



**THE CITY OF ORILLIA**  
**DEPARTMENT OF**  
**PLANNING AND DEVELOPMENT**



**OFFICE CONSOLIDATION:**  
**PARKLAND DEDICATION**  
**BY-LAW**

**Last Updated: January 17, 2012**

**(By-laws 2010-39, 2010-100, 2010-155, 2011-60, & 2012-6)**

**OFFICE CONSOLIDATION**  
**PARKLAND DEDICATION BY-LAW**  
**2010-39, AS AMENDED**

**CAUTION:**

All persons making use of this consolidation are reminded that this document has no legal status, that the amendments to By-law 2010-39 which have been incorporated herein are so incorporated only for convenience of reference, and that the original By-law (2010-39) and all original amendments thereto or certified copies thereof, should be consulted for all purposes of interpretation and application of the law.

**NOTES:**

1. This consolidation includes all amendments up to and including Amending By-laws:
  - By-law 2010-100, passed on June 28, 2010,
  - By-law 2010-155, passed on November 15, 2010,
  - By-law 2011-60, passed on May 16, 2011, and
  - By-law 2012-6, passed on January 16, 2012

**CITY OF ORILLIA**

**BY-LAW NUMBER 2010-39**

**A BY-LAW TO PROVIDE FOR THE DEDICATION OF LAND FOR PARK PURPOSES OR CASH-IN-LIEU OF SUCH LAND, AS A CONDITION OF THE DEVELOPMENT OR REDEVELOPMENT OF LAND IN THE CITY OF ORILLIA**

WHEREAS the *Planning Act* authorizes Council, as a condition of Development or Redevelopment of land to require, by By-law applicable to the whole of the municipality or to any defined area or areas thereof, the conveyance to the municipality of land or cash-in-lieu for park or other public recreational purposes;

AND WHEREAS the *Planning Act* prohibits any additional conveyance or payment in respect of the land subject to an earlier conveyance or payment unless there is a change in the proposed Development or Redevelopment which would increase the density of development or land originally proposed for Development or Redevelopment for Commercial or Industrial purposes is now proposed for Development or Redevelopment for other purposes;

AND WHEREAS the Official Plan for the City of Orillia contains approved policies concerning the conveyance of parkland as set out in the *Planning Act*.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA ENACTS AS FOLLOWS;

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# **OFFICE CONSOLIDATION**

## **PARKLAND DEDICATION BY-LAW 2010-39, AS AMENDED**

1.           **Definitions**

- a)           “Affordable Housing” means housing that is constructed or provided by a person, organization, corporation, etc. which provides housing in accordance with the following criteria:

In the case of ownership housing, the least expensive of:

i) 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

ii) 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;

In the case of rental housing, the least expensive of:

i) a unit for which the rent does not exceed 30 percent of gross annual household income for Low and Moderate Income Households; or

ii) a unit for which the rent is at or below the average market rent of a unit in the regional market area.

- b)           “City” means the Corporation of the City of Orillia;
- c)           “Council” means the Council of the City of Orillia;
- d)           “Commercial” means the use of land, buildings or structures for the purpose of buying and selling commodities and/or supplying services but shall not include bed and breakfast establishments, and/or home occupations.
- e)           “Communal Housing” means building(s) or structure(s) providing housing or accommodation in either shared or private suites in a communal setting, together with services which may include shared kitchen/dining facilities, sanitary facilities, laundry facilities, amenities, and other facilities to the residents living therein. Without limiting the generality of the foregoing, Communal Housing

may include the following uses as defined in the City's Zoning By-law: Nursing Homes, Homes for the Aged, Retirement Homes or Lodges, Boarding, Lodging or Rooming Houses, Student Residences, Continuum of Care Establishments and Senior Citizens' Homes. Communal Housing is not comprised of independent Dwelling Units. For the purpose of this definition, the number of occupants in a Communal Housing building shall be equivalent to the number of beds or spaces permitted in such Communal Housing as determined by the applicable governing legislation and regulations and/or as specifically identified in any approval, license or permit related to such Communal Housing. The number of beds, spaces or occupants shall be referenced as the "Communal Housing Occupant Load".

- f) "Conversion" means the alteration or change of use of an existing building or structure to some other use or the alteration or change of an existing building or structure to create Dwelling Units or Communal Housing;
- g) "Development" or "Redevelopment" means:
  - (i) the construction, erection or placing of one or more buildings or structures on vacant land; or
  - (ii) the laying out and establishment of a Commercial parking lot on vacant land; or
  - (iii) any renovation to, addition to, expansion of, and/or extension of an existing building(s) or structure(s) which increases the Gross Floor Area of the existing building(s) or structure(s) by more than 15%; or
  - (iv) any renovation to, addition to, expansion of and/or extension of an existing building(s) or structure(s) which increases the number of Dwelling Units or Communal Housing Occupant Load on the subject property.
  - (v) any Replacement, as defined in this By-law, which increases the number of Dwelling Units or Communal Housing Occupant Load of the building or structure which is being replaced.
- h) "Dwelling Unit" means one or more habitable rooms designed or intended for use by one household exclusively as an independent and separate unit in which kitchen and sanitary facilities are provided for the exclusive use of the household with a private

entrance from outside the building or from a common hallway or stairway inside the building. A Dwelling Unit wherein service or care is provided to more than four persons and such service or care is for compensation or monetary consideration, such Dwelling Unit, shall be deemed, for the purposes of this By-law, to be Communal Housing.

- i) "Environmental Lands" means valley land, being lands located below the top of bank as may be defined but shall not include any buffer land beyond the top of bank, provincially significant lands including Areas of Natural or Scientific Interest (ANSI), Wetlands and Environmentally Significant Areas (ESA).
- j) "Gross Floor Area" means the aggregate of the horizontal area of each floor whether any such floor is above or below grade, measured between the exterior faces of the exterior walls of building(s) or structure(s) at the level of each floor.
- k) "Gross Land Area" means the total area of all lands contained in the Development or Redevelopment application.
- l) "Industrial" use means the use of land, buildings or structures for research and development, manufacturing, processing, fabrication, assembly, transporting, warehousing (including storage units) or distributing raw materials or goods, which may include an ancillary, Commercial use.
- m) "Institutional" use means the use of land, buildings or structures for religious, charitable, educational, benevolent, health or welfare purposes by an organization, group, society, organized body, or association including, but not limited to, Not-For-Profit organizations, schools, colleges or universities, places of worship, cemeteries, and hospitals but does not include the use of land, buildings or structures by or on behalf of any Municipality or Not-For-Profit Affordable Housing as defined in this By-law.
- n) "Legally Existing" means Building Permit(s) for the use(s) have been issued or the use(s) existed prior to November 16, 1995 for a Residential building containing a maximum of two Dwelling Units or prior to July 31, 1974 for all other uses.
- o) "Low and Moderate Income Households" means in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for the regional market area; or in the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for renter households for the regional market area.

- p) “Mixed-Use” means a development intended and designed to contain both Residential and non-residential uses on a property.
- q) “Municipality” shall have the meaning ascribed to it in the *Municipal Act, 2001* as amended. For the purposes of this By-law, the term Municipality shall include a “local board” as defined in the *Municipal Act*, where one of the municipalities establishing such local board is the City of Orillia or the County of Simcoe.
- r) “Not-For-Profit” means an organization either incorporated as a “Corporation Without Share Capital” under Part III of the *Corporations Act*, as amended, or incorporated as a housing co-operative without share capital under the *Co-operative Corporations Act*, as amended.
- s) “Net Land Area” means the Gross Land Area minus any stormwater management facilities to be conveyed to the City and any Environmental Lands.
- t) “Redevelopment” - see “Development”
- u) “Replacement” means the demolition of an existing building(s) or structure(s) and the construction, erection or placement of a new building in place of the demolished building(s) regardless of the size (Gross Floor Area) of the new building.
- v) “Residential” use means one or more Dwelling Units or Communal Housing.
- w) “Temporary” use means the use of land, buildings or structures of any kind whatsoever or any portion thereof, used, designed or intended to be used for a period not exceeding three (3) years which temporary use is authorized under a by-law passed under authority of section 39 of the *Planning Act*, as amended.
- x) “Waterfront” means a Residential use which abuts a lake, river, canal, or lagoon.

## **2. Areas And Uses Which Are Exempt.**

- i) General Land Uses. Exempted land uses city-wide are as follows:
  - a) Conversion of an existing Residential building for Commercial or Institutional purposes.



- b) Creation or enlargement of an accessory building or structure for a Residential or Communal Housing use.
- c) Development or Redevelopment which does not result in an increase in the number of Dwelling Units or an increase in the Communal Housing Occupant Load Legally Existing prior to such Development or Redevelopment, provided a conveyance of land or cash-in-lieu of land was previously made under the *Planning Act* or its predecessors for such Dwelling Units/Communal Housing Occupant Load.
- d) Replacement of legally existing buildings or structures except Residential buildings or structures. In the case of Residential buildings or structures, if there is no increase in the number of Dwelling Units or Communal Housing Occupant Load of the building(s) or structure(s) that is being replaced such Replacement is exempt.
- e) Temporary uses, buildings or structures.
- f) Industrial Development or Redevelopment.
- g) Enlargement of the Gross Floor Area of an existing Commercial or Institutional building(s) where the enlargement does not exceed 15% of the existing Gross Floor Area of the said building(s).
- h) Development or Redevelopment undertaken by or on behalf of a Municipality.
- i) Not-For-Profit Affordable Housing Development or Redevelopment.

