

**THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
BY-LAW 2018-61**

**BEING A BY-LAW TO PROVIDE FOR THE CONVEYANCE OF LAND FOR
PARK OR OTHER RECREATIONAL PURPOSES, OR CASH-IN-LIEU OF
PARKLAND CONVEYANCE**

WHEREAS section 42, 51.1 and 53 of the *Planning Act, R.S.O. 1990, c.P13*, as amended, authorize local municipalities to pass by-laws requiring that land or cash-in-lieu thereof be conveyed to the local municipality as a condition of development or redevelopment of land, the subdivision of land, or the granting of provisional consent over land;

AND WHEREAS the Council of the Corporation of the City of Clarence-Rockland has adopted policies within its Official Plan pertaining to the conveyance of land or cash-in-lieu thereof to the City as a condition of development or redevelopment of land, the subdivision of land, or the granting of provisional consent over land under the *Planning Act*;

AND WHEREAS the Council of the Corporation of the City of Clarence-Rockland deems it necessary and expedient to enact a by-law to provide for the provision of lands for park or other public recreational purposes and the use of alternative requirements therefor;

NOW THEREFORE the Council of the Corporation of the City of Clarence-Rockland enacts as follows:

1. TITLE, SCOPE AND INTENT

- 1.1 This By-law shall be known and cited as the "Parkland Dedication By-law" of the City of Clarence-Rockland.
- 1.2 This By-law shall apply to all lands within the geographic boundary of the City of Clarence-Rockland.
- 1.3 The intent of this By-law is to enable the City of Clarence-Rockland to provide land for public parks or other public recreation purposes. The City is permitted to require the conveyance of parkland or cash-in-lieu of parkland as a condition of development or redevelopment, subdivision of land, or the granting of provisional consent as regulated under the *Planning Act*. Land conveyed to the City under this By-law shall be used for Parkland or other public recreational purposes, subject to the policies of the Official Plan and this By-law and provincial laws.

2. DEFINITIONS

2.1 For the purposes of interpretation of this By-law, the following definitions shall apply:

- (a) **"Affordable Housing"** means:
 - i. in the case of ownership housing, the least expensive of:
 - 1. housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low and moderate income households; or
 - 2. housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area;
 - ii. in the case of rental housing, the least expensive of:
 - 1. a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or
 - 2. a unit for which the rent is at or below the average market rent of a unit in the regional market area.
- (b) **"Cash-in-Lieu"** means a payment of money for park or other public recreational purposes which is collected in lieu of a conveyance of land which would otherwise be required to be conveyed pursuant to the parkland provisions of the *Planning Act*.
- (c) **"City"** means the Corporation of the City of Clarence-Rockland, as represented by the Director of Infrastructure and Planning.
- (d) **"City User Fees By-law"** means the City of Clarence-Rockland User Fees By-law.
- (e) **"Convey/Conveyed"** means to deed or transfer land for park or other public recreational purposes.
- (f) **"Development"** means:
 - i. any construction, erection or placing on land of one or more buildings or structures, or making of an addition or alteration to a building or structure which has the effect of substantially increasing the size or usability thereof, or laying out and establishment of a commercial parking lot that is subject to Site Plan Control as per the City's Site Plan Control By-law;
 - ii. the creation of one or more lots through the granting of consent, via plan of subdivision, or via plan of condominium;

and includes redevelopment.

