

# THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

## BY-LAW NO. 33-2024

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**Being a by-law to provide for the dedication of parkland or the payment in lieu thereof for all development or redevelopment in the Municipality**

### **(Parkland Dedication By-law)**

**WHEREAS** section 42 of the *Planning Act* provides that for 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 2 per cent, and in all other cases 5 per cent, 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 2 per cent, and in all other cases 5 per cent;

**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** a parks plan being the Community Services and Facilities Master Plan was prepared in consultation with the local school boards and other persons or public bodies the municipality considered appropriate, and made publicly available in 2023 through several consultation sessions leading to its approval in September;

**AND WHEREAS** the Council of the Municipality of Thames Centre wishes to use the provisions of the *Planning Act* for the purposes of acquiring and providing parkland for the use and enjoyment of the residents of the Municipality of Thames Centre;

Now therefore the Council of the Municipality of Thames Centre hereby enacts as follows:

### **Part 1: Interpretation**

#### **Definitions**

1. In this by-law:

- (a) “**Act**” means the *Planning Act*, R.S.O. 1990, c.P.13
- (b) “**Affordable Residential Unit**” means a residential unit that meets the criteria set out in subsection 4.1(2) or 4.1(3) of the *Development Charges Act*;
- (c) “**Attainable Residential Unit**” means a residential unit that meets the criteria set out in subsection 4.1(4) of the *Development Charges Act*;
- (d) “**Board of Education**” has the same meaning as “board”, as defined in the Education Act, R.S.O. 1990, c.E.2, as amended;
- (e) “**Commercial**” means the use of land, buildings, or structures for a use which is not industrial, and which are used in connection with:
  - i. the selling of commodities to the general public; or
  - ii. the supply of services to the general public; or
  - iii. office or administrative facilities.
- (f) “**Council**” means the Council for the Municipality of Thames Centre;
- (g) “**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 substantially increasing the size or usability thereof;
- (h) “**Gross Floor Area**” has the same meaning as in the Municipality’s Development Charges By-law, as amended.
- (i) “**Industrial**” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;
- (j) “**Institutional**” means the use of land, buildings, or structures for hospitals, correctional institutions and associated facilities, municipal facilities, elementary and secondary schools, colleges, universities, places of worship and ancillary uses, military and cultural buildings, daycare centres, residential care facilities for more than ten persons and long term care centres;
- (k) “**Mixed Use**” means the physical integration of two or more of the following uses within a building or structure or separate buildings or structures on the lands proposed for Development or Redevelopment: Commercial; Industrial; Institutional; Residential; or any other use not noted herein;
- (l) “**Non-profit housing development**” means development of a building or structure intended for use as residential premises by,
- i. a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object 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; or
  - iii. a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act, or any successor legislation.
- (m) “**Official Plan**” means the Municipality’s Official Plan, as amended.
- (n) “**PIL**” means payment-in-lieu of parkland otherwise required to be conveyed.
- (o) “**Planning Act**” means the *Planning Act*, R.S.O. 1990, c.P.13, as amended,
- (p) “**Redevelopment**” means 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;
- (q) “**Residential**” means the use of land, buildings, or structures for human habitation;
- (r) “**Residential Unit**” means one or more habitable rooms each of which is accessible from the others and which function as an independent and separate housekeeping unit in which separate kitchen and sanitary facilities are provided for the use of the occupants, with a private entrance from outside the building or from a common hallway or stairway inside the building;
- (s) “**Rural Area**” means those areas designated as not being within a settlement area by the Official Plan;
- (t) “**Shared Use Agreement**” means an agreement between a Board of Education and Thames Centre for the sharing of buildings and/or property;
- (u) “**Thames Centre**” means Municipality of Thames Centre;

- (v) “**Municipality**” means the Corporation of the Municipality of Thames Centre; and
- (w) “**Zoning By-law**” means the by-law passed pursuant to section 34 of the *Planning Act*.

### **Rules of Interpretation**

2. (1) The following rules of interpretation shall be applied to interpretation of this by-law:
  - (a) References to items in the plural include the singular, as applicable.
  - (b) The words "include", "including" and "includes" are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.
  - (c) Headings are inserted for ease of reference only and are not to be used as interpretation aids.
  - (d) Specific references to laws or by-laws are meant to refer to the current laws applicable at the time that this by-law was enacted and shall be interpreted to include amendments, restatements and successor legislation.
  - (e) The obligations imposed by this by-law are in addition to obligations otherwise imposed by law or contract.
  - (f) Where this by-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements may be provided but are of no force or effect. The abbreviation "mm" stands for millimetres and "m" stands for metres.
  - (g) Terms with capitals shall be read with the meaning in section 1 and other words shall be given their ordinary meaning.
  - (h) If any court of competent jurisdiction finds any provision of this by-law is illegal or *ultra vires* of the jurisdiction of the Municipality, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.
  - (i) Nothing in this by-law relieves any person from complying with any provision of any federal or provincial legislation or any other by-law of the Municipality.
  - (j) Where a provision of this by-law conflicts with the provisions of another by-law in force in the Municipality, the more specific by-law shall prevail.

