



The Corporation of the Town of New Tecumseth

**By-law 2015-146
(Consolidated – as amended)**

PARKLAND CONVEYANCE BY-LAW

A by-law to require the conveyance of land for a park or other public recreational purposes or the payment of cash in lieu of conveyance as a condition of development or redevelopment

Consolidation		
Amendment No. 1	By-law No. 2017-088	June 12, 2017

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**THE CORPORATION OF THE TOWN OF
NEW TECUMSETH**

BY-LAW

Number 2015-146 AS AMENDED

“PARKLAND CONVEYANCE BY-LAW”

A by-law to require the conveyance of land for a park or other public recreational purposes or the payment of cash in lieu of conveyance as a condition of development or redevelopment

WHEREAS Section 42, 51.1 and 53(13) of the *Planning Act R.S.O. 1990, Chapter P.13* as amended, provide that, as a condition of development or redevelopment of land, the Council of a local municipality may, by by-law, or as a condition of the approval of a plan of subdivision, or as a condition of the giving of a provisional consent, require that land be conveyed to the municipality for park or other public recreational purposes;

AND WHEREAS the Council for the Corporation of the Town of New Tecumseth wishes to use this provision towards parks or other public recreational purposes;

NOW THEREFORE the Council of the Corporation of the Town of New Tecumseth hereby enacts as follows:

1. In this By-law:

“Town” means The Corporation of the Town of New Tecumseth;

“Council” means the Municipal Council for the Town;

“development” means the creation of a new lot, a change of land use, or the construction of buildings and structures, requiring approval under the *Planning Act*, but does not include:

- a) Activities that create or maintain infrastructure authorized under an environmental process;
- b) Works subject to the *Drainage Act*.

“redevelopment” means the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites;

“brownfield sites” means undeveloped or previously developed properties that may be contaminated. These are usually, but not exclusively, former industrial or commercial properties that may be underutilized, derelict or vacant;

“industrial purposes” means the use of land, building or structure or part thereof used primarily for the purpose of manufacturing, processing, fabrication, assembly, treatment, packaging, and incidental storage of goods and materials and may include accessory sales and distribution of such products;

“commercial purposes” means the use of the land, structure or building for the purpose of buying and selling commodities or supply of services as distinguished from such uses as manufacturing or assembling of goods, warehousing and construction;

“institutional purposes” means the use of land, building or structure for the following purposes: community centre; retirement home; nursing home; museum; public library; day nursery; hospital; cemetery; and all schools;

“place of religious assembly” means the use of land, building or structure as a place of public worship and which is owned and operated by a religious organization;

“residential purposes” means the use of land, building or structure for human habitation;

“dwelling unit” shall mean a suite of two (2) or more rooms used or intended to be used by one (1) or more persons living together as one (1) household, in which food preparation and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway.

“GFA” means gross floor area as defined in the Town’s Zoning By-law;

“Previous Total GFA” means the gross floor area of the existing building;

“Demolished GFA” means the gross floor area to be demolished;

“New GFA” means the gross floor area being added to the existing building;

“Total Market Value” means the market value of the entire property as per Section 42 of the *Planning Act*;

“CIL owing” means the cash-in-lieu payment for parks purposes owing to the Town.

2. This By-law applies to all lands within the Town.
3. (1) As a condition of development or redevelopment of land, Council hereby requires:
 - (a) in the case of land proposed for commercial or industrial purposes, the payment of money to the value of the land otherwise required to be conveyed under paragraph 4(1)(a);
 - (b) in all other cases which are not specifically mentioned in paragraphs 3(1)(a), the payment of money to the value of the land otherwise required to be conveyed under paragraph 4(1)(b).
- (2) Where land is proposed for residential development or redevelopment, the Town may require the payment of money to the value of the land otherwise required to be conveyed at a rate of one hectare for each 500 dwelling units or an amount as set out in paragraph 3(1)(b), whichever is greater.
4. (1) As an alternative to requiring the payment of money provided for in Section 3, as a condition of development or redevelopment of land, Council may required that:
 - (a) in the case of land proposed for commercial, or industrial purposes, 2 per cent (2%) of the land be conveyed to the Town;
 - (b) in all other cases which are not specifically mentioned in paragraphs 4(1)(a), five per cent (5%) of the land be conveyed to the Town.
- (2) Where land is proposed for residential development or redevelopment, the Town may required that the land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units or an amount as set out in paragraph 4(1)(b), whichever is greater.
5. (1) Where the Town’s Site Plan Control By-law enacted under Section 41 of the *Planning Act R.S.O. 1990, Chapter P.13* as amended, applies to the development or redevelopment of land, then as a condition of the development or the redevelopment of the land, the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to Section 4 of this By-law as the case may be, shall be made prior to the issuance of a building permit for the land to be developed or redeveloped.
- (2) Where land is not subject to the Town’s Site Plan Control By-law, the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to