### **3. Development or Redevelopment**

Unless otherwise exempted and identified in Section 2 of this By-law, the parkland dedication requirements are as follows:

- a) Residential Development or Redevelopment shall provide a dedication of land in the amount of five percent (5%) of the Net Land Area to be developed or redeveloped;
- b) Residential Development or Redevelopment proposing a density of 20 or more units per hectare inclusive, shall provide a dedication of land at a rate of 1.0 hectare for each 300 Dwelling Units proposed or five percent (5%) of the Net Land Area proposed for Development or Redevelopment, whichever is greater;

- c) Institutional Development or Redevelopment shall provide a dedication of land in the amount of five percent (5%) of the Net Land Area to be developed or redeveloped;
- d) Commercial Development or Redevelopment shall provide a dedication of land in the amount of two percent (2%) of the Net Land Area to be developed or redeveloped.
- e) Residential Redevelopment shall provide for a dedication based on the increase in the number of Dwelling Units or increase in the Communal Housing Occupant Load as set out elsewhere in this By-law.
- f) For Redevelopment of an existing Commercial or Institutional use the required conveyance of land shall be determined by calculating the Net Land Area necessary only for that portion of the Redevelopment and its associated parking.

**4. Determining Conveyance of Land or Cash-in-Lieu**

- a) Unless:
  - (i) the City's Official Plan identifies the lands (which are the subject matter of consideration) as part or component of future parkland, an urban square or a trail and the Director of Parks and Recreation or designate requests the land be acquired for these purposes; or
  - (ii) the owner makes a written request of Council for the consideration of a conveyance of land; or
  - (iii) as part of a planning approval process, the Director of Parks and Recreation requests of Council the consideration of a conveyance of land;

parkland dedication shall be collected as a payment of money, in lieu of the conveyance of land (hereinafter called "cash-in-lieu").

- b) Upon the receipt of a written request as set out in subsection 4.a)(ii) or a request from the Director of Parks and Recreation as set out in subsection 4.a)(iii), the Director of Planning and Development or their designate shall refer the consideration of parkland dedication to Council. Upon receiving such a referral, Council shall, in the form of a resolution, make a final determination as to whether a conveyance of land, payment of cash-in-lieu or a combination thereof will be required.

## 5. Conveyance of Land

Where the conveyance of land is required, the following guidelines shall apply in addition to any other requirements of this By-law;

- a) In considering the conveyance of land, the City shall not accept any conveyance of land as parkland dedication which:
  - (i) is Environmental Land as defined in this By-law;
  - (ii) contains or is comprised of lands and/or facilities intended for stormwater management purposes.
- b) Where land is to be provided, the location and shape of the lands to be conveyed will be determined by the Director of Planning and Development or their designate. In the event of a dispute, the applicant may appeal to Council for a final decision. Land conveyed to the City shall be conveyed in a condition satisfactory to the City, bearing the full depth of its original topsoil, being free of contaminants, construction debris, unconsolidated fill or other refuse.
- c) Where it has been determined by the City that the lands to be conveyed have been physically disturbed either by the dumping of any material, by the stripping of topsoil, or by any material alteration that was not contemplated or requested at the time the City resolved to accept such conveyance of land, the City may rescind acceptance of the conveyance and may require the owner to pay cash-in-lieu in accordance with this By-law. As an alternative to rescinding the acceptance of the conveyance, the City, at its discretion, may require the owner to restore the land to a condition satisfactory to the City and complete the conveyance.
- d) All conveyances shall be free and clear of any encumbrances and the associated legal and administrative costs incurred by the City, if any, shall be paid by the transferor.
- e) Title for the land is to be conveyed to the City prior to the issuance of any building permit for the proposed Development or Redevelopment.
- f) In accordance with the provisions of Section 5 a) to e) (inclusive), an easement, in lieu of conveyance, for a park, trail or urban square identified in the City's Official Plan may be accepted as the required parkland contribution if an easement in favour of the City for public

use, instead of a conveyance, is requested by the Director of Parks and Recreation or designate.

## **6. Cash-in-lieu: Determination of Valuation Criteria**

Where a cash-in-lieu contribution is required, the following guidelines shall apply in addition to any other requirements of this By-law;

- a) The cash-in-lieu contribution is required to be equal to the value of the land otherwise required to be conveyed as specified in Section 3 of this By-law.
- b) The cash-in-lieu payment shall:
  - (i) be determined as of the day before the day of the issuance of the building permit concerning the Development or Redevelopment of the subject property or in the amounts set out elsewhere in this By-law. Where more than one building permit is required for the property the date of payment shall be the day of the issuance of the first building permit; and
  - (ii) be determined in regard to the value of land only. The land to be valued should be treated as vacant and with no on-site improvements or buildings and shall not include development charges/credits which may otherwise be applicable.
- c) The cash-in-lieu payment shall be made prior to the issuance of the building permit concerning the Development or Redevelopment of the subject property.
- d) Subject to the other provisions of section 6 of this By-law, the City may permit the use of any one of the following options to calculate the land value:
  - (i) Appraisal - The City will obtain an opinion of value from an accredited real estate agent, at the expense of the applicant, to determine the value of the land. The applicant will be required to post a deposit for the opinion of value. In the event of a dispute with respect to the value of land established by the opinion of value, an appeal to Council may be allowed and Council's decision shall be final. The appellant shall be required to submit their appeal in the form required by the City, together with a second, independent appraisal prepared by an accredited real-estate appraiser

and an appeal fee. As an alternative to an opinion of value, the City may accept the current value MPAC assessment for the subject lands provided the lands are vacant and appropriately zoned for the proposed Development or Redevelopment.

- (ii) Prior Conveyance Value - As an alternative, the City may also accept the purchase price of the subject property as a determinant of the land value provided the purchase occurred within 12 months of the issuance of the building permit; at the time of the purchase the subject lands were vacant and appropriately zoned for the proposed Development or Redevelopment; and the applicant can demonstrate to the City that the purchase was an arms-length, *bonafide* sale.
  - (iii) Cash-in-lieu Values – As an alternative to 6.d)(i) or 6.d)(ii), the values set out in Appendix “A”, attached hereto, shall be applied in the calculation of cash-in-lieu payment and furthermore Appendix “A” shall be reviewed and revised in accordance with MPAC’s vacant land assessment as it becomes available. The values set out in Appendix “A” shall only be applied to stand-alone Residential Developments with ten (10) or fewer Dwelling Units.
- e) Where a previous cash payment has been made for a Residential use and an increase in density is proposed the amount owing is based on the increase in Dwelling Units or Communal Housing Occupant Load and the calculations of Appendix “A” shall apply.
  - f) Where a Redevelopment of an existing Commercial or Institutional use is proposed, the values set out in Appendix “A”, attached hereto, shall be determined by applying the Net Land Area necessary only for that portion of the Redevelopment and its associated parking.
  - g) Where a Mixed-Use Development or Redevelopment is proposed, the values set out in Appendix “A”, attached hereto, may be applied in the calculations of cash-in-lieu payment. For the non-Residential portion of the Mixed-Use Development or Redevelopment, the values shall be determined by applying the Net Land Area necessary only for the non-Residential portion of the Development or Redevelopment and its associated parking and by applying the per Dwelling Unit/Communal Housing Bed fee to the Residential portion of the Development or Redevelopment.

- h) Where a Conversion of existing Commercial, Industrial, or Institutional building(s) to another use is proposed, no credit for previous payment shall be made. The applicant may appeal to Council if they feel a credit for a previous payment should be allowed.
- i) Where there is a claim of previous payment it is the applicant's responsibility to provide suitable evidence of this payment.

**7. Effective Date**

This By-law shall apply to any building permit application which is submitted after July 1, 2010 unless such permit application relates to development for which an approval under the *Planning Act* was required and as part of such *Planning Act* approval the City determined and/or imposed a parkland dedication prior to the enactment of this By-law.

**8. Administration and Appeal**

- a) The administration of this By-law and the determination of the application of this By-law shall be made by the Director of Planning and Development or their designate. In the event of a dispute an appeal, to Council may be allowed and Council's decision shall be final. The appellant shall be required to submit their appeal in the form required by the City together with an appeal fee as set out in the City's Municipal Code.
- b) The exemption of specific areas or lots from the requirements to convey land or cash-in-lieu for park purposes will require an amendment to this By-law. The applicant shall be required to request their amendment in the form required by the City together with an amendment fee as set out in the City's Municipal Code.

