

CITY OF ST. CATHARINES

BY-LAW NO. 2022-173

A by-law to provide for the dedication of parkland or the payment in lieu thereof as a condition of Development or Redevelopment.

WHEREAS section 42 of the *Planning Act* provides that, as a condition of the Development or Redevelopment of land, the council of a local municipality may, by by-law, require that land in an amount not exceeding, in the case of land proposed for Development or Redevelopment for Commercial or Industrial purposes two per cent (2%), and in all other cases five per cent (5%), be conveyed to the municipality for park or other public recreational purposes;

AND WHEREAS section 51.1 of the *Planning Act* provides that an approval authority may impose, as a condition of the approval of a plan of subdivision, that land be conveyed to the local municipality for park or other public recreational purposes, such land not to exceed, in the case of a subdivision proposed for Commercial or Industrial purposes two per cent (2%), and in all other cases five per cent (5%);

AND WHEREAS section 53 of the *Planning Act* provides that section 51.1 of the *Planning Act* also applies to the granting of consents;

AND WHEREAS in the case of land proposed for Development or Redevelopment for residential purposes, pursuant to the *Planning Act*, a municipality may require that such land be conveyed at the rate of up to one (1) hectares for each three hundred (300) Dwelling Units, provided that the municipality has specific policies dealing with the provision of lands for park or other public recreational purposes, and the use of this alternative requirement is included within its official plan;

AND WHEREAS the City of St. Catharines has such specific policies dealing with the provision of land to be conveyed at the rate of up to one (1) hectare for each three hundred (300) Dwelling Units; AND WHEREAS the Council for the Corporation of the

City of St. Catharines wishes to use the provisions of the *Planning Act*, as adjusted by Official Plan, for the purposes of acquiring and providing parkland for the use and enjoyment of the residents of the City of St. Catharines.

NOW THEREFORE, the Council of the Corporation of the City of St. Catharines hereby enacts as follows:

1.0 **INTERPRETATION**

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

1.2 In this By-law, the following items shall have the corresponding meanings:

“**Accessory Dwelling Unit**” has the same meaning as detached accessory dwelling unit and interior accessory dwelling unit, each as defined in the City of St. Catharines Comprehensive Zoning By-law No. 2013-283.

“**Board of Education**” means a board as defined under the *Education Act 1997*, S.O. 1997, c.E.2.

“**City**” means The Corporation of the City of St. Catharines.

“**Commercial**” means land, buildings, or structures used, designed, or intended for use for or in connection with the purchase and sale or rental of commodities; the provision of services for a fee; or the operation of a business office, and includes hotels and motels.

“**Complete Application**” means an application for Development or Redevelopment submitted to the City pursuant to the Planning Act and includes all of the supporting information and materials required under the Planning Act and any other legislation or regulation, and any other supporting information or materials identified as being required by the City, in its sole and absolute discretion, and is confirmed to be submitted by the City.

“**Council**” means the Council for the Corporation of the City of St. Catharines.

“Detached Dwelling” has the same meaning as in the City of St. Catharines Comprehensive Zoning By-law No. 2013-283.

“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 increasing the size or usability thereof and includes Redevelopment. Notwithstanding the foregoing, development does not include Temporary Buildings or Structures permitted in accordance with the City's Comprehensive Zoning By-law No. 2013-283, or permitted under a "temporary use by-law" pursuant to section 39 of the Planning Act.

“Dwelling Unit” has the same meaning as in the City of St. Catharines Comprehensive Zoning By-law No. 2013-283, and does not include an Accessory Dwelling Unit.

“Gross Floor Area” has the same meaning as in the City of St. Catharines Development Charges By-law No. 2021-140.

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

- a) manufacturing, producing, or processing of raw goods for a commercial purpose, as well as storing or distribution of goods manufactured, produced, or processed on site;
- b) research or development in connection with manufacturing, producing, assembling, or processing goods for a commercial purpose;
- c) retail sales by a manufacturer, producer, or processor of goods they manufactured, produced, assembled, or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- d) office or administration purposes if it is:
 - i) carried out with respect to manufacturing, producing, processing, assembly, storage or distributing of something; and

- ii) in or attached to the building or structure used for that manufacturing, producing, processing, assembling, storage, or distribution.

“Mixed-Use” means the physical integration of two or more uses within a building or structure or separate buildings or structures on the land proposed for Development or Redevelopment.

“Natural Areas” has the same meaning as in the City of St. Catharines Official Plan, and includes but is not limited to shorelines, floodplains, significant valleylands, wetlands, significant woodlands, fish habitat, areas of natural and scientific interest, significant habitat of endangered species, significant natural habitat, natural corridors, and key hydrologic features.

