

The Corporation of the City of Guelph

By-law Number (2024) – xxxxx

A by-law to regulate the use of certain public property within the City of Guelph for the protection of persons and property and to promote safe use and enjoyment.

Whereas:

- A. The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*"), provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law;
- B. Section 10(2) of the *Municipal Act* provides that the City may pass by-laws respecting, among other things, the health, safety and well-being of persons and the protection of persons and property;
- C. Section 8(1) of the *Municipal Act* provides that the power of the City shall be interpreted broadly so as to confer broad authority on the City to enhance the City's ability to respond to municipal issues;
- D. Section 8(3) of the *Municipal Act* provides that a by-law may regulate or prohibit and may require persons to do things respecting the matter;
- E. Section 125 of the *Municipal Act* provides that a municipality may regulate the use and installation of heating and cooking appliances and the storage of fuel for use in heating and cooking appliances;
- F. Section 127 of the *Municipal Act* provides that a municipality may prohibit the depositing of refuse or debris on land without consent of the owner or occupant of the lands, and may define "refuse" for such purpose;
- G. Section 128 of the *Municipal Act* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of its council, are or could become or cause public nuisances, and further that the municipal council's determination of what constitutes a public nuisance is not subject to review;
- H. Section 425 of the *Municipal Act* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act* is guilty of an offence; and
- I. Section 444 of the *Municipal Act* provides that, if a municipality is satisfied that a contravention of a by-law of the municipality has occurred, the municipality may make an order requiring the person who contravened the by-law, or who caused or permitted the contravention, to discontinue the contravening activity.

The Council of The Corporation of the City of Guelph enacts as follows:

Part 1: Interpretation

- 1.1 In addition to the terms defined parenthetically herein, in this by-law:
- a) "**Appurtenances**" means all structures, surfaces, equipment and other objects affixed to or an integral physical feature of a particular public property or space;
 - b) "**Approved Propane Appliance**" means any propane fixture, appliance, apparatus or device that consumes or is intended to consume propane as a source of fuel for heat or cooking and is:
 - i) a Canadian Standards Association (CSA) or Underwriters Lab (UL) listed fixture, appliance, apparatus, or device;
 - ii) assembled, installed and operated in accordance with the manufacturer's instructions and in accordance with the requirements of the *Technical Standards and Safety Act, 2000* and Ontario Regulation 211/01 Propane Storage and Handling;
 - iii) is in safe operating condition and equipped with an on/off valve that it is fully functional and can be easily operated; and
 - iv) not modified or used for anything other than for the purpose recommended by the manufacturer;
 - c) "**City**" means The Corporation of the City of Guelph and any of its designated representatives;
 - d) "**Council**" means the municipal council of The Corporation of the City of Guelph;
 - e) "**Designated Area**" is defined in section 3.6;
 - f) "**General Public Space**" is defined in section 3.2;
 - g) "**Noxious Materials**" includes tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, battery boxes, pressure-treated wood, creosote-treated wood, and painted wood;
 - h) "**Nuisance**" when used in relation to a heating or incinerating device means any circumstance or impact that poses a health or life safety risk to any person or that disturbs or prevents any person from the safe use and enjoyment of a public space, such as excessive smoke, foul odour, airborne sparks or embers, or particulates;

- i) **"Officer"** means a municipal law enforcement officer while in the course of such officer's duties;
- j) **"Park"** is defined in section 3.3;
- k) **"Public Space"** means all General Areas, Designated Areas, Parks, Reservable Public Spaces, and Sensitive Public Spaces;
- l) **"Refuse"** means waste which appears to have been abandoned;
- m) **"Reservable Public Space"** defined in section 3.4;
- n) **"Sensitive Public Space"** is defined in section 3.5.

Part 2: Purpose

- 2.1 The purpose of this By-law is to regulate the use of specified public spaces within the jurisdiction of the City of Guelph to ensure the protection of persons and property and promote safe use and enjoyment.

