

The Corporation of the Town of The Blue Mountains

By-Law Number 2026 – 32

Being a by-law to require the conveyance of land for park or other public recreational purposes to the municipality as a condition of development or redevelopment

WHEREAS section 42 (1) of the Planning Act, Chapter P.13, R.S.O. 1990, as amended, enables the Council of a local municipality to require, by by-law, the conveyance of land for park or other public recreational purposes to the municipality as a condition of development or redevelopment of lands;

AND WHEREAS section 42 (6) of the Planning Act further provides that if a rate authorized by subsection (1) applies, the Council of the Municipality may require the payment of money in lieu of the value of the land otherwise required to be conveyed

AND WHEREAS subsection D6.2 of the Town's Official Plan contains general policies applying to all public parkland and governs the dedication of land through the development process;

AND WHEREAS subsection B3.7 of the Town's Official Plan contains development policies for lands designated Residential and Recreational Area, including the provision of Open Space;

AND WHEREAS a parks plan being the Leisure Activities Plan was prepared in consultation with local school boards and other persons or public bodies the municipality considered appropriate, and made publicly available in 2021;

AND WHEREAS Council for the Corporation of the Town of the Blue Mountains desires to repeal and replace By-law 2003-31, as amended to provide for the conveyance of land and cash-in-lieu thereof for park and other purposes;

NOW THEREFORE Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1 Short Title

This by-law may be referred to as the Parkland Dedication By-law.

2 Definitions

- a) **"Appraiser"** means a certified professional appraiser of real estate who is designated as an Accredited Appraiser by the Appraisal Institute of Canada (AIC), and in good standing of the AIC;
- b) **"Additional Residential Unit (ARU)"** means a legally constructed permanent or semi-permanent dwelling unit that can safely accommodate residents on a year-round basis. ARUs are generally contained within a main building (including a single detached, semi-detached or rowhouse dwelling), or within an accessory building (such as above a private garage). An ARU shall contain cooking, eating, living, sleeping, and sanitary facilities, be connected to adequate water and sanitary servicing, and meet all requirements of the Ontario Building Code. An ARU may also be known as an "additional dwelling unit", "accessory dwelling unit", "ADU", "accessory apartment", "secondary dwelling unit", or "secondary suite". An ARU may be considered as a garden suite where an approved temporary land-use by-law

is in effect but shall not mean or include a primary residential unit, a recreational trailer or vehicle, or a short-term accommodation;

- c) **"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;
- d) **"Agricultural Uses"** means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for fulltime farm labor when the size and nature of the operation requires additional employment;
- e) **"Agriculture-related Uses"** means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity;
- f) **"Attainable Residential Unit"** means a residential unit that meets the criteria set out in subsection 4.1(4) of the Development Charges Act;
- g) **"Building Permit"** means the first permit issued under the Building Code Act for construction at or above the first storey of a building or structure;
- h) **"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 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, or the laying out and establishment of a commercial parking lot;
- i) **"Development Charges Act"** means the Development Charges Act, 1997, S.O. 1997, c.27, as amended or superseded;
- j) **"Gross Floor Area"** has the same meaning as in the Town's Development Charges By-law, as amended;
- k) **"Inclusionary Zoning Residential Units"** are units in respect of residential units that are affordable housing units as defined by the Development Charges Act, 1997, c. 27, required to be included in a development or redevelopment pursuant to a by-law passed under section 34 of the Planning Act to give effect to the policies described in subsection 16 (4) of that Act. 2022, c. 21, Sched. 3, s. 4 ;
- l) **"Infill development"** means creation of one or more new residential lots for single detached or semi-detached dwellings that are located between, or surrounded by, existing residential lots within an established neighborhood;
- m) **"Net Residential Units"** means the number of residential units determined by subtracting the number of residential units on the land immediately before the proposed Development or Redevelopment from the number of residential units that will be on the land after the proposed Development or Redevelopment. Affordable and attainable residential units as defined in subsection 4.1(1) of the Development Charges Act, 1997, and residential units described in 4.3(2) of the Development