**Appendix “A” to Section 6.d)(iii), e), f), and g) of By-law 2010-39:  
Cash-in-lieu Schedule**

As an alternative to the requirements set out in subsection 6.b)(i) or 6.b)(ii) of the By-law attached hereto, cash-in-lieu payment in accordance with the following schedule may be made:

**i) Residential Dwelling Units**

- |   |                  |
|---|------------------|
| a) Non-waterfront   | \$750 per unit   |
| b) Waterfront   | \$1,500 per unit |
| c) New Waterfront & non-waterfront stand-alone Residential Developments with more than 10 Dwelling Units will be subject to the requirements of subsection 6.b)(i) or 6.b)(ii) of the By-law attached hereto. |                  |

**ii) Residential Communal Housing Beds**

- |                   |               |
|-------------------|---------------|
| a) Non-waterfront | \$225 per bed |
| b) Waterfront     | \$450 per bed |

**iii) Commercial**

- |  |  |
|--|--|
| a) Area of land less than 4047m <sup>2</sup> (1 acre)  | \$1.93 per m <sup>2</sup> of land area |
| b) Area of land greater than 4047m <sup>2</sup> (> 1 acre) but less than 20,235m <sup>2</sup> (< 5 acres)  | \$0.97 per m <sup>2</sup> of land area |
| c) Area of land greater than 20,235m <sup>2</sup> (> 5 acres) will be subject to the requirements of subsection 6.b)(i) or 6.b)(ii) of the By-law attached hereto. |  |

**iv) Institutional**

- |  |  |
|--|--|
| a) Area of land less than 20,235m <sup>2</sup> (< 5 acres)   | \$2.69 per m <sup>2</sup> of land area |
| c) Area of land greater than 20,235m <sup>2</sup> (> 5 acres) will be subject to the requirements of subsection 6.b)(i) or 6.b)(ii) of the By-law attached hereto. |  |

Effective Date: July 1, 2010

**PROCEDURE MANUAL:**

**PARKLAND**

**DEDICATION BY-LAW**

**2010-39, AS AMENDED**



**PROCEDURE MANUAL: PARKLAND DEDICATION BY-LAW  
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# **Procedure Manual: Parkland Dedication By-law**

## **1. DEFINITIONS – SECTION 1 OF THE BY-LAW**

Refer to the By-law and Appendix 1 for definitions of the following terms contained in the By-law:

- Affordable Housing
- City
- Council
- Commercial
- Communal Housing
- Conversion
- Development or Redevelopment
- Dwelling Unit
- Environmental Lands
- Gross Floor Area
- Gross Land Area
- Industrial
- Institutional
- Low and Moderate Income Households
- Mixed-Use
- Municipality
- Not-For-Profit
- Net Land Area
- Replacement
- Residential
- Temporary
- Waterfront

## 2. EXEMPTIONS – SECTION 2 OF THE BY-LAW

Refer to Appendix 1 for a flow chart depicting when a parkland contribution is required.

The By-law only applies to development or redevelopment on existing lots. If a lot is being created, parkland dedication will be required during the Plan of Subdivision or Consent process, not under this By-law.

The Planning Act does not allow municipalities to collect twice. Since parkland dedication was required during the Plan of Subdivision or Consent process at the time the lots were created, unless there is an increase in residential density proposed, no additional parkland dedication can be required.

### 2.1 List of Exemptions from the By-law:

- Construction of a Dwelling Unit on an Existing, Vacant Lot
- Enlarge an Accessory Building for a Residential (or Communal Housing) use
- Redevelopment of an Existing Residential or Communal Housing use which does not increase density (i.e. the number of dwelling units or beds)
- Municipal projects (including County of Simcoe & Local Boards)
- Industrial Development & Redevelopment (includes R&D, manufacturing, processing, fabrication, assembly, transporting, warehousing including storage units, distribution of raw materials)
- Convert Existing Residential Building to Commercial or Institutional
- Temporary Buildings & Structures
- Replacement of Existing Commercial or Institutional Buildings (irrespective of the size of the replacement building).

**NOTE:** The By-law exempts any removal of existing commercial or institutional buildings. Only construction of new commercial or institutional buildings or new commercial parking lot on vacant land is subject to the By-law.

- Expansions of Existing Commercial or Institutional Buildings by less than 15% of existing Gross Floor Area.
- Not-For-Profit Affordable Housing
- Bed & Breakfasts
- Home Occupations

## **2.2 No Parkland Contribution Required for Change of Occupancy:**

The City Solicitor advised that a change in occupancy (either from a vacant, existing building to a commercial use or one commercial use to another commercial use), where no expansion to the building is proposed, is not Development or Redevelopment and therefore the City **cannot** collect parkland dedication for a change in occupancy.

The City Solicitor advised that if the statement “but does not include a change of occupancy” had been included in the By-law, that it could have been argued that regardless of any expansion of any size, the exclusion for change of occupancy provision prevails.

## **2.3 Parkland Contribution Required For Existing Units:**

Parkland dedication will be required for existing dwelling units which require Building Permit(s) to comply with applicable Building and/or Fire Code regulations unless the use has already had a building permit issued for it and/or the use existed prior to November 16, 1995 for residential buildings containing only two dwelling units (i.e. Bill 120 Residents Rights Act) or July 31, 1974 for all other uses (i.e. the date By-law 1973-100 came into full force and effect). Existing uses requiring building permits will be required to make a parkland contribution at the time of issuance of the building permit (unless the owner can prove the units are “legally existing” as defined in the By-law).

## **2.4 How to Apply the By-law to Buildings Built “On Spec”:**

If a building is proposed to be constructed “on spec” and it is not known whether or not it will be commercial or industrial, then a provision in the Site Plan Agreement must be included which requires the parkland contribution to occur prior to issuance of the occupancy permit.

If the developer wants to build a ‘spec’ building, then City staff will discuss this issue at the Checklist Meeting and request that the City Solicitor include a provision that delays the parkland contribution until prior to occupancy. Also ensure the Chief Building Official reviews and approves this provision. It is important that the Chief Building Official be aware of this provision and ensures that occupancy is not issued without first requiring the parkland contribution (if it is a commercial building).

### **3. DETERMINING LAND OR CASH**

Section 4 of the By-law is set up to take cash-in-lieu instead of land.

However, there are some circumstances where land is desired.

#### **3.1 Official Plan Identifies the Land:**

If the Official Plan identifies the subject land for a future park, trail or urban square, then the City can take the land instead of cash-in-lieu without needing Council to pass a resolution. However, the City will not take the land without the Department of Parks & Recreation requesting the land.

If land is identified as Urban Square in the Official Plan, it does not automatically mean the City will accept conveyance of the land in lieu of cash. The Director of Parks & Recreation must request the conveyance of land in order to take land instead of cash. The City will not accept the conveyance if such land is not desired by the Department of Parks & Recreation

The City may accept an easement, instead of conveyance, if an easement is preferred by the Director of Parks & Recreation.

#### **3.2 Parks & Recreation Requests Land:**

If the Director of Parks & Recreation requests land instead of cash-in-lieu during the commenting process, then Council must pass a resolution to accept the land, instead of cash-in-lieu. City staff cannot arbitrarily dictate when land can be taken over cash if such land is not identified in the Official Plan.

#### **3.3 Developer Wants to Give Land:**

If the Developer designs their development to give land instead of cash and this land is not identified as a future park, trail or urban square in the Official Plan, then Council must pass a resolution to accept the land.

#### **3.4 Council Resolution Process To Accept Land:**

If either the City's Parks & Recreation Department wants the land or the Developer wants to give land, then Council must make the decision to accept land over cash by passing a resolution.

A Council Committee Report must be written. In preparing for this report, the Parks and Recreation Department will be circulated to provide comment on the proposal. Council will pass a resolution to provide direction to staff.

#### **4. CONVEYANCE OF LAND**

As stated in Section 5 of the By-law, if land is to be conveyed to the City for park purposes, then the conveyance must adhere to the following guidelines:

The By-law does not allow “Environmental Land” or lands/facilities intended for stormwater management purposes to be dedicated to the City as part of the Parkland Dedication contribution.

The Director of Planning & Development determines the location and shape of the lands to be conveyed. If there is a dispute, the applicant can appeal to Council (see Section 7.4 for more information about the appeal process).

The land conveyed to the City must be in a condition acceptable to the City. It cannot have construction debris, contaminants, etc. on the lands. If the land has been disturbed, the City can rescind its acceptance of the land and cash-in-lieu is payable instead or the City can require the owner to restore the land to a condition acceptable by the City.

The title of the land conveyed must be free and clear on any encumbrances. The title of the land must be conveyed to the City before the building permit is issued.

## **5. DETERMINING CASH-IN-LIEU USING FEE PER UNIT OR FEE PER SQ. M. - SECTION 6(d)(iii) OF THE BY-LAW**

Section 6(d)(iii) (together with Appendix A) of the By-law enables a fee per unit / fee per m<sup>2</sup> of land area to be used to determine the value of the land. Refer to Appendix 2: Frequently Asked Questions for examples of collection scenarios.

### **5.1 Fee Per Unit: Residential**

In October 2009, the City's appraiser determined the average value of multi-residential land in the City of Orillia. Based on this appraisal, the following fee per dwelling unit was determined:

Non-Waterfront      \$750 per dwelling unit

Waterfront            \$1500 per dwelling unit

### **5.2 Restriction of Fee Per Unit for NEW Residential**

A new residential development consisting of more than 10 dwelling units cannot use Appendix A's fee per unit.

If the development is to be constructed in phases and each phase is less than 10 dwelling units, but the total residential development is greater than 10 dwelling units, then the fee per unit **cannot** be applied.

### **5.3 Fee Per Unit: Additions to Existing Residential Development**

Where there is an existing (built) residential development and more residential dwelling units are proposed to be added to the site, then the fee per unit can be applied no matter the number of additional units added to the site.

Only apply the Per Unit Fee to the additional dwelling units.

### **5.4 Fee Per Communal Housing Bed:**

Communal Housing is housing or accommodation in shared or private suites in a communal setting with shared services and facilities such as retirement and nursing homes and student residences.

Using the October 2009 appraisal for multi-residential, a per bed fee for communal housing was derived by dividing the Per Unit Fee by three. Since each dwelling unit has an average household size of 2.9, an individual communal housing bed will only have one occupant. Based on this, the following Per Bed Fee was determined for Communal Housing:



Non-Waterfront	\$225 per bed (i.e. occupant)
Waterfront	\$450 per bed (i.e. occupant)

Both new Communal Housing developments and additions or redevelopments of existing Communal Housing developments can use the Per Bed Fee in Appendix A. In the case of a redevelopment, only apply the Per Bed Fee to the additional beds.