Section 4 of this By-law as the case may be, shall be made prior to the issuance of a building permit for the land to be developed or redeveloped.

- (3) Despite subsection 5(1), as an alternative the Town may require that the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to Section 4 of this By-law as the case may be, shall be made prior to the issuance of a building permit for the land to be developed or redeveloped.
6. (1) For the purpose of calculating the payment of money under Section 3 of this By-law:
- (a) the value of the land shall be its market value as determined in accordance with Section 42 of the *Planning Act R.S.O. 1990, Chapter P.13*, as amended; and,
 - (b) all appraisals of land value shall be prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.
7. (1) Notwithstanding Sections 3, 4 and 5 of this By-law, the conveyance of land or the payment of money in lieu for park or other public recreational purposes shall not be required:
- (a) in respect of the construction of additions to any building if a previous conveyance of land or payment of money in lieu was made for the land in connection with the existing building pursuant to Sections 42, 51 or 53 of the *Planning Act R.S.O. 1990, Chapter P.13*, as amended unless:
 - (i) there is a change in the proposed development or redevelopment which would increase the density of development; or
 - (ii) land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes;
 - (b) in respect of an application for a building permit to replace any building which was razed by fire, by accidental cause or by an act of God, provided that in the case of a building used for industrial purposes, commercial purposes, institutional purposes and a place of religious assembly, the size of the replacement building does not exceed the total gross floor area of the prior building which was destroyed;
 - (c) in respect of the carrying out of additions or interior alterations to existing buildings used for residential purposes provided there is no increase in the existing number of dwelling units;
- (2) Notwithstanding Sections 3 and 4 of this By-law, the conveyance of land or the payment of money in lieu for park or other public recreational purposes shall be required in respect of the construction of an addition to or replacement of a building used for commercial purposes, industrial purposes, institutional purposes or a place of religious assembly in accordance with the following formula:
- $$(\text{Previous Total GFA}) - (\text{Demolished GFA}) + (\text{New GFA}) = \text{New Total GFA}$$
- $$\frac{(\text{New Total GFA} - \text{Previous Total GFA})}{(\text{Previous Total GFA})} \times (\text{Total Market Value}) \times 2\% = \text{CIL owing}$$
8. Subject to subsection 5(1), the Director of Administrative Services/Clerk and his or her designate as identified by the Director in writing from time to time with such powers and authority as described by the Director, are hereby delegated authority for the implementation of the requirements of this By-law and for the administration of this By-law.
9. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to pay a fine, exclusive of costs, and such other penalties, as may be provided for or imposed under the *Provincial Offences Act R.S.O. 1990, Chapter P.33*, as amended.

10. If this By-law is contravened by any person, in addition to any other remedy and to any penalty imposed by this By-law, the Director of Administrative Services/Clerk or his or her designate, may instruct the Town Solicitor to commence and undertake an action against the person to restrain the contravention, or to commence and undertake an action or application for such other remedy as may be appropriate.
11. Should any Section or part of the By-law be declared or determined by a court or tribunal of competent jurisdiction to be invalid, it is Council's intent that the remainder of this By-law continue to remain in force and effect.
12. That this By-law shall be cited as the "Parkland Conveyance By-law".
13. That this By-law shall take effect on the date of passage by Council and shall come into force in accordance with the provisions of the *Planning Act R.S.O. 1990, Chapter P.13*, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 21ST DAY OF SEPTEMBER, 2015.

MAYOR

Office Consolidation

CLERK