

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW 055-2022

BEING A BY-LAW TO REGULATE THE CONVEYANCE OF LAND TO THE TOWN FOR PARK AND OTHER PUBLIC RECREATIONAL PURPOSES OR THE PAYMENT IN LIEU THEREOF AND TO REPEAL BY-LAW 128-2001

WHEREAS pursuant to the provisions of Section 42 of the *Planning Act, R.S.O., 1990, c.P. 13*, as amended, the Council of a local municipality, as a condition of development or redevelopment of land, may, by by-law, require that land be conveyed to the municipality for park or other public recreational purposes;

AND WHEREAS Section 42 of the *Planning Act* further provides that a municipality may require a payment in lieu, of the land otherwise required to be conveyed;

AND WHEREAS the Town of Milton's Official Plan, as amended, provides for certain land conveyance requirements, as referred to in Section 42 of the *Planning Act*;

NOW THEREFORE THE COUNCIL FOR THE CORPORATION OF THE TOWN OF MILTON ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 In this By-law:

- a) **"accessory dwelling unit"** means a self-contained dwelling unit that is subordinate in purpose to another residential dwelling unit upon the same lot and includes a basement apartment, garden suite and in some cases, a mobile home.
- b) **"accessory"** means a use, building, or structure where the use, building, or structure is customarily incidental, subordinate in purpose or floor area or both, and exclusively devoted to a principal use, building or structure and located on the same lot therewith, but shall not include an accessory dwelling unit.
- c) **"agriculture or farm"** means a bona fide farming operation, including greenhouses used in connection with a bona fide farming operation which are not connected to Regional water services or wastewater services, sod farms and farms for the breeding and/or boarding of horses, and includes, but is not limited to, barns, silos and other accessory buildings to such agricultural development, but excluding in all circumstances any residential or commercial or retail component thereof.

- d) **"building"** means a structure consisting of any combination of walls, roof and floor, or a structural system serving the function thereof, including all associated works, fixtures and service systems.
- e) **"commercial development"** means development which is intended to be used for a non-residential use that is permitted within any commercial zone category contained within the Town's Zoning By-laws, as amended.
- f) **"Council"** means the Council of the Corporation of the Town of Milton.
- g) **"development"** which includes redevelopment, means:
- i. the construction, erection or placing of one or more buildings or structures on land; or
 - ii. the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof; or
 - iii. the laying out or establishment of sites for the location of three or more trailers as defined in subsection 164 (4) of the Municipal Act; or
 - iv. the laying out or establishment of sites used for the location of three or more mobile homes as defined in subsection 46(1) of the *Planning Act*; or
 - v. the laying out or establishment of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46(1) of the *Planning Act*.
- h) **"dwelling"** means a building containing one or more dwelling units;
- i) **"dwelling unit"** means either (1) any part of a building or structure used, designed, or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use, or (2) in the case of a special care/special need dwelling, a room or suite of rooms used, or designed or intended for use, by one person with or without exclusive sanitary and/or culinary facilities, or more than one person if sanitary facilities are directly connected and exclusively accessible to more than one room or suite of rooms.
- j) **"garden suite"** means a detached building containing one (1) dwelling unit that is accessory to an existing dwelling located on the same lot and such building is designed to be portable.

- k) **"industrial development"** means development which is intended to be used for a non-residential use that is permitted within any of the employment zone categories contained within the Town's Zoning By-laws, as amended.
- l) **"local board"** means a local board as defined in section 1 of the Municipal Act.
- m) **"Region"** means the Regional Municipality of Halton.
- n) **"Town"** means The Corporation of the Town of Milton.

2.0 EXEMPTIONS

2.1 This By-law shall apply to all lands within the corporate limits of the Town.

2.2 Notwithstanding any other provisions of this By-law, no conveyance of land or payment in lieu thereof, shall be required under this By-law where the development is for the purposes of:

- a) garden suites;
- b) additions to any existing commercial or industrial building that are less than 50% in gross floor area of the original building. If the gross floor area of an existing building is enlarged by greater than 50% of the original building, the amount of land required in respect of the enlargement is the amount of land that would otherwise be required multiplied by the portion of the addition that exceeds 50% of the original building;
- c) replacement of an existing commercial or industrial building on a lot or part of a lot, provided that the new building is no greater in gross floor area or volume than 150% of the original building and provided that the land use does not change;
- d) non-residential/residential interior/exterior alterations provided there is no increase to the gross floor area of the building;
- e) replacement dwellings provided there is no density increase and it is a one to one dwelling unit replacement;
- f) an enlargement to an existing dwelling unit; or the creation of additional dwelling unit(s) where Town of Milton development charges are not applicable;