“Net Area of the Lands” means the total area of the lands being Developed or Redeveloped, less the area of any lands to be conveyed gratuitously to St. Catharines, the Regional Municipality of Niagara, or any local Conservation Authority, pursuant to an approval or provisional consent issued in accordance with the Planning Act, in support of natural areas and other environmentally sensitive lands and other matters such as, but not limited to, road allowance widenings, as determined by St. Catharines in its sole and absolute discretion.

“Official Plan” means the official plan adopted for the City, and approved.

“Parks Policy Plan” means the St. Catharines Parks Policy Plan.

“PIL” means payment in lieu of parkland otherwise required to be conveyed.

“Planning Act” means the *Planning Act*, R.S.O. 1990, c.P.13,.

“Redevelopment” means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure on such land has been previously demolished, or 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 the character or density of the use in connection therewith, or changing the use of all or part of a

building from a residential purpose to a non-residential purpose or from a non-residential purpose to a residential purpose, or changing all or part of a building from one form of residential development to another form of residential development or from one form of non-residential development to another form of non-residential development.

“Residential” means the use of land, buildings, or structures of any kind whatsoever for living accommodations for one or more individuals.

“Urban Area” means those lands designated as being within the urban area by the City of St. Catharines Official Plan.

2.0 APPLICATION OF BY-LAW

2.1 This By-law applies to all lands located within the Urban Area of the City of St. Catharines.

3.0 CONVEYANCE OF LAND FOR PARKS PURPOSES

3.1 As a condition of Development or Redevelopment of land pursuant to the Planning Act, the City shall require the conveyance of land for park purposes as follows:

- a) In the case of lands proposed for Residential uses, dedication rates are as follows.
 - i) If the density of the development is up to forty (40) units per hectare, at a rate of one (1) hectare for each three hundred (300) Dwelling Units proposed; or
 - ii) If the density of the development is between forty (40) units per hectare and eighty (80) units per hectare, at a rate of one (1) hectare for each four hundred (400) Dwelling Units proposed; or
 - iii) If the density of the development is greater than eighty (80) units per hectare, at a rate of one (1) hectare for each five hundred (500) Dwelling Units proposed.

- b) In the case of lands proposed for Commercial or Industrial uses, land in the amount of two per cent (2%) of the land to be Developed or Redeveloped;
- c) In the case of lands proposed for Development or Redevelopment for a use other than those referred to in subsections 3.1(a) and 3.1(b) of this By-law, land in the amount of five per cent (5%) of the land to be Developed or Redeveloped;
- d) In the case of a Mixed-Use Development or Redevelopment, land in the aggregate, calculated as follows:
 - i) the Residential component, if any, as determined by the City, of the lands being Developed or Redeveloped, shall require the conveyance of land as determined in accordance with subsection 3.1(a) of this By-law; plus
 - ii) the Commercial or Industrial component of the lands being Developed or Redeveloped, if any, as determined by the City, shall require the conveyance of land as determined in accordance with subsection 3.1(b) of this By-law; plus
 - iii) the component of the lands proposed for any use other than Residential, Commercial, or Industrial, if any, as determined by the City, shall require the conveyance of land as determined in accordance with subsection 3.1(c) of this By-law.
- e) Notwithstanding subsection 3.1(a) of this By-law, not more than 30% of any lands proposed for Development or Redevelopment shall be required for parkland dedication.

4.0 LOCATION OF CONVEYANCE AND CONDITION OF TITLE

4.1 The location and configuration of land required to be conveyed pursuant to section 3 of this By-law shall be as determined by the City and all such lands shall be free of all encumbrances, including, but not limited to, such easements which the City, in its sole and absolute discretion, is not prepared to accept and

shall be free of any contamination, including, but not limited to, any toxic, noxious or dangerous contaminants, and shall otherwise be in a condition satisfactory to the City.

- 4.2 Land conveyed to the City as parkland dedication shall meet standards for location, size, drainage, grading, topography, and other criteria as outlined in the Parks Policy Plan and the policies of the Official Plan, or as may be otherwise determined by the City in its sole and absolute discretion.