Charges Act, 1997 are excluded from the number of net residential units otherwise determined;

- n) **"Non-profit housing development"** means the development of a building or structure as defined in subsection 4.2 (1) of the *Development Charges Act, 1997*;
- o) **"Redevelopment"** means the construction, erection, or placement of one or more buildings or structures on land where all or part of a building or structure has previously been demolished; the change in use of a building or structure from residential to non-residential, or from non-residential to residential; the change of a building or structure from one type of residential development to another, or from one type of non-residential development to another; or the substantial renovation of a building or structure involving a change in the character or intensity (density) of use;
- p) **"Official Plan"** means the Town's Official Plan 2016, as amended, or any successor thereto;
- q) **"On-Farm Diversified Use"** means uses that are secondary to the principal agricultural use of the property and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value added agricultural products;
- r) **"Owner"** means the owner of land or a person who has made authorized application for an approval for the development of land;
- s) **"Temporary Building or Structure"** means a building or structure that is constructed, erected or placed on land for a continuous period of not more than three years, or an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof for a period of not more than three years;
- t) **"Town"** means the Corporation of the Town of The Blue Mountains;
- u) **"Zoning By-law"** means the Town's Comprehensive Zoning By-law No. 2018-65, as amended, or any successor thereto.

3 General Requirement:

- a) The entirety of the Town is hereby established as an area for which the conveyance of a portion of land to be Developed or Redeveloped, or the payment of money in lieu of such conveyance, shall be required as a condition of Development or Redevelopment.
- b) No person shall Develop or Redevelop Lands within the Town unless they have first conveyed a portion of the Land to the Town for Parkland, or paid money in lieu of such conveyance, in accordance with this By-law.

4 Delegation of Authority Conveyance of a Portion of Land or Money in Lieu:

- a) The authority to determine whether a conveyance of a portion of the Land associated with Development or Redevelopment for Parkland or the payment of money in lieu of such conveyance shall be required is hereby delegated to the Director of Planning, any successor thereto, or an officer or employee of the Town designated by the Director of Planning, or their successor.
- b) The determination of whether a conveyance of a portion of the Land for Parkland or the payment of money in lieu of such conveyance shall be required shall be made in accordance with this By-law, the relevant policies of the Town's Official Plan, and

generally in accordance with any other policies and guidelines established by the Town from time to time for that purpose.

- c) Except as otherwise identified herein, only Council has the authority to:
- i. waive the parkland dedication requirements for Development or Redevelopment as calculated pursuant to the provisions herein; and
 - ii. to determine at its discretion to set out an alternative process to that set out in this By-law to determine the Market Value of the Land.

5 Calculation of Parkland Conveyance

As a condition of Development or Redevelopment of land within the Town, the owner shall be required to convey land to the Town for park or other recreational purposes as follows:

5.1 Commercial or Industrial Uses

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.

5.2 Residential Uses

Where Land in the Town is to be Developed or Redeveloped for residential purposes, the parkland dedication shall be five percent (5%) of the land to be Developed or Redeveloped.

5.2.1 Affordable and Attainable Housing

With respect to land proposed for Development or Redevelopment that will include affordable residential units or attainable residential units, or inclusionary zoning residential units, the amount of land that may be required to be conveyed under Section 5 of this by-law 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 inclusionary zoning residential units; and
- “B” is the number of residential units that are part of the Development or Redevelopment.

5.3 Other Uses

In the case of lands proposed for Development or Redevelopment for a use other than those referred to in Subsections 5.1 and 5.2 of this By-law, land in the amount of five per cent (5%) of the land to be Developed or Redeveloped.