**5.5 Fee Per Sq. M of Land Area for Commercial or Institutional Developments:**

In October 2009, the City’s appraiser determined the average value of commercial and institutional land in the City of Orillia. Based on this appraisal, the following fee per sq. m. of land was determined:

**Commercial - Fee Per Sq. M.**

Area of land less than 4047m <sup>2</sup> (<1 acre)	\$1.93 per m <sup>2</sup> of land area
Area of land greater than 4047m <sup>2</sup> (> 1 acre) but less than 20,235m <sup>2</sup> (< 5 acres)	\$0.97 per m <sup>2</sup> of land area

**Institutional – Fee Per Sq. M.**

Area of land less than 20,235m <sup>2</sup> (< 5 acres)	\$2.69 per m <sup>2</sup> of land area
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If the land area is greater than 5 acres in size, the Price Per Sq.M. **cannot** be applied. An opinion of value, MPAC assessment or recent purchase price must be used.

**5.6 Fee Per Unit/Bed & Per Sq. M. of Land Area: Mixed-Use Developments**

Where residential dwelling units are proposed to be added on top of existing commercial/institutional building, the fee per unit can be applied.

Where a new mixed-use building is proposed, the fee per unit can be applied to the residential dwelling units or communal housing beds proposed no matter how many units/beds are proposed and the Per Sq.M. of land area can be applied for the commercial/institutional component of the development (the land area includes the land area required to accommodate the commercial/institutional building and its associated parking/access).

### **5.7 Per Sq. M. of Land Area: Additions to Existing Commercial or Institutional Buildings:**

Collect only for the land area associated with the addition and its associated parking/aisle required to accomplish the addition. Do not include the landscaped open space, the setbacks, and the driveway to access the existing development.

If the proposed addition is above the existing building footprint, the building footprint associated with the addition is used to calculate the additional parkland dedication and its associated parking/aisle).

Do not use the gross floor area of the building addition. The calculation is based on land area, not on gross floor area of the building. For example, if three storeys are proposed to be added to the building, only account for the building footprint of the proposed addition and its associated parking/aisle.

This section of the By-law is subject to interpretation because it is not explicit about including the building footprint of an addition. It says “the Net Land Area necessary only for that portion of the Redevelopment and its associated parking”. It could be argued that if an addition is internal to an existing building, the only additional land area required for the addition is the additional required parking. If challenged on this section of the By-law, an Amendment to clarify the By-law may be required.

### **5.8 Developer Disagrees with the Per Unit or Per Sq. M. Fees**

If a Developer disagrees with the amount payable based on using the fees in ‘Appendix A’, they can get an Opinion of Value. They would need to pay the legal deposit and the City would hire a professional to prepare an Opinion of Value.

If the Developer disagreed with the City’s Opinion of Value, then he/she could have their own appraisal undertaken by an accredited real-estate appraiser and appeal to Council for a decision on which appraisal value will be accepted by the City.

See Sections 6.1 and 7.2 for more information about the appraisal process.

## **6. DETERMINING CASH-IN-LIEU USING APPRAISAL, PURCHASE PRICE OR MPAC ASSESSMENT (ONLY IF VACANT) – SECTION 6d)(i) & (ii) OF THE BY-LAW**

The Fee Per Unit (Appendix A) cannot be applied to new, residential developments greater than 10 units. An opinion of value, MPAC assessment, or purchase price must be used.

The Per Sq. M. Fee (Appendix A) cannot be applied to non-residential developments greater than 5 acres. An opinion of value, MPAC assessment, or purchase price must be used.

### **6.1 OPTION 1: OPINION OF VALUE**

- The City will retain its own real-estate agent undertake the Opinion of Value.
- The Developer must pay a deposit to the City before the Opinion of Value is undertaken. The deposit is \$700.00.
- The Developer may appeal to Council if unsatisfied with the City's Opinion of Value.
- The Opinion of Value is based on the value of the land the day before the building permit is issued (vacant and zoned land).

See Section 7.2 for more information about the Opinion of Value/appraisal process.

### **Opinion of Value/Appraisal May Delay Issuance of a Building Permit**

If a Developer is concerned that the time involved with obtaining and agreeing to an Opinion of Value/appraisal will delay construction, then the City may issue a conditional building permit until the Opinion of Value/appraisal has been received and agreed upon. A full building permit could only be issued once the parkland dedication has been paid.

### **6.2 OPTION 2: PURCHASE PRICE**

- Purchase Price is only acceptable if the following conditions are met:
  - Purchase occurred within the last 12 months
  - Subject land is vacant
  - Subject land was appropriately zoned for the proposed development at the time of the purchase
  - The Developer can prove that the sale was an arms-length, bonafide sale (i.e. sales for \$1 are not an arms-length, bonafide sale and the purchase price will not be accepted)

### **6.3 OPTION 3: MPAC ASSESSMENT (ONLY APPLICABLE TO VACANT, ZONED LAND)**

MPAC Assessment information can only be used if the subject land is vacant and appropriately zoned for the proposed development.

MPAC assessment data cannot be used if the land has an existing building on it because the Planning Act says that we can collect for parkland based on the value of land, not land and buildings.

Only the current value MPAC assessment will be accepted.

## **7. COUNCIL'S ROLE IN IMPLEMENTING THE BY-LAW**

There are five opportunities for Council's involvement in implementing the By-law:

- If the Developer wants to convey land, instead of cash, and the land is not identified in the City's Official Plan as future park, trail or urban square.
- If the City's Parks & Recreation Department wants land conveyed instead of cash and the land is not identified in the City's Official Plan.
- If the Developer is unsatisfied with the outcome of the City's Opinion of Value.
- If the Developer wants to receive credit for conversion of a non-residential use to a residential use.
- If the Developer disagrees with the Director of Planning & Development's interpretation and administration of the By-law.

See Appendix 3 for a copy of the Parkland Dedication By-law application form which must be completed by the Developer if they want to amend the By-law, appeal the By-law, or convey land instead of cash.

### **7.1 Steps Involved with Accepting Land, instead of Cash:**

If either the Developer or the City's Parks & Recreation Department would rather give land instead of cash, staff cannot accept land without a Council resolution unless the land is identified in the City's Official Plan as a future park, trail or urban square. But the City will not accept land for park, trail or urban square unless the Director of Parks & Recreation wants to assume the conveyance of the land for those purposes.

The following steps need to be taken in order for Council to accept land instead of cash:

1. Developer completes an application form and submits 5 copies of the proposed Site Plan showing the location and size of land to be conveyed to the City. There is no application fee.
2. Planning will circulate the proposed Site Plan to the Department of Parks & Recreation for their review and comment.
3. Planning will prepare a Council Committee Report and make a recommendation to Council whether to accept land or cash.
4. Council makes a decision on whether or not to accept the land and a resolution will be passed.

## **7.2 Steps Involved with City's Opinion of Value:**

1. Take a legal deposit in the amount of \$700.00 to cover the cost of an Opinion of Value being prepared by a qualified professional real estate agent experienced with preparing Opinions of Value.
2. Retain the City's professional to prepare the Opinion of Value. Do not hire an accredited appraiser because they cannot prepare an Opinion of Value. They are obligated under their professional association to meet certain criteria when developing an appraisal. The cost of an appraisal prepared by an accredited appraiser ranges from \$500 for a small-scale residential (i.e. fourplex) to \$2000 for larger scale commercial or institutional developments.
3. Once the Opinion of Value has been prepared and submitted to the City, the Opinion of Value will be shared with the applicant and the parkland contribution will be based on this Opinion of Value.
4. If the applicant disagrees with the findings of the Opinion of Value, then he/she may hire his/her own professional to undertake an appraisal prepared by an accredited appraiser. An Opinion of Value is not acceptable. Once this appraisal is prepared, then the applicant applies to City Council to appeal the By-law. The appeal fee is \$1000.00. An application form must be completed and submitted together with the Developer's appraisal.
5. Once the appraisal, form and fee have been submitted, then staff will circulate the information to relevant departments and agencies and will prepare a Council Committee report and ask for direction from Council on the matter.
6. Council will make a decision on whether to accept the City's Opinion of Value or the Developer's Appraisal and a resolution will be passed.

## **7.3 Steps Involved To Receive a Credit for a Conversion:**

If there is an existing commercial or industrial building and the Developer wants to convert the existing building to a residential building (including either dwelling units or communal housing beds), the By-law does not permit a credit and the Developer must pay the full 5% for cash-in-lieu.

If the Developer can provide evidence that a previous parkland contribution was made, then the Developer can appeal to Council for a credit. The following steps must be taken.

1. Developer must complete an application form, pay the \$1025.00 appeal fee, and submit with the application and fee proof that a previous parkland contribution was made.
2. The information will be circulated to the Department of Parks & Recreation for their comment. Subsequently, planning staff will prepare a Council Committee report and make a recommendation to Council with respect to whether or not a credit should be granted. Staff will make a recommendation to Council to accept the credit if sufficient proof is given because under the Planning Act the City can't collect twice (i.e 'double dip').
3. Council will make a decision about whether or not to grant a credit and a resolution will be passed.

#### **7.4 Process for Resolving Dispute Regarding City's Interpretation of the By-law:**

If there is any aspect of the By-law that the Developer disagrees with the City's administration or interpretation of the By-law and the dispute cannot be resolved between staff and the Developer, then the Developer may appeal the By-law to Council. The following steps will be taken:

1. Developer will complete an application form and pay the \$1025.00 appeal fee and submit a covering letter explaining the nature of the dispute and the Developer's interpretation of the By-law.
2. Planning staff may circulate the request to the Department of Parks & Recreation, if relevant. Subsequently, planning staff will prepare a Council Committee report. Staff will request direction from Council with how the By-law is to be administered with respect to the matter under appeal.
3. Council will make a decision on how the By-law ought to be interpreted and a resolution will be passed.