- (g) **"Director of Infrastructure and Planning"** means the Director of the Infrastructure and Planning Department of the City of Clarence-Rockland or his authorized agent.
- (h) **"Director of Community Services"** means the Director of the Community Services Department of the City of Clarence-Rockland or his authorized agent.
- (i) **"Dwelling Unit"** means a place of residence with one or more habitable rooms containing separate kitchen and bathroom facilities for private use as a single housekeeping unit.
- (j) **"Gross Floor Area"** means the aggregate area of a building contained within the exterior walls, but does not include attic or basement space unless otherwise specified. Where attic space is located adjacent to floor area as described above and exceeds a headroom clearance of 1.8 metres at any given point, the entire attic space shall be included as floor area.
- (k) **"Gross Land Area"** means the land area of the entire development site, including the parcel of land which is to be dedicated for park purposes, including any easements, roadways and stormwater management facilities etc., but excluding roads, road rights-of-way, and areas that have been dedicated to the local municipality or other public agency or lands designated as Environmental Protection Area or similar designation.
- (l) **"Market Appraisal"** means a written opinion of fair market value of one or more parcels of land supported by presentation and analysis of relevant data by a certified accredited appraiser.
- (m) **"Market Value"** means the monetary price a property would be expected to bring in a competitive and open market, as of the specified date, under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and assuming price is not affected by undue stimulus.
- (n) **"Mixed Use"** means the physical integration of residential and commercial, industrial or others uses within a building or structure or separate buildings or structures on the lands proposed for Development.
- (o) **"Not-for-Profit Organization"** means a corporation registered as a charity and regulated under the *Not-for-Profit Corporations Act*, 2010 or regulated by one or more provincial and/or federal act(s).

- (p) **"Official Plan"** means the Official Plan of the Urban Area of the City of Clarence Rockland in effect at the time, the Bourget Official Plan in effect at the time, and the Official Plan of the United Counties of Prescott and Russell in effect at the time.
- (q) **"Parkland"** means developable lands that are suitable for the development of a recreational area, playground, playing fields or similar use and may also include community recreational and leisure facilities, accessory buildings or structures such as a maintenance building, washroom or canteen.
- (r) **"Planning Act"** means the *Planning Act*, R. S. O. 1990 as amended or replaced.
- (s) **"Second Unit"** means:
 - i. the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and
 - ii. the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.
- (t) **"Subsidized Housing"** means rental dwelling units where rent is based on rentgeared- to-income (RGI) and does not exceed 30 per cent of gross annual household income up to a defined minimum.

3. INTERPRETATION

- 3.1 Unless otherwise defined, the words and phrases used in this By-law have their normal and ordinary meaning.
- 3.2 This By-law is gender neutral and, accordingly, any reference to one gender includes the other.
- 3.3 Words in the singular include the plural and words in the plural include the singular.
- 3.4 Headings and the table of contents are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

4. PARKLAND DEDICATION

- 4.1 As a condition Development, the City shall require the conveyance of land for park or other public recreational purpose at the rates defined herein.

Commercial and Industrial uses

- 4.2 Where land is developed for commercial or industrial use, the City shall require the conveyance of land for park or other public recreational purpose at a rate of 2% of the gross land area being developed, redeveloped or subdivided.

Residential uses and other uses

- 4.3 Where land is developed for residential use, the City shall require the conveyance of land for park or other public recreational purpose at a rate of 5% of the gross land area being developed, redeveloped or subdivided.
- 4.4 Where land is developed for residential use and where the density is greater than 35 units per hectare, the City may require that the rate used to determine the parkland conveyance be one (1) hectare for each 300 dwelling units proposed, but for mid-high rise apartments, as defined by the City's Zoning by-law, this parkland conveyance will not exceed a maximum of 10% of the land area of the site being developed.

Mixed Uses

- 4.5 When land is developed for Mixed Uses, the land to be conveyed shall be as follows:
- (a) For Mixed uses on a site, the land to be Conveyed shall be the sum of the requirements proportionate to the site area allocated to each use at the rates set out in sections 4.2, 4.3, and 4.4.
 - (b) For Mixed Uses within a building, the land to be conveyed shall be the sum of the requirements proportionate to the gross floor area allocated to each use at the rates set out in sections 4.2, 4.3, and 4.4.

Single lot created by consent

- 4.6 Where land is severed for commercial or industrial use, the City shall require the conveyance of land for park or other public recreational purpose at a rate of 2% of the gross land area being severed.

- 4.7 Where land is severed for residential use, the City shall require the conveyance of land for park or other public recreational purpose at a rate of 5% of the gross land area being severed.

City's determination

- 4.8 The parkland conveyance requirements will be determined at the time of development review and the amount of land will be identified as a condition of approval.
- 4.9 The location and configuration of land required to be conveyed shall be determined by and at the discretion of the City. All conveyances shall be free of any and all encumbrances.