5.4 Mixed-Use Development

In the case of a Mixed-Use Development or Redevelopment, land in the aggregate, calculated as follows:

- a) the Residential component, if any, as determined by the Town, of the lands being Developed or Redeveloped, shall require the conveyance of land as determined in accordance with Subsection 5.2 of this by-law; plus
- b) the Commercial, or Industrial component of the lands being Developed or Redeveloped, if any as determined by the Town, shall require the conveyance of land as determined in accordance with Subsection 5.1 of this by-law; plus
- c) the component of the lands proposed for any use other than Residential, Commercial, or Industrial if any as determined by the Town, shall require the conveyance of land as determined in accordance with Subsection 5.3 of this by-law.

6 Cash-in-Lieu of Parkland Dedication:

6.1 General Requirement

- a) The Town, in its sole discretion, may accept a combination of a cash-in-lieu and conveyance of Parkland.
- b) The appraised value of lands to be conveyed as Parkland shall be determined through an appraisal report prepared by a qualified land appraiser at the expense of the owner of the lands.
- c) The Town may require an updated or new appraisal where, in the opinion of the Town, the appraisal no longer adequately supports the land value used to calculate parkland dedication or cash-in-lieu under this By-law.
- d) The appraisal report shall be prepared to the satisfaction of the Director of Planning, and at the Town's sole discretion may be subject to a peer review by another qualified land appraiser retained by the Town at the owner's expense.

6.2 Amount of Payment of Cash-in-Lieu

In lieu of requiring the conveyance of land required by Section 5 of this by-law, the Town may require the payment of the value of the lands otherwise required to be conveyed, calculated in accordance with the following:

6.2.1 Residential Uses

For lands proposed for Residential Development or Redevelopment, the cash-in-lieu shall be the value of five per cent (5%) of the land to be Developed or Redeveloped, as determined by appraisal in accordance with this By-law.

6.2.2 Affordable and Attainable Housing

With respect to land proposed for Development or Redevelopment that will include affordable residential units or attainable residential units, or inclusionary zoning residential units, the cash-in-lieu payment that may be required by the Town under this by-law shall not exceed 5 per cent of the land to be Developed or Redeveloped 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 inclusionary zoning residential units; and
- "B" is the number of residential units that are part of the Development or Redevelopment.

6.2.3 Flat Rate Parkland Dedication

- a) For residential infill projects that result in the creation of a single new residential lot, a flat rate amount as published by the Town and updated from time to time may be used to fulfill cash-in-lieu parkland dedication requirements. The flat rate shall be indexed annually on January 1 using Statistics Canada Construction Price Statistics. Failure of the Town to post the indexed rate shall not waive compliance with this by-law.
- b) As an alternative to the flat rate amount, a developer may elect to complete an appraisal report in accordance with this By-law.

6.2.4 Commercial, Industrial, Mixed-Use Development and Other Uses

In the case of lands proposed for Commercial, Industrial, Mixed-Use Development or

Redevelopment, cash-in-lieu shall be calculated as the equivalent value of the land required based on a property appraisal provided by the owner, as follows

- a) 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.
- b) in the case of lands proposed for Development or Redevelopment for a use other than Residential, Commercial or Industrial uses, the value of five per cent (5%) of the land to be Developed or Redeveloped.
- c) in the case of a Mixed-Use Development or Redevelopment, the value of the land in the aggregate, calculated as follows:
 - i. the Residential component, if any as determined by Town, of the lands being Developed or Redeveloped, shall require the cash-in-lieu of the value of land as determined in accordance with subsection 6.2.1, 6.2.2 or 6.2.3 of this by-law; plus
 - ii. the Commercial or Industrial component of the lands being Developed or Redeveloped, if any as determined by Town, shall require the cash-in-lieu of the value of land as determined in accordance with paragraph 6.2.4(a) of this subsection; plus
 - iii. the component of the lands proposed for any use other than Residential, Commercial or Industrial if any as determined by the Town, shall require the cash-in-lieu of the value of land as determined in accordance with subsection 6.2.4 b) of this subsection.