## **8. SITE-SPECIFIC AMENDMENTS TO THE BY-LAW**

The Developer may apply to amend the By-law. A Developer may apply to for an amendment to the By-law to request a site-specific exemption from having to make a parkland contribution. Or the Developer may want to amend the By-law with respect to another regulation such as conveyance or acceptance of Environmental Lands as the parkland contribution or any other amendment to the By-law. A requested amendment may be site-specific or applicable to every property in Orillia.

The requested amendment must be approved by Council. The following steps must be taken for an amendment to the By-law:

1. The Developer must complete an application form and pay the amendment fee of \$1025.00. In the application the Developer will explain the reasons for the exemption.
2. The amendment will be circulated to other departments, if relevant. Planning staff will prepare the Council Committee report. A draft amending by-law will also be prepared.
3. Council will make a decision whether to grant the amendment or not. If granted, the Amending By-law will be signed by the Mayor & Clerk.
4. The Amending By-law will be consolidated with the Parkland Dedication By-law into the Office Consolidation.



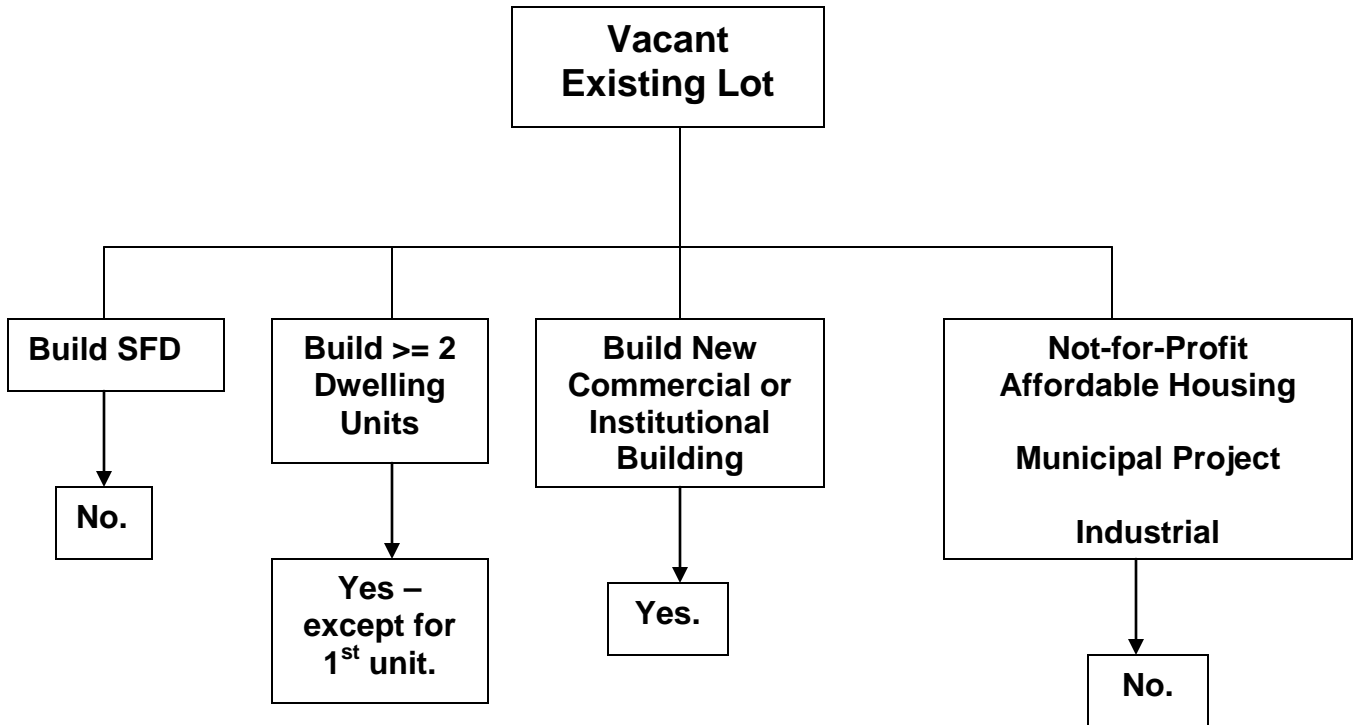
## **9. CALCULATING & TRACKING PARKLAND CONTRIBUTIONS**

1. Complete the calculation sheet. The template is located in D00 Masters & F20 Cash-in-lieu under Calculation Sheets & Tracking sub-folder. Place a copy of the completed calculation sheet in the property file and in the Site Plan Approval file. Also give a copy of the calculation sheet with the cheque to the Treasury department for processing of the cash-in-lieu of parkland payment.
2. Update the Tracking Sheet which is in excel. Insert the roll number, the number of units or size of development collected for, and the amount collected. This information will be added to the GIS system so that the City will know which properties have given their parkland dedication (so the City doesn't collect twice).

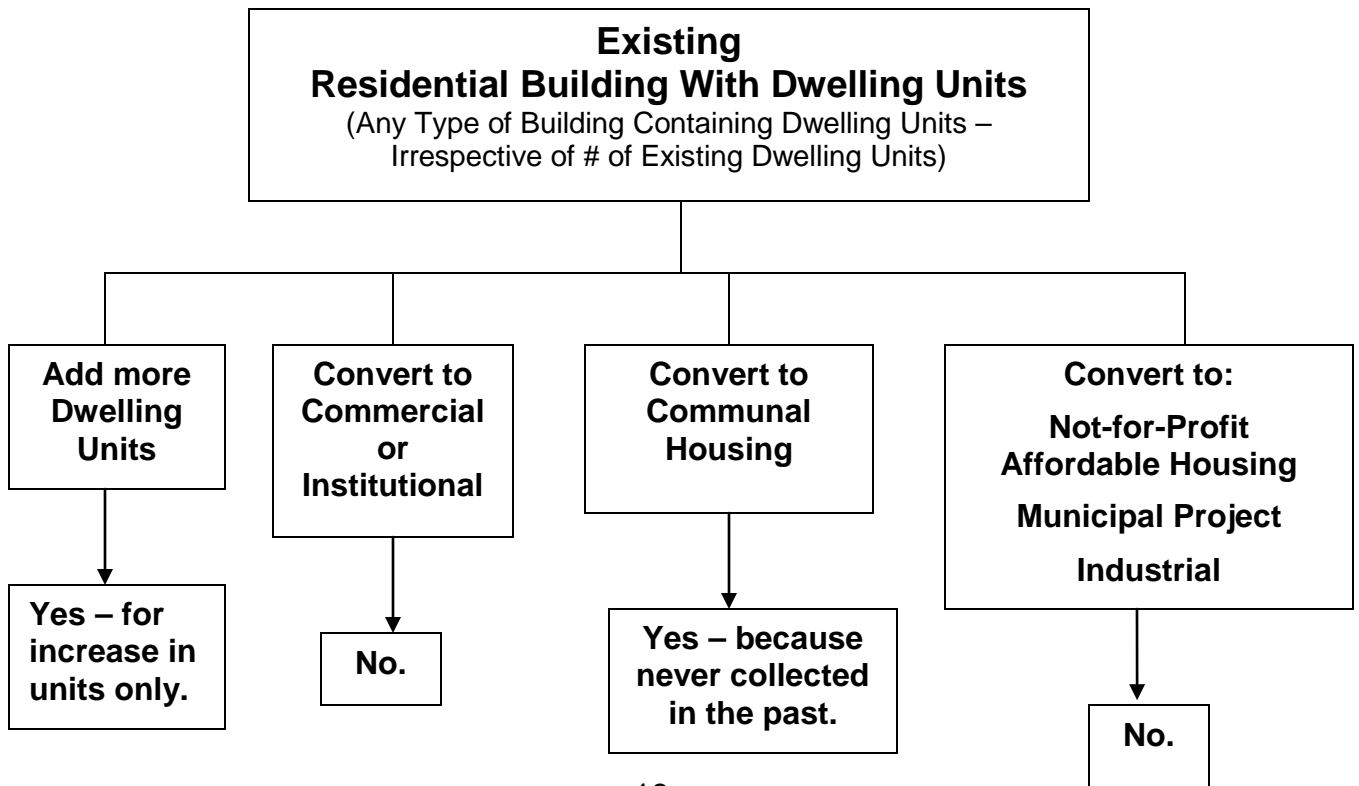
Appendix 4 is sample calculation sheets for Residential, Communal Housing, Commercial and Institutional.

