

THE CORPORATION OF THE TOWN OF MILTON
BY-LAW NO. 128-2001

Being a By-law to regulate the conveyance of parkland to the Town for park and other public recreational purposes or the payment of money in lieu thereof.

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 the 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 the payment of money in lieu of the land otherwise required to be conveyed;

AND WHEREAS The Town of Milton's Official Plan, where necessary, provides for certain parkland dedication requirements, as referred to in Section 42 of the *Planning Act*;

N O W T H E R E F O R E, THE COUNCIL FOR THE CORPORATION OF THE TOWN OF MILTON ENACTS AS FOLLOWS:

1.0 INTERPRETATION

1.1 In this By-law:

- a) **"accessory apartment in a detached dwelling"** means a self contained apartment dwelling unit created through converting part of or adding onto an existing detached dwelling.
- b) **"accessory use"** means that the building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure.
- c) **"agriculture or farm"** means that the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Ontario property Assessment Corporation.
- d) **"animal husbandry"** means the raising, keeping, or breeding of livestock including horses, but shall not include those operations where the training of horses, drivers or riders is the major component of the operation.
- e) **"commercial development"** means development of a use permitted under the commercial zoning categories of Zoning By-law 61-85 as amended.
- f) **Council** means the Council of the Corporation of the Town of Milton.
- g) **"development"**, which includes redevelopment, means
 - 1) the construction, erection or placing of one or more buildings or structures on land; or
 - 2) 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

- 3) the laying out or establishment of sites for the location of three or more trailers as defined in clause (a) of paragraph 101 of section 210 of the *Municipal Act*; or
 - 4) 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
 - 5) 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 any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.
 - j) **"local board"** means a public utility commission, transportation commission, public library board, local board of health, police services board, commission, committee, body, or local authority established or exercising power or authority under any general or special Act with respect to any of the affairs or purposes of the Town or the Region.
 - k) **"garden suite"** means a temporary detached residential structure containing a bathroom and kitchen facilities that is ancillary to an existing residential building and that is designed to be portable.
 - l) **"industrial development"** means development of a use permitted within the industrial zoning categories of Zoning By-law 61-85 as amended.
 - m) **"net residential density"** means the ratio of the number of dwelling units located or proposed to be located on a lot or block and the area of the lot or block. The lot or block area is to include only that part of the lot or block which is zoned for residential use.
 - n) **"rural development"** means development for a use permitted in the rural zoning categories of zoning By-law 61-85 as amended.
 - o) **"Town"** means The Corporation of the Town of Milton.

2.0 GENERAL PROVISIONS

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

2.2 Notwithstanding any other provision 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 commercial or industrial building that is less than 50% in gross floor area of the existing building. If the gross floor area of an existing building is enlarged by greater than 50%, the amount of parkland required in respect of the enlargement is the amount of parkland that would otherwise be payable multiplied by the fraction by which the enlargement exceeds 50%;
- c) replacement of an existing commercial or industrial building provided that the new building is no greater in gross floor area or volume than 50% of the original building and provided that the land use does not change;

- d) an enlargement to an existing dwelling unit; or the creation of one or two additional dwelling units in an existing single detached dwelling; or the creation of one additional dwelling unit in any other existing residential building;

Notwithstanding the above, parkland dedication will be required if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit;

- e) any land for which there is an agreement in place that provides for the conveyance of land for park or other public recreational purposes or cash in lieu thereof, unless:
 - i) there is a change in the proposed residential development which would increase the density of the development; or
 - ii) land originally proposed for development for an exempted use or commercial or industrial purposes is now proposed for development for other purposes; or
 - iii) land which was considered undevelopable under the agreement becomes developable;
- f) any property to be developed by or on behalf of the Town, the Regional Municipality of Halton, Milton Hydro, a Board of Education, local board, a public hospital receiving aid under the *Public Hospitals Act*;
- g) 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*;
- h) uses permitted pursuant to section 39 of the Planning Act;
- i) development creating or adding an accessory use;
- j) 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 PARKLAND DEDICATION

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 that has a net residential density of greater than 15 dwelling units per hectare, shall provide a land dedication 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 and all conveyances shall be free of all encumbrance.

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 Development Standards Manual, shall be at the expense of the landowner.

4.0 MONEY IN LIEU OF PARKLAND

- 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 the payment of money by the owner of the land to the value of the lands otherwise required to be conveyed under this By-law.
- 4.2. Any payment of money required 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 land proposed to be developed.
- 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 parkland or for any other public recreational purpose in any location within the Town, in accordance with the requirements of the *Planning Act*.

5.0 ADDITIONAL DEDICATION AND CASH IN LIEU PROVISIONS

- 5.1 In lieu of requiring the conveyance of land or payment in lieu thereof, as provided for in this By-law, the Town may require, by resolution of Council, the conveyance of land or payment in lieu thereof, at the rates or in amounts determined by Council, or such combination of land and cash as Council may, by resolution, direct, subject only to the limits imposed by the *Planning Act*.
- 5.2 Where an owner of land 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 money to be paid 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.

6.0 PRIOR CONVEYANCE PAYMENTS

- 6.1 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.

7.0 SEVERABILITY

- 7.1 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.

8.0 HEADINGS FOR REFERENCE ONLY

- 8.1 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.

9.0


EFFECTIVE DATE

9.1

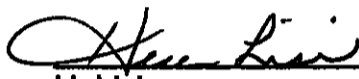
This By-law shall come into force and effect on January 1, 2002.

READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED this 10th day of December, 2001.





G.A. Krantz Mayor



H. Lisi Clerk