7 Vertical Additions and Additional Storeys

Where an existing building is being expanded vertically through additional storeys, and where parkland has previously been conveyed or cash-in-lieu has already been paid, the required parkland dedication or cash-in-lieu shall be calculated as per Sections 5 and 6, multiplied by the ratio of A to B, where:

- A is the floor area of the new storeys being added; and
- B is the total floor area of the building after the additional storeys
- Parkland required = standard parkland rate $\times$ (A $\div$ B)

8 Determination of Land Value / Cash in Lieu

The value of land or cash in lieu required under this By-law shall be determined as follows:

- a) For Development or Redevelopment subject to site plan approval or a zoning by-law amendment (sections 41 and 34 of the Planning Act), and where the first building permit is issued within two (2) years of the planning application, the land value or cash in lieu shall be based on the land value on the date of the planning application. Where both site plan approval and a zoning by-law amendment apply, the later application date shall be used.
- b) For Development or Redevelopment approved pursuant to sections 51.1 or 53 of the Planning Act, the land value or cash in lieu shall be determined in accordance with the conditions of approval of the subdivision, condominium, or provisional consent.
- c) For Development or Redevelopment not subject to subsection (a) or (b), the land value or cash in lieu shall be determined as of the day before the issuance of the first building permit.

- d) If an extension of approval described in subsection (a) or (b) is requested, the land value shall be determined as of the day before the approval of the extension.

9 Timing of Conveyance / Cash-In-Lieu Payment

The timing of conveyance of land for public park or other public recreational purposes, or the payment of cash-in-lieu, shall occur in accordance with the following, and the valuation date shall be determined in accordance with Section 8:

- a) For Development or Redevelopment approved pursuant to sections 51.1 or 53 of the Planning Act, the conveyance of land or the payment of cash-in-lieu shall be required as a condition of approval and shall occur prior to or immediately upon registration of the plan of subdivision, condominium, or issuance of consent, as determined by the Town.
- 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, the conveyance of land or the payment of cash-in-lieu shall be required as a condition of Development or Redevelopment prior to first building permit issuance in accordance with section 42 of the Planning Act.

10 Parkland Reserve Fund

- a) All monies received shall be paid into the Parkland Reserve Fund and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes.
- b) At least 60 per cent of the monies that are in the Parkland Reserve Fund at the beginning of the year must be spent or allocated.

11 Acceptance of Land for Park or Other Public Recreational Purposes

Where land is conveyed to the Town for park or other public recreational purposes, the land shall be free of all encumbrances and the following shall apply:

- a) Lands designated as Hazard Lands, or otherwise identified as hazard lands, shall not be counted toward the required parkland dedication unless the Town specifically requires otherwise.
- b) Lands forming part of any required open space component, walkways provided as part of a subdivision or site plan approval, lands required for municipal infrastructure purposes (including roads, service lines, and stormwater management facilities), or any other lands conveyed to the Town, whether or not used for recreational purposes, shall not be counted toward the required parkland dedication unless the Town specifically requires otherwise.

12 Parkland Credits

- a) Parkland dedication credits may be considered by the Town where a specified developer has over-provided a parkland dedication on one site, and then, subject to approval by the Town, including a determination of appropriate value, may reduce the required parkland dedication on another site being developed by the same developer. Legal agreements between the developer and the Town may be required.
- b) Where land has previously been conveyed, or a cash in lieu of such conveyance has been previously received by the Town, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by

the Town in respect of subsequent Development or Redevelopment applications, unless:

- i. There is a change in the proposed Development which would increase the number of residential Dwelling Units of the current use or currently approved use; or,
 - ii. Lands originally identified for Development or Redevelopment for Commercial or Industrial Purposes are instead proposed for Development or Redevelopment for residential or any other non-residential land use that generate a higher parkland dedication.
- c) Where such increase in the number of Dwelling Units is proposed, or where a land use conversion is proposed, from a non-residential land use to a residential land use, or from Commercial or Industrial Purposes to any other land use, the conveyance or equivalent cash in lieu of conveyance as the case may be, will be subject to the increase in Dwelling Units/land use proposed and the value determined the day before the day that the first building permit is issued.
- d) Where there is a claim of previous conveyance or a cash in lieu, it is the applicant's/owner's responsibility to provide suitable evidence of such previous conveyance or a cash in lieu payment, to the Town's satisfaction.

