

THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR

BY-LAW # 45-2009

Being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development, redevelopment or the subdivision of land.

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

AND WHEREAS Section 42 of the Planning Act, R.S.O.1990, as amended, provides that the Council of a local municipality is authorized to require payment of cash in lieu of land;

AND WHEREAS Sections 51.1 and 53 of the Planning Act, R.S.O.1990, as amended, provide that the approving authority for subdivisions and consents may require that land be conveyed to the municipality for park or other public recreational purposes as a condition of the subdivision of the lands;

AND WHEREAS Sections 51.1 and 53 of the Planning Act, R.S.O.1990, as amended, provide that the Council of a local municipality is authorized to require payment of cash in lieu of land;

AND WHEREAS the Corporation of the Township of Armour recognizes that new lot creation, new development or redevelopment adds to the parkland and public recreational needs of the residents of the Township;

AND WHEREAS the Corporation of the Township of Armour wishes to use these provisions to further the acquisition of lands for parks or other public recreational purposes following an approach which is equitable and consistent;

NOW THEREFORE the Council of the Township of Armour enacts as follows:

DEFINITIONS

1. In this By-law:

“**Development**” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the Municipal Act, 2001 or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of the Planning Act, R.S.O.1990, as amended, or 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, R.S.O.1990, as amended. The definition of “development”, however, in this By-law does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

“**Redevelopment**” means the removing of one or more buildings or structures

on land, and the further development of the land, or the substantial renovation of a building or structure and a change in the character or density of the use in connection therewith.

“Institutional Use” means the use of lands for a place of worship, college or university, retirement home, cemetery, mausoleum, columbarium or crematorium or other charitable, non profit uses as may be determined by Council.

“Public Use” shall have the same meaning as defined in the Township of Armour comprehensive Zoning By-law No. 27-95 as amended.

APPLICATION

2. This By-law shall apply to all lands within the Township of Armour.

PRINCIPLE

3. The Township of Armour recognizes that development, redevelopment or the subdivision of land adds to the parkland and public recreational needs of the municipality. The Township will therefore endeavour to acquire additional land to service new development, to meet new demands and to preserve unique natural features preferably on lakes or rivers. Alternatively, the Township may require cash in lieu of land to maintain and upgrade existing public recreational facilities and to acquire land for park or other public recreational purpose.

SUBDIVISION / CONDOMINIUM or CONSENT

4. As a condition of subdivision/condominium plan approval pursuant to Section 51 of the Planning Act, R.S.O.1990, or the giving of a provisional consent pursuant to Section 53 of the Planning Act, R.S.O.1990, the owner is required to convey to the Township lands for park or other public recreational purposes as follows:
 - a. The dedication of lands shall be in the amount of five percent (5%) of the total lands in the plan inclusive of all lots, blocks and/or reserves in residential plans of subdivision and two percent (2%) of the total lands in the plan, inclusive of all lots, blocks and reserves in commercial or industrial plans of subdivision;
 - b. The location and configuration of land required shall be at the sole discretion of Council and priority will be given to acquisition of land for park and other recreational purposes in suitable waterfront locations. The circumstances under which proposed parklands may be considered appropriate shall include, but are not limited to, the following:
 - i) Where the land abuts an existing public park or public lands suitable for parkland development and where such public lands would benefit from expansion;
 - ii) Where the land abuts a road allowance leading to water that provides or has the potential to provide public access to water,

and where such access would benefit from the acquisition of additional lands for improved access, parking facilities or buffering from adjacent uses;