5. LANDS SUITABLE FOR PARKLAND CONVEYANCE

- 5.1 The City may accept land for passive and active Parkland and other public recreational purposes. These lands conveyed to the City shall be in a location and physical condition satisfactory to the Director of Infrastructure and Planning and to the Director of Community Services. Any land parcel configuration, size or location that is constrained or deemed undesirable, as determined by the Director of Infrastructure and Planning or by the Director of Community Services, shall not be acceptable as Parkland Conveyance. Factors that will be considered in determining suitability for conveyance include, but are not limited to the following:
- (a) Open frontage on a public road which provides visibility and accessibility;
 - (b) Adequate size and configuration to accommodate park amenities such as sports fields, playgrounds, and programmable open space as required;
 - (c) Physical state, including lot grading and drainage, to accommodate park amenities such as sports fields, playgrounds, and programmable open space as required;
 - (d) Abutting complementary land uses;
 - (e) Consistent with the Official Plan policies for the area and for parks and leisure areas;
 - (f) Connectivity to the existing trail system, where possible;
 - (g) Pedestrian and cyclist access, including direct access to existing or planned Parkland;
 - (h) Opportunities to co-locate with schools;

- (i) Public access to the Ottawa River;
- (j) Equitable distribution within the community; and
- (k) Connectivity to existing and planned parks and open spaces.

6. LANDS NOT SUITABLE FOR PARKLAND CONVEYANCE

6.1 Land that is considered not suitable for park or other public recreational purpose will not be counted towards the amount of land required to be conveyed in order to fulfill the requirements in Section 4 of this By-law. Such land may include, but is not limited to:

- (a) Hazardous or flood prone areas;
- (b) Steep or unstable slopes;
- (c) Any land having unsuitable or unstable soil conditions for intended recreation facilities;
- (d) Utility rights-of-way or easements;
- (e) Any land containing an easement, encumbrance or right-of-use that limits or restricts the City's use of the land;
- (f) Any land subject to a no-touch/no-development setback;
- (g) Stormwater management facilities;
- (h) Provincial or locally significant wetlands or woodlands;
- (i) Required setbacks and buffer lands from natural features such as wetlands and watercourses;
- (j) Roadways or walkways being conveyed for non-parkland purposes;
- (k) Lands that are deemed to be contaminated; and
- (l) Lands determined to be unsuitable as Parkland by the Director of Infrastructure and Planning or by the Director of Community Services.

6.2 Any land that has been or is to be conveyed to the City for stormwater management facilities, for flood plain or conservation purposes, for roadways, walkways or any other non-parkland purpose, will not be credited against the required parkland conveyance or cash-in-lieu thereof.

6.3 Where conveyance of land for park purposes is not feasible within the site being developed, the City may consider the conveyance of land outside of the site being developed if the City is satisfied that

the land provides a benefit to the residents of the land being developed.

7. CASH-IN-LIEU OF PARKLAND DEDICATION

- 7.1 As an alternative to the conveyance of land, the City may require, at its discretion, the payment of money equal to the value of lands otherwise required to be conveyed under this By-law, or a combination of land and money.
- 7.2 Generally, the City may, in the following circumstances, require the payment of cash-in-lieu instead of accepting a conveyance of land:
 - (a) Where there is no land that is either usable or functional on the site for parkland or recreational purposes;
 - (b) Where the conveyance of parkland from the site would reduce the number of dwelling units or the floor space area of the development to the extent that the development is unfeasible;
 - (c) Where the City has identified land in a more appropriate or accessible location and that has been or is to be acquired by the City;
 - (d) Where the area being developed or redeveloped is already well served with parkland; or
 - (e) For the creation of a lot by consent.
- 7.3 The decision whether or not to require a conveyance of land, payment of cash-in-lieu or accepting a conveyance or combination therein, will be made by the Director of Infrastructure and Planning on the advice of the Director of Community Services at the time of development review.
- 7.4 Where Cash-in-Lieu of Parkland is required, the City shall require that the payment be in the amount of the value of the land otherwise to be conveyed as per section 4 of this By-law.
- 7.5 Notwithstanding section 7.4, where the conveyance of Parkland for residential uses is required at a rate of 1 hectare per 300 Dwelling Units, the Cash-in-Lieu payment shall be calculated based on the value of land required to be conveyed at a rate of 1 hectare per 500 Dwelling Units.