# Appendix 1: Parkland Dedication By-law: Is a Parkland Contribution Required?

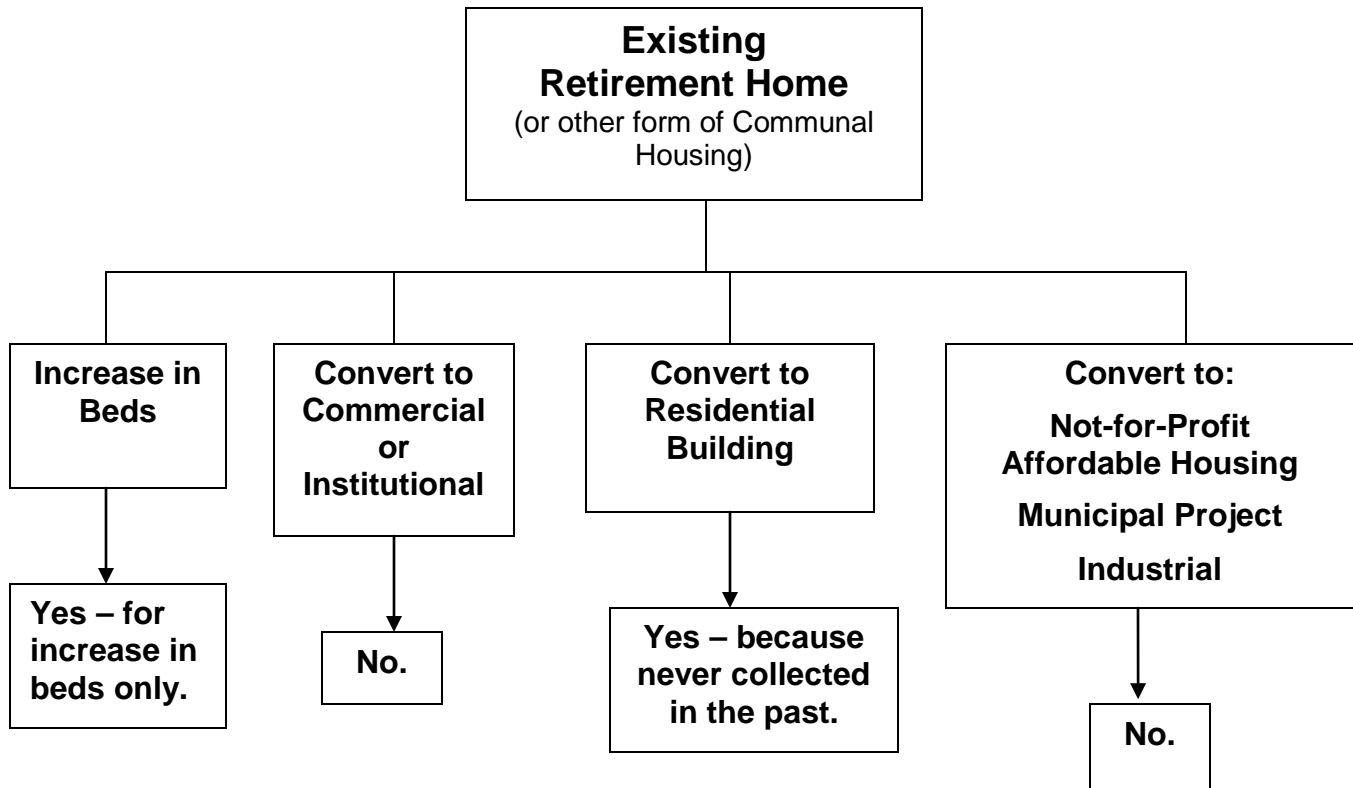
## Vacant Land:



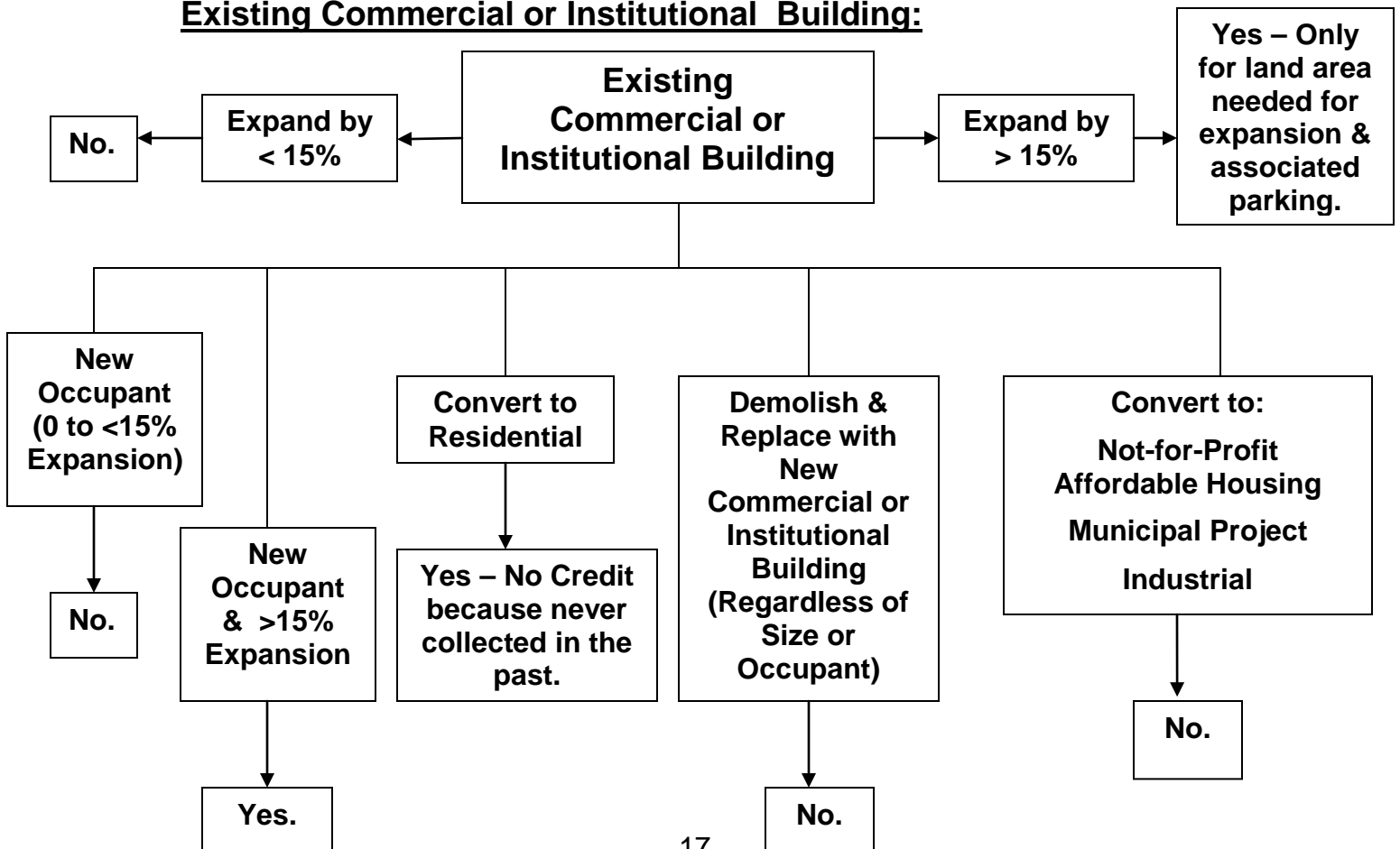
## Existing Residential Building:



**Existing Communal Housing:**



**Existing Commercial or Institutional Building:**



## **Definitions:**

**Affordable Housing** means housing that is constructed or provided by a person, organization, corporation, etc. which provides housing in accordance with the following criteria:

In the case of ownership housing, the least expensive of:

- i) 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
- ii) 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;

In the case of rental housing, the least expensive of:

- i) a unit for which the rent does not exceed 30 percent of gross annual household income for Low and Moderate Income Households; or
- ii) a unit for which the rent is at or below the average market rent of a unit in the regional market area.

**Low and Moderate Income Households** means in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for the regional market area; or in the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for renter households for the regional market area.

**Commercial** means the use of land, buildings or structures for the purpose of buying and selling commodities and/or supplying services but shall not include bed and breakfast establishments, and/or home occupations.

**Communal Housing** means building(s) or structure(s) providing housing or accommodation in either shared or private suites in a communal setting, together with services which may include shared kitchen/dining facilities, sanitary facilities, laundry facilities, amenities, and other facilities to the residents living therein. Without limiting the generality of the foregoing, Communal Housing may include the following uses as defined in the City's Zoning By-law: Nursing Homes, Homes for the Aged, Retirement Homes or Lodges, Boarding, Lodging or Rooming Houses, Student Residences, Continuum of Care Establishments and Senior Citizens' Homes. Communal Housing is not comprised of independent Dwelling Units. For the purpose of this definition, the number of occupants in a Communal Housing building shall be equivalent to the number of beds or spaces permitted in such Communal Housing as determined by the applicable governing legislation and regulations and/or as specifically identified in any approval, license or permit related to such Communal Housing. The number of beds, spaces or occupants shall be referenced as the "Communal Housing Occupant Load".

**Dwelling Unit** means one or more habitable rooms designed or intended for use by one household exclusively as an independent and separate unit in which kitchen and sanitary facilities are provided for the exclusive use of the household with a private entrance from outside the building or from a common hallway or stairway inside the building. A Dwelling Unit wherein service or care is provided to more than four persons and such service or care is for compensation or monetary consideration, such Dwelling Unit, shall be deemed, for the purposes of this By-law, to be Communal Housing.

**Industrial** use means the use of land, buildings or structures for research and development, manufacturing, processing, fabrication, assembly, transporting, warehousing (including storage units) or distributing raw materials or goods, which may include an ancillary, Commercial use.

**Institutional** use means the use of land, buildings or structures for religious, charitable, educational, benevolent, health or welfare purposes by an organization, group, society, organized body, or association including, but not limited to, Not-For-Profit organizations, schools, colleges or universities, places of worship, cemeteries, and hospitals but does not include the use of land, buildings or structures by or on behalf of any Municipality or Not-For-Profit Affordable Housing as defined in this By-law.