13 Parkland Reductions and Exemptions

- a) The following is a list of developments exempt from the parkland dedication requirements:
- i. Non-profit housing development.
 - ii. Development or redevelopment of lands, buildings or structures owned by and used for the purposes of the municipality and exempt from taxation under section 3 of the Assessment Act, RSO 1990. c.A.31 as amended
 - iii. Development or redevelopment of lands, buildings or structures owned by and used for the purposes of a board as defined in subsection 1(1) of the Education Act, RSO 1990, c.E.2, as amended, and as exempt from taxation under section 3 of the Assessment Act RSO 1990. c.A.31 as amended.
 - iv. Development or redevelopment of buildings or structures used as public hospitals governed by the Public Hospitals Act, RSO 1990, c.P.40, as amended.
 - v. Development or Redevelopment of land, buildings or structures used for a place of worship or for the purpose of a cemetery or burial ground and exempt from taxation under the Assessment Act RSO 1990. c.A.31 as amended.
 - vi. Development or redevelopment consisting of Additional Residential Units (ARUs) is exempt, where such units are permitted in accordance with section 4.1 of the Town's Zoning By-law.
 - vii. Replacement of buildings or structures destroyed by accidental fire or other cause beyond the control of the Owner, provided no intensification or change in use occurs (including no increase in dwelling units or gross floor area) and the replacement is completed within five (5) years of the destruction.

- viii. Enlargement of an existing Residential Unit provided that the enlargement does not result in additional Residential Units.
 - ix. Temporary buildings or structures shall be exempt from parkland dedication requirements, subject to the following:
 - a) In the event that a temporary building or structure exists on the land for a continuous period exceeding three (3) years it shall be deemed not to be nor ever to have been a temporary building or structure, and the parkland dedication shall be required as if the building or structure were permanent.
 - x. Enlargement of an existing industrial building or structure where the gross floor area is increased by 50% or less.
 - xi. An On-Farm Diversified Use, as defined in the Zoning By-law, provided the On-Farm Diversified Use remains accessory to the principal agricultural use and complies with the size and scale limits in the Town's Official Plan.
- b) Council may consider further reductions and/or an exemption from parkland and/or cash in-lieu requirements of this By-law for a Development Approval with respect to:
- i. A public service facility, as defined in the Provincial Policy Statement applicable to a Development Approval.
 - ii. A Development Approval for residential uses that include affordable housing as defined in the Development Charges Act, 1997 applicable to the Development Approval, and attainable housing as defined in the Town's Community Improvement Plan.

14 Alternative Community Benefits

In addition to the provisions set out above in this by-law, further to the development policies in the Town's Official Plan, Council may, at its discretion, accept suitable alternative provisions in lieu of the required parkland component, consistent with the Town's Official Plan. Such alternatives may include:

- i. Provision of a public service facility, as defined in the Provincial Policy Statement applicable to a Development Approval.
- ii. Provision of affordable housing as defined in the Development Charges Act, 1997 applicable to the Development Approval, and/or attainable housing as defined in the Town's Community Improvement Plan.
- iii. Provision of alternative community benefits to the satisfaction of Town Council.

15 No building without payment

If a payment is required under this by-law, no person shall construct a building on the land proposed for Development or Redevelopment unless the payment has been made or arrangements for the payment that are satisfactory to the Council have been made.

16 Effective Date

This by-law shall come into force on the day it is enacted (the "Effective Date") and By-law 2003-31, as amended, shall be repealed on the Effective Date.

17 Transition

17 Transition

The provisions of this by-law shall apply to all development and redevelopment applications pursuant to the Planning Act, as amended, which are submitted and deemed complete on or after the Effective Date of this by-law.

Enacted and passed this 22 day of June, 2026



Peter Bordignon, Deputy Mayor



Corrina Giles, Town Clerk