- iii) Where the potential exists to acquire over a period of time, areas of suitable size and dimensions. For example, where a series of land parcels deemed unsuitable could be acquired over time to form a larger suitable parcel.
- c. During the review process for a provisional consent application, lands or cash in lieu of lands for park or other public recreational purposes will not be required in the following circumstances:
- i) Grants of right of way, or easement; or
 - ii) Correcting an encroachment problem; or
 - iii) The addition of lands to an abutting parcel.
- d. Where Council is satisfied that there is no apparent benefit to the acquisition of land for park or other public recreational purposes, as the lands are unsuitable or of an inappropriate size, Council will require the payment of either five percent (5%) cash in lieu of parkland dedication for residential subdivisions/condominiums or consents, or two percent (2%) cash in lieu of parkland dedication for commercial and industrial subdivisions/condominiums or consents;
- e. For the purposes of determining the amount of any payment required as cash in lieu of parkland dedication for a plan of subdivision/condominium, the value of the land shall be determined as of the day before the day of approval of the draft plan of subdivision/condominium, in accordance with the following:
- i) The latest revised assessed value of the total lands as set out by the last delivered assessment roll multiplied by the appropriate percentage established in Section 4 d. of this By-law; and
 - ii) The amount determined shall be specified in any agreement entered into pursuant to Section 51(26) of the Planning Act, R.S.O.1990.
- f. For the purposes of determining the amount of any payment required as cash in lieu of parkland dedication for a provisional consent, the value of the land shall be determined as of the day before the day the provisional consent was given, in accordance with the following:
- i) The latest revised assessed value of the total holding obtained from the last delivered assessment roll multiplied by the percentage of the total property being served; and

- ii) The resultant number from the foregoing Section 4(f)(i) of this By-law multiplied by 0.05 to thereby determine the five percent (5%) cash in lieu of parkland dedication.
- g. Any dispute between the owner and the Township over the assessed value of the lands shall be addressed by the following procedures:
- i) The Township and the owner shall choose a mutually acceptable and suitably qualified appraiser to conduct an independent appraisal of the property; and
 - ii) The appraiser shall be retained by the Township to undertake the appraisal at the owner's expense; and
 - iii) The results of the independent appraisal shall be used to calculate the cash in lieu of parkland dedication as outlined in Section 4(d) of this By-law; and
 - iv) If after the independent appraisal is completed, there continues to be a dispute between the parties over the value of the lands, either party may apply to the Ontario Municipal Board to have the value determined in accordance with Section 42(10) of the Planning Act, R.S.O. 1990.

DEVELOPMENT OR REDEVELOPMENT

5. As a condition of development or redevelopment pursuant to Section 42 of the Planning Act, R.S.O. 1990, the owner is required to convey to the Township of Armour land for park or other public recreational purposes as follows:
- a. In the case of lands proposed for development or redevelopment of any mobile home park or any major recreational development involving three or more trailers, the dedication of land in the amount of five percent (5%) of the total lands subject to development or redevelopment;
 - b. In the case of lands proposed for development or redevelopment for commercial or industrial purposes, the dedication of land in the amount of two percent (2%) of the total lands subject to development or redevelopment;
 - c. In the case of lands proposed for development or redevelopment for Institutional uses, the dedication of lands in the amount of five per cent (5%) of the total lands subject to development or redevelopment.
 - d. Where the Township of Armour requires the payment of money to the value of the land otherwise required to be conveyed, such payments shall be made prior to the issuance of the building permit for the land to be developed or redeveloped.
 - e. The value of the land shall be determined as of the day before the date

of issuance of the building permit in respect of the development or redevelopment of the land or, where more than one building permit is required, as of the day before the date of the issuance of the first permit.

TRANSITION PROVISIONS

6. The provisions of this By-law do not apply to: any applications for site plan approval submitted to the Township in complete form with all required deposits, information and plans for which approval has not been given prior to Council's date of enactment of this By-law.

BY-LAW REPEALED

7. The following By-law is hereby repealed:
 - a. By-law # 13-2008 of the Township of Armour.

Read a first time and second time
this 27th day of October, 2009

Original signed by Robert MacPhail
REEVE

Read a third time, signed and
the seal of the Corporation
affixed thereto and finally
passed in open Council
this 27th day of October, 2009

Original signed by Wendy Whitwell
CLERK