**Municipality** shall have the meaning ascribed to it in the *Municipal Act*, 2001 as amended. For the purposes of this By-law, the term Municipality shall include a "local board" as defined in the *Municipal Act*, where one of the municipalities establishing such local board is the City of Orillia or the County of Simcoe.

**Not-For-Profit** means an organization either incorporated as a "Corporation Without Share Capital" under Part III of the *Corporations Act*, as amended, or incorporated as a housing co-operative without share capital under the *Co-operative Corporations Act*, as amended.

**Residential** use means one or more Dwelling Units or Communal Housing.

## **Appendix 2: Frequently Asked Questions Parkland Dedication By-law**

### **GENERAL QUESTIONS ABOUT THE BY-LAW:**

#### **1. What is a Parkland Dedication By-law?**

The *Planning Act* allows the City to collect land or to accept a cash payment in lieu of the dedication of land (i.e. cash-in-lieu) for park purposes for residential and non-residential developments and redevelopments that require a building permit provided the City has a Parkland Dedication By-law.

#### **2. What is cash-in-lieu? How much money do I have to pay?**

The *Planning Act* requires that up to 2% of the land be dedicated to the City for park purposes for commercial and industrial development or redevelopment, and up to 5% of the land be dedicated to the City for park purposes for other uses. Cash-in-lieu is when money, instead of land, is taken which is equal to 2% of the value of land for commercial and industrial uses and 5% of the value of land for all other uses.

#### **3. What is the money used for?**

Revenue collected from a Parkland Dedication By-law may only be used for park purposes. It may be used to acquire land for parks or trails and may also be used to finance the development and maintenance of parks.

#### **4. Does the City accept land or cash?**

The City accepts cash-in-lieu for all developments or redevelopments unless the land has been identified in the City's Official Plan as a future park, trail or urban square. If identified in the Official Plan, then the City may take land instead of cash. There is no need to go to Council to get permission to take land identified in the Official Plan.

However, if the applicant wants to give the City land instead of pay cash-in-lieu OR the Department of Parks & Recreation would prefer to take land instead of cash, and the land in question is not identified in the City's Official Plan for such park purposes, then Council must pass a resolution to accept the land.

## **EXEMPTIONS FROM THE BY-LAW:**

### **5. What land uses are exempt from the Parkland Dedication By-law?**

- Municipal projects (including County of Simcoe)
- Industrial Development & Redevelopment (includes R&D, manufacturing, processing, fabrication, assembly, transporting, warehousing including storage units, distribution of raw materials)
- Convert Existing Residential Building to Commercial
- Temporary Buildings & Structures
- Construction of a new single detached dwelling unit on an existing lot
- Enlarge an Accessory Building for a Residential (or Communal Housing) use
- Redevelopment of an Existing Residential or Communal Housing use which does not increase density (i.e. the number of dwelling units or beds)
- Replacement of Existing Commercial or Institutional Building (irrespective of the size of the replacement building)
- Expansions of Existing Commercial or Institutional Buildings by less than 15% of existing Gross Floor Area.
- Not-For-Profit Affordable Housing
- Bed & Breakfasts
- Home Occupations

## **EXEMPTION FOR SINGLE DETACHED DWELLINGS:**

### **6. Do I have to make a parkland contribution if I apply for a building permit for an addition on my house or to build a new garage?**

No. For residential development, the By-law can only be applied when there is an increase in density. A parkland contribution will be required if more residential units are added to an existing building or a new multi-unit residential building is proposed.

### **7. I own a vacant residential lot in a Registered Plan of Subdivision and I intend to build a Single Detached Dwelling, will I have to make a parkland contribution?**

No. If the developer of the subdivision provided the City with a parkland contribution at the time the subdivision was developed, then no further parkland contribution is required.

**8. I've purchased a vacant lot that was recently created by Severance (approved by the Committee of Adjustment) and I want to build a new Single Detached Dwelling, do I have to make a parkland contribution?**

No, because the parkland contribution was paid for during the severance process. As a condition of severance, the parkland dedication fee was collected.

**9. I've purchased a vacant lot and I want to build a Duplex, do I have to make a parkland contribution?**

Yes, but only for the second dwelling unit. A parkland contribution for the second dwelling unit is required. The parkland contribution for the first dwelling unit was collected at the Plan of Subdivision or Severance stage (when the lot was created) but the Parkland Dedication By-law applies because an increase in density is proposed. The fee for the second dwelling unit is \$750 for the second dwelling unit on non-waterfront land and \$1500 for the second dwelling unit on waterfront land. Any increase in density (i.e. more dwelling units or Communal housing beds) is required to make a parkland contribution.

#### **EXEMPTIONS FOR REPLACEMENTS & ADDITIONS TO EXISTING BUILDINGS**

**10. We are proposing to demolish the existing one-storey school and rebuild a new, two-storey school on the same site. Is a parkland contribution required?**

No. Irrespective of the size of the new commercial or institutional building, no parkland contribution is required when an existing building is demolished and replaced with a new commercial or institutional building.

**11. We are proposing to demolish some but not all of our existing commercial building. The existing building is 500m<sup>2</sup> in size but we are proposing a new 1000m<sup>2</sup> building. Do we have to make a parkland contribution?**

Yes. Because a portion of the existing building is going to be saved and the expansion is greater than 15%, the redevelopment does not qualify for an exemption under the By-law.

To determine the parkland contribution, the area of land required to accommodate the expansion and its associated parking is used to determine the parkland contribution payable.



**12. We are proposing to demolish some but not all of the existing school. The existing school is 3000m<sup>2</sup> in size and the new school is going to be 3300m<sup>2</sup> in size. Is a parkland contribution required?**

No. Even though the proposed redevelopment does not qualify for an exemption as a 'replacement' under the By-law, the new school will be less than 15% larger than the existing school and therefore qualifies for the exemption applicable to building additions.

**13. We purchased an existing one-storey commercial building and we intend to renovate the building to add a second storey to double the gross floor area of the building. Is a parkland contribution required? If so, how is it determined if the addition isn't going to take up additional land area?**

Yes, a parkland contribution is required. The contribution is calculated by determining the land area necessary for that portion of the redevelopment and its associated parking. It is not based on the gross floor area of the building. In this case, the parkland contribution would be based on the building footprint required to accommodate the addition and the land area associated with the additional parking spaces and its associated required parking aisle. The remainder of the land area (i.e. setbacks, landscaped open space, existing driveway) would be excluded from the calculation.

**14. We are proposing an expansion by 30% to our existing commercial building and in a few years we plan on expanding by another 20%. When we do our second expansion, are we going to have to pay parkland on the previous addition as well?**

No. The Planning Act does not allow municipalities to collect twice. When the first additional of 30% is proposed, a parkland contribution based on the land area and parking associated with the 30% addition will be collected. This information will be kept on file. When the second addition is applied for, an additional parkland contribution based on the land area and parking associated with the 20% addition will be collected.

### **OTHER EXEMPTIONS**

**15. We are proposing to build an affordable housing apartment building. Are we required to make a parkland contribution?**

Not-For-Profit Affordable Housing initiatives are exempt from the Parkland Dedication By-law. In order to qualify for this exemption, the applicant must prove to the City that it meets the definition of "Not-For-Profit" and that its units classify as "Affordable Housing" in accordance with the definition in the By-law:

“Not-For-Profit” means an organization either incorporated as a “Corporation Without Share Capital” under Part III of the *Corporations Act*, as amended, or incorporated as a housing co-operative without share capital under the *Co-operative Corporations Act*, as amended.

“Affordable Housing” means housing that is constructed or provided by a person, organization, corporation, etc. which provides housing in accordance with the following criteria:

In the case of ownership housing, the least expensive of:

- i) 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
- ii) 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;

In the case of rental housing, the least expensive of:

- i) a unit for which the rent does not exceed 30 percent of gross annual household income for Low and Moderate Income Households; or
- ii) a unit for which the rent is at or below the average market rent of a unit in the regional market area.

“Low and Moderate Income Households” means in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for the regional market area; or in the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for renter households for the regional market area.

**16. We operate a not-for-profit organization and we have received a grant from the City to assist us with the construction costs associated with our new office building. Does this funding qualify us for an exemption?**

No. The exemption is for development or redevelopment undertaken by or on behalf of a municipality and municipality is defined as per the Municipal Act. The definition of municipality includes the City of Orillia, the County of Simcoe, and Local Boards (as defined in the Municipal Act – e.g. Police Board, Library Board).

**17. We have applied for a building permit for a tent for our garden centre. Is a parkland contribution required?**

No. All temporary buildings and structures are exempt from the By-law.

**18. Our 10-bed Retirement Home on the waterfront burnt down last year. We intend to replace this Retirement Home with a new 20 bed facility. Are we required to make a parkland contribution?**

Yes, but only for the increase in the number of beds. The replacement of an existing Residential or Communal Housing building that does not increase the density is exempt from making a parkland contribution. But the By-law requires that any increase in density be required to make a parkland contribution. Using the cash-in-lieu values contained in Appendix A, the parkland contribution would be \$4,500 (10 beds x \$450). \$450 is the per bed cash-in-lieu fee for Communal Housing on the waterfront.

**19. Are new schools and students residences required to make a parkland contribution?**

Yes. However, if the applicant is the Province of Ontario or the applicant is able to prove that they are a “Crown Agency” (as defined under the Crown Agencies Act), then the applicant could refuse to make a parkland contribution because the Province of Ontario is not bound by the *Planning Act*.