5.0 TIMING OF CONVEYANCE

- 5.1 Where land is required to be conveyed in accordance with section 3 of this By-law, the lands shall be conveyed as follows:

- a) In the case of Development or Redevelopment to be approved pursuant to sections 51.1 or 53 of the Planning Act, the conveyance of land may be required as a condition of approval, and said lands shall be conveyed to the City either prior to or immediately upon registration of the plan of subdivision or upon the consent being given, as determined by the City;
- b) In the case of Development or Redevelopment where land has not been conveyed or has not been required pursuant to sections 51.1 or 53 of the Planning Act, the City shall require the conveyance of land as a condition of Development or Redevelopment prior to execution of the related site plan agreement.

6.0 PAYMENT IN LIEU OF PARKLAND

- 6.1 In lieu of requiring the conveyances referred to in section 3 of this By-law, the City, in its sole and absolute discretion, may require the payment of the value of the lands otherwise required to be conveyed, calculated in accordance with the following:

- a) Where the payment in lieu has been required as a condition of consent for the creation of one new lot for a Detached Dwelling, payment in lieu shall be \$6,100.

- i) The per lot rate identified in subsection 6.1(a) of this By-law shall be indexed annually on the first day of January, commencing January 1, 2024, by the CMHC St. Catharines-Niagara New Housing Construction Absorbed Unit Prices Database.
- b) For all other Development or Redevelopment, payment in lieu shall be calculated as the equivalent value of the land required as follows:
 - i) In the case of lands proposed for Residential uses, payment in lieu is calculated as follows:
 - 1) if the density of the development is twenty-five (25) units per hectare or less, at a rate of five per cent (5%) of the value of land being Developed or Redeveloped; or
 - 2) if the density of the development is greater than twenty-five (25) units per hectare, at a rate of the value of one (1) hectare of land for each five hundred (500) Dwelling Units proposed.
 - ii) In the case of lands proposed for Commercial or Industrial uses, the value of two per cent (2%) of the land being Developed or Redeveloped;
 - iii) In the case of lands proposed for Development or Redevelopment for a use other than those referred to in subsections 6.1(b)(i) and 6.1(b)(ii) of this By-law, the value of five per cent (5%) of the land being Developed or Redeveloped;
 - iv) In the case of a Mixed-Use Development or Redevelopment, the value of the land in the aggregate, calculated as follows:
 - 1) the Residential component, if any, as determined by the City, of the lands being Developed or Redeveloped, shall require the PIL of the value of land as determined in accordance with subsection 6.1(b)(i) of this By-law; plus

- 2) the Commercial or Industrial component of the lands being Developed or Redeveloped, if any, as determined by the City, shall require the conveyance of land as determined in accordance with subsection 6.1(b)(ii) of this By-law; plus
 - 3) the component of the lands proposed for a use other than Residential, Commercial or Industrial, if any, as determined by the City, shall require the conveyance of land as determined in accordance with subsection 6.1(b)(iii) of this By-law.
- c) Notwithstanding subsection 6.1(b)(i) of this By-law, not more than 30% of the value of lands proposed for Development or Redevelopment shall be required as payment in lieu of the lands otherwise required to be conveyed.

7.0 TIMING OF PIL PAYMENT AND DETERMINATION OF VALUE

7.1 PIL shall be paid as follows:

- a) For Development or Redevelopment where the payment of PIL is required as a condition of an approval or a consent pursuant to either sections 51.1 or 53 of the Planning Act, PIL shall be paid prior to registration of the plan of subdivision or prior to the consent being given, as the case may be.
 - i) The value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision or consent, as the case may be.
- b) For Development or Redevelopment where the payment of PIL is not required as a condition of an approval or a consent, pursuant to either sections 51.1 or 53 of the Planning Act, PIL shall be paid prior to execution of a site plan agreement in respect of the Development or Redevelopment.
 - i) The value of the land shall be determined as of the day before the day the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the

development or redevelopment, as of the day before the day the first permit is issued.

8.0 LIMITS OF THE LANDS TO BE DEVELOPED OR REDEVELOPED

8.1 For the purposes of calculating the land conveyance or PIL requirements of sections 3 or 6 of this By-law, the following shall be used as the area of the lands being Developed or Redeveloped:

- a) For Development or Redevelopment of land which does not occur pursuant to section 51 or 53 of the Planning Act, the Net Area of the Lands denoted within the plan or drawings;
- b) For Development or Redevelopment of land which occurs pursuant to section 51 of the Planning Act, and for which the conveyance of land or the payment of PIL is required as a condition of approval, the Net Area of the Lands denoted within the approved draft plan of subdivision;
- c) For Development or Redevelopment of land which occurs pursuant to section 53 of the Planning Act, and for which the conveyance of land or the payment of PIL has been required as a condition of approval, the Net Area of the Lands to be severed pursuant to the consent;
- d) In all other cases, the area of the lands to be Developed or Redeveloped shall be determined by the City in accordance with the Planning Act, and the Net Area of the Lands, as determined by the City, shall be used for the purposes of calculating land conveyance or PIL requirements pursuant to sections 3 or 6 of this By-law.