8. VALUATION OF LAND

8.1 Where Cash-in-Lieu of Parkland is required, the value of the land shall be determined by:

- (a) A market appraisal or a letter of opinion, obtained by and at the owner's expense, approved by the Director of Infrastructure and Planning, as of the day before the granting of the draft approval for development by way of plan of subdivision or condominium, and the day before the granting of provisional consent for a consent application; or
- (b) A market appraisal or a letter of opinion, obtained by and at the owner's expense, approved by the Director of Infrastructure and Planning, as of the day before planning approval is given for a development by way of site plan control; or
- (a) The most recent land sale record of the subject property, no more than 12 months prior to the date of the agreement, reviewed and accepted by the Director of Infrastructure and Planning; provided the sale was at market value and there has been no change that may impact the land value, including but not limited to changes in the zoning, Official Plan designation, or severance.

9. EXEMPTIONS

9.1 No conveyance of land or payment of cash-in-lieu under this by-law is required in the case of the development of a building that was accidentally damaged or demolished so long as:

- (a) The building continues to be used for the same purpose after it is repaired, replaced or rebuilt; and
- (b) There is no increase in number of dwelling units or (gross) floor area.

9.2 No conveyance of land or payment of cash-in-lieu under this by-law is required in the case of the development of:

- (a) An addition or alteration to an existing residential building that does not result in an increase in dwelling units;
- (b) A new agricultural lot;
- (c) A place of worship;
- (d) A cemetery;
- (e) A non-profit rental or not-for-profit sponsored ownership residential development or other development that provides

public facilities or services and that is undertaken by a non-profit organization;

- (f) A college or university or a school as defined by subsection 1(1) of the *Education Act*, where the school provides for the student's outdoor recreational needs on-site at the time of development;
- (g) A municipal or other government use;
- (h) A second unit as defined in this By-law or a garden suite as defined in the City's Zoning By-law;
- (i) A home-based business or a home industry as defined in the City's Zoning By-law;
- (j) An addition or alteration to an existing commercial or industrial building that does not require site plan control approval as per the *Planning Act* or the Site Plan Control By-law;
- (k) A temporary use for which an approval has been granted under section 39 of the *Planning Act*; or
- (l) Any development of a use undertaken in partnership with the City.

9.3 No conveyance of land or payment of cash-in-lieu under this by-law is required for:

- (a) A change of use from residential to commercial or industrial or for the alteration of an existing building from a change of use from residential to commercial or industrial; or
- (b) A change of use from commercial or industrial to another commercial or industrial use, or for the alteration of an existing building resulting in a change of use from commercial or industrial to another commercial or industrial use.

9.4 Parkland requirements for Conveyance shall be reduced for Developments and Redevelopments by Not-for-Profit Organizations for Subsidized and Affordable Housing. The reduction in Parkland required for Conveyance or the equivalent Cash-in-Lieu will be proportionate to the percentage of Affordable and/or Subsidized Dwelling Units. This reduction shall be calculated as one per cent of the land area of the land to be conveyed or one percent of the total payment of Cash-in-Lieu for each one per cent of the total number of units in the development which are Affordable and/or Subsidized Dwelling Units.

10. CREDITS FOR PREVIOUS CONVEYANCES

- 10.1 Notwithstanding Sections 4 and 7 of this By-law, where it is known or can be demonstrated that the required parkland conveyance or cash-in-lieu thereof has been previously satisfied in accordance with the *Planning Act*, no additional conveyance or payment will be required in respect of subsequent Development unless:
- (a) There is a change in the proposed Development which would increase the density of the development providing a net unit gain; or
 - (b) Land originally proposed for Development for commercial or industrial purposes is now proposed for Development for other purposes.
- 10.2 Land or Cash-in-Lieu required to be conveyed or paid to the City for park or other public recreation purposes pursuant to Sections 4 or 7 of this By-law shall be reduced by the amount of land or Cash-in-Lieu previously received by the City in accordance with the *Planning Act* in respect of the land being Developed.

