4 Conflict with Legislation

Where a provision of this By-law conflicts with the *Planning Act* or another applicable statute or regulation, the applicable statute or regulation shall prevail.

11.5 Repeal

By-law No. _____, and any amendments thereto, are hereby repealed on the date this By-law comes into force.

11.6 Effective Date

This By-law shall come into force and take effect on the date of its final passing.

READ a First and Second time this _____ day of _____, 2026.

READ a Third time and Finally passed this _____ day of _____, 2026.

Thomas Thayer, City Clerk

Joe Preston, Mayor