### **Application**

3. The provisions of this by-law apply to the entire geographic area of the Municipality of Thames Centre.

### **Exemptions**

4. Development or Redevelopment described in the subsections (a) through to and including (g) shall be exempt from the obligations to convey land or make a PIL under Parts 2 and 3 of this by-law:
  - a) Development or Redevelopment of land, buildings or structures owned by and used for the purposes of the Municipality of Thames Centre;
  - b) Development or Redevelopment of land, buildings or structures owned by and used for the purposes of a Board of Education, where a Shared Use Agreement exists;
  - c) 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

Residential Units count or Gross Floor Area;

- d) The enlargement of an existing Residential Unit provided that the enlargement does not result in additional Residential Units;
- e) Institutional Development;
- f) Development or Redevelopment of land, buildings or structures for temporary construction uses as defined by the Municipality's Zoning By-law; and
- g) Development or Redevelopment of,
  - i. a second residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;
  - ii. a third residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; or
  - iii. one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units.

## **Part 2: Conveyance of Land for Park Purposes**

- 5. Land shall be required to be conveyed to Thames Centre for park purposes as a condition of Development or Redevelopment of land in an amount to be determined in accordance with subsections (a) through to and including (e).
  - a) In the case of lands proposed for Residential uses, the greater of the following:
    - i. if the density of the development is 30 units per hectare or less, at a rate of five per cent (5%) of the land being Developed or Redeveloped, or
    - ii. if the density of the development is greater than 30 units per hectare, at a rate of one (1) hectare for each six hundred (600) net residential units proposed.
      - With respect to land proposed for development or redevelopment that will include affordable residential units or attainable residential units, as defined in subsection 4.1 (1) of the Development Charges Act, 1997, or residential units described in subsection 4.3 (2) of that Act, the amount of land that may be required to be conveyed under subsection (1) shall not exceed 5 per cent of the land multiplied by the ratio of A to B where,
        - "A" is the number of residential units that are part of the development or redevelopment but are not affordable residential units, attainable residential units or residential units described in subsection 4.3 (2) of the Development Charges Act, 1997; and
        - "B" is the number of residential units that are part of the development or redevelopment; or
  - 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 a Mixed-Use Development or Redevelopment, land in the aggregate,

calculated as follows:

- i. the Residential component, if any, as determined by Thames Centre, of the lands being Developed or Redeveloped, shall require the conveyance of land as determined in accordance with subsection (a) of this by-law; plus
  - ii. the Commercial, or Industrial component of the lands being Developed or Redeveloped, if any as determined by Thames Centre, shall require the conveyance of land as determined in accordance with subsection (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 Municipality, shall require the conveyance of land as determined in accordance with subsection (d) of this by-law.
- d) In the case of lands proposed for Development or Redevelopment for a use other than those referred to in subsections (a), (b) and (c) of this section, land in the amount of five per cent (5%) of the land to be Developed or Redeveloped.
- e) Where the development of land results from the approval of a site plan or zoning by-law amendment and the approval of the application occurred within two years of building permit issuance, the conveyance shall be determined on the date of the planning application. Where both planning applications apply, conveyance shall be determined on the date of the later planning application.

#### **Location of Conveyance and Condition of Title**

6. Subject to restrictions in the *Planning Act*, the location and configuration of land required to be conveyed pursuant to this by-law shall be as determined by Thames Centre and all such lands shall be free of all encumbrances, including but not limited to such easements which Thames Centre, 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 Thames Centre.
7. A requirement as part of Development or Redevelopment to convey any valley land or watercourse corridors, woodlands, natural heritage system lands and associated buffers, easements, vista blocks and storm water management ponds, as those terms are defined in the Official Plan or any secondary plan adopted under the Official Plan, shall not be considered to be a conveyance of land for park purposes in satisfaction of a requirement under this by-law.

#### **Timing of Conveyance**

8. Where land is required to be conveyed in accordance with 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 Thames Centre either prior to or immediately upon registration of the plan of subdivision or upon the consent being given, as determined by Thames Centre; and
  - 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*, Thames Centre shall require the conveyance of land as a condition of Development or Redevelopment prior to building permit issuance in accordance with section 42 of the *Planning Act*.

#### **Part 3: Payment-in-Lieu of Parkland**

9. In lieu of requiring the conveyance of land required by part 2 of this by-law, Thames Centre may require the payment of the value of the lands otherwise required to be conveyed, calculated in accordance with the following:

- a) Where the PIL has been required for a consent pursuant to sections 51.1 or 53 of the *Planning Act*, PIL may be provided on per lot basis where the land is used for a Residential use in accordance with the Municipality's Fees and Charges By-law in full force and effect.

The per lot rates shall be indexed annually on January 1st of each year commencing January 1, 2025, by the Statistics Canada New Housing Price Index (house and land, most recent month year-over-year) and posted by Thames Centre. Thames Centre's failure to post the indexed rate shall not waive the requirement for compliance with this by-law.

If the applicant does not agree with the per lot rate, they may submit a property appraisal subject to the PIL requirements is subsection b).