11. TIMING OF PARKLAND CONVEYANCE OR OF CASH-IN-LIEU PAYMENT

- 11.1 Where land is required to be conveyed to the City in accordance with Section 4 of this By-law, the lands shall be conveyed as follows:
- (a) In the case of Development to be approved pursuant to sections 51 or 53 of the *Planning Act*, the City may require the Conveyance of land as a condition of approval, and said lands shall be Conveyed to the City either prior to or immediately upon registration of the plan or the consent being given, as determined by the Director of Infrastructure and Planning or by the Director of Community Services;
 - (b) In the case of Development 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 prior to building permit issuance, in accordance with section 41 of the *Planning Act*.
- 11.2 Where Cash-in-Lieu of Parkland is required to be paid to the City in accordance with Sections 7 and 8 of this By-law, the payment shall be made as follows:
- (a) For Development where the City has required the payment of Cash-in-Lieu of Parkland as a condition of an approval or

consent, pursuant to sections 51.1 or 53 of the *Planning Act*, the Cash-in- Lieu payment shall be paid prior to plan registration or the consent being given;

- (b) For Development approved via Site Plan Control pursuant to section 41 of the *Planning Act*, where Cash-in-Lieu has not been required pursuant to sections 51.1 or 53 of the *Planning Act*, the Cash-in-Lieu payment shall be paid upon signing of a Site Plan Agreement or prior to the issuance of the first building permit in respect of the Development as per section 42 (6.1) of the *Planning Act*.

12. DISPUTES

12.1 In the event of a dispute between the City and the Owner on the value of land as determined under Section 8 of this By-law:

- (a) Either party may apply to the Local Planning Appeals Tribunal to have the value of the land determined.
- (b) For development, the Owner may pay the amount required under protest and shall make an application to the Local Planning Appeals Tribunal in accordance with the provisions under Section 42 of the *Planning Act*.

13. ADMINISTRATION

13.1 This By-law will be administered by the Director of Infrastructure and Planning, the Director of Community Services, and the Treasurer.

13.2 All money received by the City as a requirement under section 7, and all money received on the sale of any land required to be conveyed under section 4, less any amount spent by the City out of its general funds in respect of the land, shall be paid into a special account referred to as the Cash-in-lieu – Parkland Account, and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes.

13.3 The money in the Cash-in-lieu – Parkland Account may be invested in securities in which the City is permitted to invest under the Municipal Act 2001, and the earnings derived from the investment of the money shall be paid into the Cash-in-lieu – Parkland Account, and the auditor in the auditor's annual report shall report on the activities and status of the account.

13.4 The Treasurer shall maintain a record of all lands and cash-in-lieu received including all expenditures from the cash-in-lieu of parkland reserve fund and shall present this information to Council in the form of an annual financial statement which shall be made available to the public.

13.5 The statement required under section 13.4 shall include, for the preceding year:

(a) Statements of the opening and closing balances of the special account and of the transactions relating to the account;

(b) Statements identifying:

- i. Any land or machinery acquired during the year with funds from the special account;
- ii. Any building erected, improved or repaired during the year with funds from the special account;
- iii. Details of the amounts spent; and
- iv. For each asset mentioned in subclauses i and ii, the manner in which any capital cost not funded from the special account was or will be funded; and

(c) Any other information that is prescribed.

13.6 Council may, by resolution, vary any of the requirements for parkland dedication or payment in lieu thereof set out in this By-law.

13.7 Should any section or part of this by-law be declared or determined by a court or tribunal of competent jurisdiction to be invalid that portion of this by-law shall be considered to be severed from the balance of this by-law, which will continue to operate in full force and effect.

READ, PASSED AND ADOPTED BY COUNCIL, THIS 23RD DAY OF MAY 2018.



Guy Desjardins, Mayor



Monique Ouellet, Clerk