- g) any land for which there is an in-force agreement in place that provides for the conveyance of land for park or other public recreational purposes or payment in lieu thereof, unless:
 - i. there is a change in the proposed residential development which would increase the density of the development from that contemplated in the agreement; or
 - ii. the lands or a portion thereof in the agreement originally proposed for development for an exempted use or commercial or industrial purposes are now proposed for development for other purposes; or
 - iii. the lands or a portion thereof in the agreement which were considered undevelopable or not proposed for development under the agreement become developable;
- h) any property to be developed by or on behalf of the Town, Region, Provincial government, Federal government, Milton Hydro, a publicly funded Board of Education, *local board*, or a public hospital receiving aid under the Public Hospitals Act;
- i) land vested in or leased to a post-secondary institution that receives regular and ongoing operating funds from the government for the purposes of post-secondary education and is exempt from development charges imposed under the Development Charges Act, 1997 or the Town's Development Charge By-Law, as amended.
- j) any land, buildings, or structures used or to be used for the purposes of a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the Assessment Act;
- k) temporary uses of land, buildings or structures, as permitted through the zoning by-laws and/or pursuant to section 39 of the *Planning Act*;
- l) development creating or adding an accessory use , building or structure;
- m) any land on which non-residential, agriculture or farm buildings used or to be used for an active bona fide agriculture or farm purpose;

3.0 LAND CONVENYANCE

- 3.1 Prior to the issuance of a building permit, permitting the development of any land within the corporate limits of the Town, the owner shall convey land to the Town, free of any encumbrances, for park or other public recreational purposes as follows:

- a) In the case of development for commercial or industrial purposes, 2% of the land proposed for development; and
 - b) in the case of development for any other type of land use, 5% of the land proposed for development;
 - c) Notwithstanding section 3.1b) above, any residential development for which land conveyance at a rate of one (1) hectare for each 300 proposed dwelling units would exceed the rate calculated in 3.1 b) above, shall provide a land conveyance at the rate of one (1) hectare for each 300 dwelling units proposed.
- 3.2 The location and the configuration of land required to be conveyed pursuant to this By-law shall be at the discretion of the Town.
- 3.3 All survey, environmental audit or testing, and legal costs associated with the conveyance of lands pursuant to this By-law, and all costs of developing the lands to be conveyed to a base standard as required in the Town's Engineering and Parks Standards Manual, as amended, shall be at the expense of the owner.
- 3.4 Where an owner proposes that land be developed for any combination of commercial, industrial, residential, or other purposes, the respective rate for determining the amount of land to be conveyed or payment to be made in lieu of such conveyance, shall be determined based on the proportion of the development to be used for commercial, industrial, residential and/or other purposes.

4.0 PAYMENT IN LIEU OF LAND CONVEYANCE

- 4.1 Where the Town requires the conveyance of land in accordance with the provisions of this By-law, the Town may, in lieu of accepting such conveyance, require a payment by the owner to the value of the land otherwise required to be conveyed under this By-law as follows:
- a) In the case of development for commercial or industrial purposes, 2% of the value of the land proposed for development; and
 - b) in the case of development for any other type of land use, 5% of the value of the land proposed for development;
 - c) Notwithstanding section 4.1b) above, any residential development for which the payment in lieu at a rate of one (1) hectare for each 500 proposed dwelling units would exceed the rate calculated in 4.1 b) above, shall provide a payment equal to the value of one (1) hectare of land for each 500 dwelling units proposed.

- 4.2 Any required payment to be made to the Town under this By-law, shall be made prior to the issuance of the first building permit in respect of the lands proposed to be developed. The first building permit would be the first above-grade building permit associated with the construction of the building, inclusive of conditional or partial permits.
- 4.3 For the purpose of determining the amount of any payment required under section 4.0 of this By-law, the value of the land shall be determined, as of the day before the day the building permit is issued in respect of the development. Where more than one building permit is required for the development, the value of the land shall be determined as of the day before the day the first building permit is issued.
- 4.4 Funds received by the Town under this By-law may be used by the Town for the acquisition of land to be used for park or other public recreational purposes in accordance with the requirements of the *Planning Act*.
- 4.5 Where an owner proposes that land be developed for any combination of commercial, industrial, residential, or other purposes, the respective rate for determining the amount of land to be conveyed or the amount of to be made in lieu of such conveyance, shall be determined based on the proportion of the development to be used for commercial, industrial, residential and/or other purposes.
- 4.6 Payment in lieu of land shall be made by cash, debit, bank draft or certified cheque or as otherwise approved at the sole discretion of the Town Treasurer.

5.0 PRIOR CONVEYANCE OR PAYMENTS IN LIEU

- 5.1 Where land has been previously conveyed or payment made to the Town in accordance with the provisions of Sections 42, 51.1 or 53 of the *Planning Act*, no further payment shall be required, unless:
- a) there is a change in the proposed development which would increase the density of the development; or
 - b) land originally proposed for development for commercial or industrial purposes is now proposed for development for other purposes.

6.0 SEVERABILITY

- 6.1 If, for any reason, any provision, section, subsection or paragraph of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

7.0 HEADINGS FOR REFERENCE ONLY

7.1 The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

8.0 EFFECTIVE DATE

8.1 This By-law shall come into force and effect on September 18, 2022.

PASSED IN OPEN COUNCIL ON JUNE 20, 2022.

_____ Mayor
Gordon A. Krantz

_____ Town Clerk
Meaghen Reid