- b) For all other development or redevelopment, the PIL shall be calculated as the equivalent value of the land required based on a property appraisal provided by the applicant, as follows:

- i. in the case of lands proposed for Residential, the greater of the following:

- 1) if the density of the development is 50 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 50 units per hectares, at a rate of the value of one (1) hectare of land for each one thousand (1,000) net residential units proposed.

- With respect to land proposed for development or redevelopment that will include affordable residential units or attainable residential units, as defined in subsection 4.1 (1) of the Development Charges Act, 1997, or residential units described in subsection 4.3 (2) of that Act, the PIL that may be required shall not exceed 5 per cent of the value of the land multiplied by the ratio of A to B where,

- "A" is the number of residential units that are part of the development or redevelopment but are not affordable residential units, attainable residential units or residential units described in subsection 4.3 (2) of the Development Charges Act, 1997; and
- "B" is the number of residential units that are part of the development or redevelopment; or

- ii. in the case of lands proposed for Commercial or Industrial uses, the value of two per cent (2%) of the land to be Developed or Redeveloped;

- iii. 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 Thames Centre, of the lands being Developed or Redeveloped, shall require the PIL of the value of land as determined in accordance with paragraph (i) of this subsection; plus
- 2) the Commercial or Industrial component of the lands being Developed or Redeveloped, if any as determined by Thames Centre, shall require the conveyance of land as determined in accordance with paragraph (ii) of this subsection; plus

- 3) the component of the lands proposed for any use other than Residential, Commercial, or Industrial if any as determined by the Municipality, shall require the conveyance of land as determined in accordance with paragraph (iii) of this subsection; and
- iv. in the case of lands proposed for Development or Redevelopment for a use other than those referred to in paragraphs (i), (ii) and (iii) of this subsection, the value of five per cent (5%) of the land to be Developed or Redeveloped.

#### **Timing of PIL Payment and Determination of Value**

10. PIL shall be paid as follows:

- a) 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*, the PIL shall be paid prior to the issuance of the building permit in respect of the Development or Redevelopment in accordance with section 42 of the *Planning Act*. 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.
- b) In the event that an extension of an approval described in subsection (a) or (b) is requested, the value of the land shall be determined as of the day before the day of the approval of the extension.
- c) Where the development of land results from the approval of a site plan or zoning by-law amendment and the approval of the application occurred within two years of building permit issuance, the PIL shall be calculated on the value of the land on the date of the planning application. Where both planning applications apply, PIL shall be calculated on the value of the land on the date of the later planning application.

#### **Part 4: Other**

##### **Previous or Required Conveyances**

11. Notwithstanding parts 2 and 3 of this by-law, if land has been conveyed or is required to be conveyed to Thames Centre for park or other public recreational purposes or PIL has been received by Thames Centre or is owing to it pursuant to a condition imposed pursuant to sections 42, 51.1 or 53 of the *Planning Act*, no additional conveyance or payment in respect of the lands subject to the earlier conveyance or payment will be required by Thames Centre in respect of subsequent Development or Redevelopment unless:
  - a) There is a change in the proposed Development or Redevelopment which would increase the density or non-residential floor area of the development; or
  - b) Land originally proposed for Development or Redevelopment for Commercial or Industrial uses is now proposed for Development or Redevelopment for other uses.
12. Where there is a claim of previous conveyance or PIL payment, it is the applicant's/owner's responsibility to provide suitable evidence of such previous conveyance or PIL payment, to Thames Centre's satisfaction.

13. Land or PIL required to be conveyed or paid to Thames Centre for park or other public recreation purposes pursuant to parts 2 and 3 of this by-law shall be reduced by the amount of land or PIL previously received by Thames Centre pursuant to sections 42, 51.1 or 53 of the *Planning Act* in respect of the lands being Developed or Redeveloped.

#### **Phased Development**

14. Where approvals are issued in phases for Development or Redevelopment, Thames Centre shall calculate and require the conveyance of land for park purposes or the payment of PIL, in accordance with parts 2 and 3 of this by-law, on a phase-by-phase basis.

#### **Redevelopment**

15. In the case of redevelopment, the maximum amount of the parkland dedication and/or PIL shall not exceed an amount equal to the amount calculated as per the previous sections of this by-law, multiplied by the ratio of “A” to “B” where,
- “A” is the floor area of any part of a building or structure, which part is proposed to be erected or located as part of the development or redevelopment, and
  - “B” is the floor area of all buildings and structures that will be on the land after the development or redevelopment.

#### **Part 5: General**

16. Where a determination is required to be made by Thames Centre in this by-law, that determination shall be made by the Municipality’s Director of Planning and Development Services. The Director of Planning and Development Services’ decision shall be final.
17. This by-law shall be referred to as the “Parkland Dedication By-law”.
18. This by-law shall come into force and effect on the final passing thereof.

**READ a FIRST and SECOND** time this 29<sup>th</sup> day of April, 2024

**READ a THIRD** time and **FINALLY PASSED** this 29<sup>th</sup> day of April, 2024.

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Mayor, S. McMillan

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Clerk, J. Nethercott