9.0 PHASED DEVELOPMENT

9.1 For Development or Redevelopment for which approvals are issued in phases, the City shall calculate and require the conveyance of land for parks purposes or the payment of PIL, in accordance with the provisions of sections 3 through 7 of this By-law, on a phase-by-phase basis.

10.0 PARKLAND CONVEYANCE AGREEMENTS

10.1 Nothing in this By-law shall limit the City's ability to enter into a parkland conveyance agreement with one or more landowners for the purposes of assembling parkland. Parkland conveyance agreements entered into by the City shall include provisions for the conveyance of land for parks purposes or PIL, the calculation of which shall be as provided in this By-law.

11.0 EXEMPTIONS

11.1 Notwithstanding the provisions of this By-law, the conveyance of land for parks purposes or payment in lieu thereof shall not be required with respect to:

- a) Development or Redevelopment of that component of land, buildings, or structures intended for use as a long-term care home as defined under the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8;
- b) Development or Redevelopment of that component of land, buildings, or structures intended for use as a retirement home as defined under the *Retirement Homes Act, 2010*, S.O. 2010, c. 11;
- c) Development or Redevelopment of that component of land, buildings, or structures intended for use as a daycare as defined under the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1;
- d) Development or Redevelopment of that component of land, buildings, or structures intended for use by any of the following post-secondary institutions for the objects of the institution:
 - i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario;
 - ii) a college or university federated or affiliated with a university described in subparagraph (i);
 - iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched. 20.

- e) Development or Redevelopment of that component of land, buildings, or structures intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion;
- f) Development or Redevelopment of that component of land, buildings, or structures intended for use as a hospice to provide end of life care;
- g) Development or Redevelopment of that portion of land, buildings, or structures intended for Residential use by any of the following entities:
 - i) a corporation to which the *Not-for-Profit Corporations Act*, 2010, S.O. 2010, c. 15 applies, that is in good standing under that Act and whose primary objective is to provide housing;
 - ii) a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing;
 - iii) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35.
- h) Development or Redevelopment of land, buildings, or structures owned by and used for the purposes of the City or a local board thereof;
- i) Development or Redevelopment of land, buildings, or structures owned by and used for the purposes of the Regional Municipality of Niagara or a local board thereof;
- j) Development or Redevelopment of land, buildings or structures owned by and used for school uses by a Board of Education;
- k) The replacement of any building that is a direct result of destruction due to accidental fire or other accidental cause, provided that no intensification or change of use is proposed, including but not limited to an increase in total Dwelling Unit count or Gross Floor Area;

- l) The enlargement of an existing Dwelling Unit provided that the enlargement does not result in additional Dwelling Units, but may result in an Accessory Dwelling Unit;
- m) Where the total PIL payable for Development or Redevelopment is less than \$100.

12.0 TRANSITION PERIOD

- 12.1 For any Complete Application for site plan approval, subdivision approval, condominium approval, or consent to sever that has been submitted to the City pursuant to the Planning Act prior to January 1, 2023, parkland shall be conveyed at the rates prescribed under City of St. Catharines By-law 74-72, provided final approval of the application is received by no later than December 31, 2023.
- 12.2 The City of St. Catharines Parkland Dedication By-law 74-72, and any amendments thereto, shall be repealed on January 1, 2024.
- 12.3 Notwithstanding subsection 12.2 above, as of January 1, 2023 all applications for Development or Redevelopment shall be subject to the provisions of this By-law, and where there is a conflict between this By-law and By-law 74-72, the contents of this By-law shall prevail.

13.0 GENERAL

- 13.1 Severability. If any part or provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of this By-law, its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 13.2 Singular and plural. In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural.

13.3 And/or. The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.

13.4 Amendments and successors. Any reference to legislation, plans, or policies in this By-law includes the legislation, plan, or policy referred to and its amendments as well as any subsequent legislation, plan, or policy which may replace it, and its amendments thereto.

13.5 Headings. Headings do not form part of this By-law, they are included only for ease of reference and convenience.

14.0 DATE BY-LAW IN FORCE

14.1 Effective date. This By-law shall come into force on the 1st day of January, 2023.

Read and passed this 26 day of September 2022.



CLERK



MAYOR