

CORPORATION OF THE TOWNSHIP OF CLEARVIEW

PARKLAND CONVEYANCE BY-LAW

BY-LAW NO. 08-04

Being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development, redevelopment or the subdivision of land.

WHEREAS sections 42, 51.1 and 53 of the Planning Act, R.S.O. 1990, c.P.13 as amended, provide that the Council of the local municipality may, by by-law, require that the land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment of lands, or as a condition of the subdivision of lands;

WHEREAS sections 42 and 51.1 of the Planning Act, R.S.O. 1990, c.P.13 as amended, provide for an alternative parkland rate of one hectare for each three hundred (300) dwelling units proposed for development provided the Municipality has an Official Plan that contains specific policies dealing with the provisions for parklands or other public recreational purpose at such rate;

WHEREAS the Township of Clearview Official Plan contains policies which establish requirements for parkland dedication and require the dedication of the maximum amount of parkland, and also establishes policies with respect to acceptance of payments in lieu of parkland dedication requirements;

AND WHEREAS the Council of the Corporation of the Township of Clearview, wishes to use these provisions to further the acquisitions of lands for parks or other public recreational purposes;

NOW, THEREFORE the Council of the Corporation of the Township of Clearview hereby enacts the as follows:

DEFINITIONS

1. In this By-law:

"Municipality" means the Corporation of the Township of Clearview

"Environmental Lands" includes any lands not to be developed for commercial, industrial or residential purposes due to the presence of natural heritage features and functions or natural hazards as will be established in accordance with the Provincial Policy Statement, the Official Plan of the Township of Clearview, and the Township of Clearview Comprehensive Zoning By-law, all as in effect at the time of establishment of the conveyance requirement.

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

GEOGRAPHICAL LOCATION

2. This By-law shall apply to all lands within the Township of Clearview.

DEVELOPMENT OR REDEVELOPMENT

3. As a condition of development or redevelopment pursuant to Section 42 of the Planning Act, R.S.O. 1990, the owner is required to convey to the Township land for park or other public recreational purposes as follows:
 - In the case of lands proposed for commercial or industrial purposes, the dedication of land in the amount of two percent (2%) of the area to be developed or redeveloped;
 - In the case of lands proposed for residential purposes, the dedication of land calculated as the greater requirement of either five per cent (5%) of the area to be developed or redeveloped, or one hectare (1 ha) for each three hundred (300) dwelling units proposed;

- For lands proposed for development or redevelopment for mixed use development, the parkland calculation shall be based on a pro rata proportion of the residential and non-residential components;
- The municipality may, at its sole discretion, in lieu of accepting conveyance, require the payment of money in lieu to the value of land otherwise required to be conveyed;
- Where payment in lieu is required, the value of the land shall be determined as of the day before the day the first building permit is issued for the development or redevelopment;
- Payment in lieu, may at the sole discretion of the municipality, satisfy part or all of the dedication requirement; and,
- If land has been conveyed or is required to be conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality or is owing to it under section 51.1 or 53 of the Planning Act, no additional conveyance or payment will be required by the municipality 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.

SUBDIVISION

4. As a condition of subdivision or condominium plan approval pursuant to Section 51.1, or the giving of a provisional consent pursuant to Section 53 of the Planning Act, R.S.O. 1990, the owner is required to convey the following:
 - In the case of lands proposed for commercial or industrial purposes, land calculated on the basis of two percent (2%) of the land to be subdivided; and
 - In the case of lands proposed for use for residential purposes, the dedication of land calculated as the greater requirement of either five per cent (5%) of the land to be subdivided, or one hectare (1 ha) for each three hundred (300) dwelling units proposed to be developed on the lands to be subdivided;
 - The municipality may, in lieu of accepting conveyance, require the payment of money in lieu to the value of land otherwise required to be conveyed;
 - For a plan of subdivision or condominium, the value of the land shall be determined as the day before the day of the approval of the draft plan;
 - For a consent, the value of the land shall be determined as the day before the day the provisional consent was given;
 - Payment in lieu may, at the sole discretion of the municipality, satisfy part, or all, of the dedication requirement.

LOCATION OF PARKLAND

5. The location and configuration of land required to be conveyed shall be as follows at the sole discretion of the Township and free of all encumbrances.

ENVIRONMENTAL LANDS

6. Any conveyances or dedication of Environmental Lands as defined herein or stormwater management facilities shall not be considered as in any way contributing to or satisfying the requirement for conveyance of lands for park or other recreational purposes pursuant to the requirements of Section 3 and 4. Environmental Lands shall also not be excluded from the total land area to be developed, redeveloped or subdivided in the calculation of the parkland requirement.

PAYMENT IN LIEU OF PARKLAND VALUE DETERMINATION

7. Where deemed necessary by the Township to determine the value of the land with respect to a payment in lieu of lands in accordance with sections 3 and 4 above, the Township will require an appraisal of the land to determine the land value. The appraisal shall be carried out in accordance with generally accepted appraisal principles and undertaken by a qualified appraiser, appointed by the Township, at the cost of the applicant.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28th DAY OF JANUARY, 2008.



Ken Ferguson, Mayor



Robert Campbell, Clerk