**DETERMINING CASH-IN-LIEU**

**20. How do I calculate my land value?**

The *Planning Act* states that land value is determined as the value of land the day before the first building permit is issued. This is vacant, improved, and zoned land. The Draft By-law allows land value to be determined one of three possible ways:

1. Opinion of Value (paid for by the applicant) undertaken by the City’s real-estate agent.
2. Recent Purchase Price provided the sale was bonafide and occurred within the last 12 months and the land is vacant and zoned for the proposed development.
3. MPAC Assessment current value provided the land is vacant and zoned for the proposed development.
4. Fee Per Unit for new residential developments with fewer than 10 units; Fee Per Bed for Communal Housing developments; and Price per Square Metre of land area for industrial, commercial and institutional developments may be applied. These rates have been established by an appraiser and are contained in Appendix “A” of the Draft By-law (see attached).

**21. What is a Fee Per Unit? What if I want to install 3 residential dwelling units above my commercial building on Mississauga Street East, how much would I have to pay?**

A Fee Per Unit is equivalent to 5% of the value of land associated with a new residential unit. It is an average value based on an appraisal of Multi-Residential land values in the City of Orillia as of October 2009. Please see the attached Appendix "A" for the specific Fee Per Unit for residential development. The Fee Per Unit is greater for residential developments on the waterfront to reflect the increased value of waterfront land.

The Fee Per Unit is \$750 per non-waterfront residential unit. As an example, for three new residential units, you would be required to pay \$2,250 for the parkland contribution.

**22. What is the Fee Per Bed for Communal Housing? If I plan to build at 20 bed Nursing Home on the waterfront, how much would I have to pay?**

The Fee Per Bed for Communal Housing is based on the appraisal of Multi-Residential land values in the City of Orillia as of October 2009. The Fee Per Bed is one-third of the Fee Per Unit for Residential Dwelling Units because the average household size in Orillia is 2.9 persons per household.

The Fee Per Bed is greater for Communal Housing developments on the waterfront to reflect the increased value of waterfront land. The Fee Per Bed on the waterfront is \$450 per bed. For a 20-bed Nursing Home, you would be required to pay \$9000 for the parkland contribution.

**23. What is Price Per Square Metre? I plan to build a new commercial building on my property that is ½ acre in size, how much would I have to pay?**

A Price Per Square Metre for commercial development is equivalent to 2% of the value of land. The Price Per Square Metre for institutional development is equivalent to 5% of the value of land. It is an average value based on an appraisal of commercial and institutional land in the City of Orillia as of October 2009. Please see the attached Appendix "A" for the specific Price Per Square Metre for commercial and institutional uses.

The Price Per Square Metre for a commercial building on a parcel of land less than 1 acre in size is \$1.93 per m<sup>2</sup>. To construct a new commercial building on a ½ acre parcel of land, you would be required to pay \$3905.36 for the parkland contribution.

**24. Under the Draft By-law, our church is planning a 25% building expansion. The addition and the associated parking area will take up ¼ acre of our property. Is a parkland contribution required? If so, how much?**

Yes. Since the proposed expansion is greater than 15% of the existing gross floor area, it does not qualify for an exemption under the By-law.

Since a church is an institutional use as defined under the Draft By-law, cash-in-lieu is payable prior to issuance of the addition's building permit. The Price Per Square Metre for an institutional building on land less than 5 acres in size is \$2.69 per m<sup>2</sup>. To

expand the church for this ¼ acre addition, you would be required to pay \$2,721.61 for parkland contribution.

**25. The YMCA is planning to open a new non-profit Day Care. The new Day Care will be located on 1 acre of land. Is a parkland contribution required? If so, how much?**

Yes. Non-profit organizations are not exempt from the By-law. All institutional uses are required to make a parkland contribution. YMCA would need to make a parkland contribution in the amount of \$10,886.43.

**26. I plan to build a new mixed-use building in the Downtown on my 2.5 acre parcel of land with 12 apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors and commercial on the ground floor, how much do I have to pay for my parkland contribution?**

Parking for the 12 apartments will take up 0.1 acres of the property. Therefore, the remaining 2.4 acres will be used to calculate the cash-in-lieu for the commercial component of the development. The Price Per Square Metre for a commercial development on land less than 5 acres in size is \$0.97 per m<sup>2</sup>. This would amount to \$9,21.41 for the commercial development plus the residential component of the development (12 units x \$750 = \$9,000). A total of \$18,421.41 would be required for the parkland contribution for the new mixed-use building.

**27. I want to build a new house and rent it out to 4 students. Will I be charged the Communal Housing Parkland Dedication rate?**

No. The definition of 'Dwelling Unit' in the By-law includes providing service or care to fewer than 4 persons. Only the \$750 fee for non-waterfront or \$1500 fee for waterfront is applicable.

However, if service or care is provided to more than 4 persons, then the Communal Housing per bed fee is applicable (Non-Waterfront: \$250 per bed; Waterfront: \$450 per bed).

**28. I am proposing a 19 unit Apartment Building. How much to I have to pay?**

Because more than 10 units are proposed, the fee per unit in Appendix 'A' cannot be applied. The applicant will need to submit a deposit to the City to have the City's appraiser undertake an Opinion of Value. 5% of the appraised value of the land will be the amount of cash-in-lieu payable.

## **CONVEYANCE OF LAND, INSTEAD OF CASH-IN-LIEU**

**29. We own 35 acres of commercial land. We would prefer to convey 5% of land for park purposes, rather than pay the cash-in-lieu. Will the City accept land instead of cash-in-lieu?**

Unless the land in question is identified in the City's Official Plan for a future park, trail or urban square, then staff cannot accept land instead of cash-in-lieu without a resolution by Council to accept the land.

If the proponent would prefer to give land instead of cash-in-lieu, they need to make a written request. Staff will circulate the request to the Parks & Recreation Department for their comment. Staff will prepare a report with a recommendation for Council's consideration. Council will be asked to provide direction in the form of a resolution.

**30. We are proposing to provide an Urban Square as part of our commercial development in the Downtown. Can this be included in our parkland dedication?**

Yes, if the land is conveyed to the City and the Parks and Recreation Department is willing to accept the conveyance. An easement may also be accepted in lieu of conveyance.

**31. We'd like to convey the lands designated Environmental Protection and our Stormwater Management Pond to the City as our Parkland Dedication. Is this ok?**

No. The By-law does not allow "Environmental Land" or lands/facilities intended for stormwater management purposes to be dedicated to the City as part of the Parkland Dedication contribution.

The Director of Planning & Development determines the location and shape of the lands to be conveyed. If there is a dispute, the applicant can appeal to Council.

The land conveyed to the City must be in a condition acceptable to the City. It cannot have construction debris, contaminants, etc on the lands. If the land has been disturbed, the City can rescind its acceptance of the land and cash-in-lieu is payable instead or the City can require the owner to restore the land to a condition acceptable by the City.

The title of the land conveyed must be free and clear on any encumbrances.

## **INTERPRETATION & IMPLEMENTATION OF THE BY-LAW:**

### **32. I recently purchased an industrial building and I plan to convert it to a residential apartment building, will I receive a credit for a previous parkland contribution?**

Since the City's existing Parkland Dedication By-law (circa 1991) did not allow for the collection of parkland dedication for industrial uses, it is unlikely that a previous parkland contribution for the industrial building was ever made and therefore a credit will not be given. If you are able to prove that a previous parkland contribution was made, then you may appeal to Council to request a credit.

### **33. What if my commercial lands are greater than 5 acres in size and I've owned the land for several years, how do I go about getting an opinion of value?**

For commercial and institutional developments on lands greater than 5 acres, the Price Per Square Metre is not applicable. In this scenario, an opinion of value is required because the land wasn't purchased in the last 12 months.

The By-law requires the opinion of value to be prepared by the City's real estate agent. Since you will be required to pay for this opinion of value, you must pay a deposit to the City before the opinion of value is undertaken.

If you disagree with the City's opinion of value, you may appeal to Council and Council's decision is final. As part of this appeal process, you must also have your own independent appraisal prepared by an accredited appraiser and you must submit this appraisal together with the appeal form and fee to the City before Council can consider an appeal.

### **34. What if I disagree with the cash-in-lieu amount payable as a result of using the fees in Appendix 'A'?**

The developer is under no obligation to use the fees in Appendix 'A'. If the developer disagrees with the cash-in-lieu payable as a result of using Appendix 'A', then the developer can have an Opinion of Value prepared by the City (at the developer's expense).

If the developer disputes the City's appraisal, he/she may hire his/her own appraiser and may appeal to Council to resolve the matter.

### **35. What if I disagree with the City's interpretation of the By-law?**

In the event of a dispute, you may appeal to Council and Council's decision is final. There will be an appeal form, together with an appeal fee, that must be submitted before Council can consider an appeal.

**36. I thought that a Parkland Dedication By-law only applied to applications requiring Site Plan Approval?**

The Planning Act enables the Parkland Dedication By-law to be applied to any development or redevelopment requiring a building permit.

**37. We submitted our Site Plan Approval application in 2009 and it has been agreed that we will convey 5% of our land for parkland dedication. But we won't be applying for a building permit until August of 2010. Which By-law are we subject to?**

There is a provision in the New By-law that addresses this situation. Provided that the required parkland dedication was determined and/or imposed, as part of a Site Plan Approval application, prior to the enactment of the By-law, then the previously agreed to parkland dedication is applicable.

**38. I applied for my building permit on June 30<sup>th</sup>, 2010. Am I subject to the new Parkland Dedication By-law?**

No. The By-law only applies to building permit applications received after July 1, 2010.