



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

**MISSION STATEMENT:** *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

<b>Author's Name:</b> Christopher Aspila	<b>Report Date:</b> January 28, 2023
<b>Author's Phone:</b> 519 736-5408 ext. 2124	<b>Date to Council:</b> February 13, 2023
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**To:** Mayor and Members of Town Council

**Subject:** Cash In-Lieu of Parkland By-law

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#### 1. **RECOMMENDATION:**

It is recommended that By-law 2023-027, being a by-law to require the conveyance of land for park or other recreational purposes or the payment of cash-in-lieu thereof, as a condition of the development or redevelopment of land, be taken as having been read three times and finally passed the Mayor and Clerk **BE AUTHORIZED** to sign same.

#### 2. **BACKGROUND:**

Bill 23, the *More Homes Built Faster Act, 2022*, received Royal Assent on November 28, 2023 and reduced residential parkland dedication requirements and introduced a new framework for parkland to be identified by landowners. It is noted that land owners have the right to appeal parkland dedication to the Ontario Land Tribunal in situations when the municipality refuses to accept identified lands.

Under section 42 of the Planning Act, municipalities are able to charge a rate for the dedication of parkland as an alternative to the developer providing land for a park. Furthermore, under section 51.1 of the Planning Act, municipalities are able to charge a rate when someone is subdividing or creating lots from a plot of land for residential development.

#### 3. **DISCUSSION:**

The Town of Amherstburg Official Plan contains the following policies pertaining to Parkland Dedication and Cash In-Lieu of Parkland:

## **2.10 PUBLIC PARKLAND**

### **2.10.1 Public Parkland Standards**

*Community parkland shall be established, in accordance with the policies of this Plan, on the basis of 4.0 hectares per 1,000 population. Such parklands are intended to serve the residents of Amherstburg.*

### **2.10.2 Parkland Dedication**

*Whenever development or redevelopment of lands is proposed, the Town shall, as a condition of approval, require that:*

- (1) For residential development, up to five percent (5%) of such lands for development at densities of 14 units per gross hectare or less, or one hectare (1 ha) for every 300 dwelling units for development at densities greater than 14 units per gross hectare, be conveyed to the Town for park purposes;*
- (2) For commercial and industrial development, up to two percent (2%) of such land be conveyed to the Town for park purposes;*
- (3) For mixed use developments, up to 5% of the lands proposed to be developed or redeveloped for residential purposes, or 1 hectare of land per 300 dwelling units proposed, whichever amount is greater, plus 2% of the land area used to accommodate the total floor area of buildings and structures used for commercial and/or industrial purposes, be conveyed to the Town for park purposes.*

*All lands to be so conveyed shall require approval by the Town and under no circumstances will Municipal Council be obligated to accept parkland which is being offered by an applicant for a proposed plan of subdivision. Lands having environmental constraints may not be acceptable to the Town.*

### **2.10.3 Cash-in-Lieu of Parkland**

*The Town may require the developer to convey cash-in-lieu of parklands. The cash value of such lands shall be determined by an appraisal authorized by the Town. The value of the lands shall be determined as of the day before the day the issuance of the building permit as outlined in Section 42 of the Planning Act, R.S.O. 1990 Chap.P.13. For plans of subdivision, the value of the land is determined as of the day before the day the Draft Plan is approved, as outlined in Sections 51.1(3) and (4) of the Planning Act, R.S.O. 1990 Chap.P.13. or as specified in the Planning Act as amended from time to time. For the purpose of establishing a convenient and equitable basis for accepting cash-in-lieu of land dedication, a fixed cash payment per dwelling unit shall be charged by the municipality and such charges shall be adjusted annually to reflect the general rate of increase in land values throughout the Town. Funds collected under the alternative conveyance regulations shall be used for parkland upkeep, parkland development, recreational facilities, acquisition of natural habitat areas, and for the protection of natural habitat areas.*

*Cash-in-lieu of land dedication shall be considered by Council when:*

- (1) The required land dedication fails to provide an area of suitable shape, size, or location for development as public parkland or to accommodate the development of a desirable range of parks and recreation facilities according to the standards prescribed in this Plan; or*
- (2) The required dedication of land would render the remainder of the site unsuitable or impractical for development; or*

(3) *Existing park and recreational facilities in the vicinity of the site are, in the opinion of Council, already adequate to serve the projected increase in population; or*

(4) *Where more suitable parcels of land are available for municipal park purposes.*

Bill 23 included changes to reduce the amount of parkland required for residential developments. Parkland dedication and Cash In-Lieu of Parkland for non-residential developments is not changing.

There is a new formula for calculating parkland requirements for residential development based on the ratio of affordable units to non-affordable units. Residential development with a higher percentage of affordable units will have a lesser requirement for parkland dedication. While the Provincial definition for affordable, and attainable, has not yet been provided, the rules for all other residential calculations are now in effect.

For all other residential development, parkland dedication is calculated at 1 hectare of parkland for every 600 net units for residential in situations where land will be supplied by the developer and 1 hectare of parkland for every 1000 net units for residential in situations when cash in-lieu of parkland will be provided.

The consequence of the Bill 23 changes is that the Official Plan policies for parkland requirements of residential developments are now out of date and cannot be enforced. The attached Cash In-lieu of Parkland By-law 2023-027 conforms with the Planning Act as updated by Bill 23. The Official Plan parkland policies will be updated with a forthcoming Bill 23 housekeeping amendment.

Administration will be seeking professional services from Watson and Associates to update related policies and Master Plans as required.

#### **4. RISK ANALYSIS:**

Failure to implement a Cash In-Lieu of Parkland By-law exposes the Town of Amherstburg to potential Ontario Land Tribunal hearings challenging parkland dedication amounts for new residential development.

#### **5. FINANCIAL MATTERS:**

An impact of the Bill 23 changes to the Planning Act is that municipalities anticipate lower amounts of new parkland or cash in-lieu of parkland for new residential developments. Administration will be tracking all cash in-lieu over the 2023 period, capturing what the amount would have been by using the Town's policy vs what is required based on the calculation set forth in Bill 23.

#### **6. CONSULTATIONS:**

Director of Parks, Facilities, Recreation and Culture

7. **CONCLUSION:**

It is recommended that Council enacts the attached Cash In-Lieu of Parkland By-law.



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Christopher Aspila  
**Manager Planning Services**

## Report Approval Details

Document Title:	2023-027 - Conveyance of Parkland.docx
Attachments:	- 2023-027- Conveyance of Parkland.docx
Final Approval Date:	Feb 6, 2023

This report and all of its attachments were approved and signed as outlined below:



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