Part 3: Restrictions on Use of Public Spaces

3.1 General Restrictions

- (1) A person must not do any of the following activities in any Public Space:
- (a) in any way destroy, damage, foul, injure or impair any feature of the natural environment, real property, personal property, or any Appurtenance;
 - (b) erect, or cause to be erected, or occupy any unauthorized structure or shelter that is affixed to the land or any Appurtenance or permanent or immovable in nature;
 - (c) gather, accumulate, or store household, yard, or commercial goods, building supplies, waste or refuse, except on or within a temporary structure or shelter not prohibited by this By-law, and in compliance with applicable laws;
 - (d) dispose of or dump household, yard, or commercial goods, building supplies, waste or refuse, except if deposited into receptacles provided by the City for such purpose and in compliance with applicable laws;
 - (e) make unauthorized use of utilities, including, but not limited to electrical, gas, or water, or obstruct any utility owner from access and use;
 - (f) obstruct ingress or egress to any property;
 - (g) in any way obstruct the City or its employees, contractors, agents and representatives from access and use of any Public Space;
 - (h) burn any Noxious Materials;

- (i) store propane cylinder in an enclosed space, in direct sunlight, or near a heat source;
 - (j) use any propane fixture, appliance, apparatus or other device that uses propane as a source of fuel other than an Approved Propane Appliance that is monitored by a person capable of safe assembly and use of such appliance and capable of performing the necessary actions to control a fire and prevent unwanted spread;
 - (k) use any fixture, appliance, apparatus or other heating, cooking or incineration device, including an Approved Propane Appliance, in any manner that creates a Nuisance.
- (2) In any Public Space where temporary structures or shelters are not prohibited by this By-law, a person must not erect, or cause to be erected, or occupy any structure or shelter:
- (a) in a cluster or group of more than five (5) structures or shelters;
 - (b) within a group of structures or shelters with less than 10 metres of separation between each cluster or grouping of structures or shelters;
 - (c) within 10 metres of the boundary/periphery of a school or childcare centre.

3.2 General Public Space

- (1) In this By-law, "General Public Space" means outdoor open space lands and facilities owned by, leased by, licensed to, or under the management of the City that are publicly accessible and intended for general public access and use, and all Appurtenances, and includes but is not limited to public squares, outdoor waiting areas, building perimeters, but *excluding* Parks, Sensitive Public Spaces and Designated Areas.
- (2) In addition to the general restrictions in section 3.1, a person must not do any of the following activities in a General Public Space:
- (a) erect, or cause to be erected, or occupy any unauthorized structure or shelter, including of a temporary movable nature, beginning one (1) hour after sunrise and ending one (1) hour before sunset.
- (3) If a General Public Space is also a Reservable Public Space, or contains a Sensitive Public Space, the provisions of section 3.4 apply to such Reservable Public Space.

3.3 Parks

- (1) In this By-law, "Park" means any park, woodland, field, trail, green space owned by, leased by, licensed to, or under the management of the City that is available for non-exclusive public recreational use, and all Appurtenances, but *excluding* Reservable Public Spaces, Sensitive Public Spaces and Designated Areas.
- (2) In addition to the general restrictions in section 3.1, a person must not do any of the

following activities in a Park:

(a) obstruct the safe use and enjoyment of the Park by another person.

3.4 Reservable Public Spaces

- (1) In this By-law, "Reservable Public Space" means outdoor open space, lands and facilities owned by, leased by, licensed to, or under the management of the City that are available for exclusive use on a one-time or occasional basis by rental, reservation, or booking, and which, when not rented, reserved, or booked for exclusive use, are available for non-exclusive public recreational use, and all Appurtenances, and includes but is not limited to, reservable outdoor sports facilities, event facilities, and picnic shelters.
- (2) In addition to the general restrictions in section 3.1, a person must not do any of the following activities in or on a Reservable Public Space:
 - (a) at any time while the Reservable Space is rented, reserved, or booked by another person, erect, or cause to be erected, or occupy any structure or shelter, including of a temporary movable nature;
 - (b) at any time while the Reservable Public Space is available for non-exclusive public recreational use, obstruct the safe use and enjoyment of the Reservable Public Space by another person except by obtaining a valid rental, reservation or booking.
- (3) If a Reservable Public Space is also a Sensitive Public Space, or contains a Sensitive Public Space, the provisions of section 3.5 of this By-law apply to such Sensitive Public Space.

3.5 Sensitive Public Spaces

- (1) In this By-law, "Sensitive Public Space" means outdoor open space, lands and facilities owned by, leased by, licensed to, or under the management of the City and intended for a sensitive public recreational or personal use, including areas intended for use by children, pets, or for mobility of the public, or with heightened safety requirements, or attracting a heightened expectation of quiet use and enjoyment, and includes but is not limited to, playgrounds, waterparks and splash pads, wading pools, off-leash dog areas, sidewalks, pathways or recreational trails, accessibility routes and ramps, entrances, exits, or doorways, municipal cemeteries, community gardens and fountains.
- (2) In addition to the general restrictions in section 3.1, a person must not do any of the following activities within a Sensitive Public Space:
 - (a) erect, or cause to be erected, or occupy any unauthorized structure or shelter, including of a temporary movable nature;
 - (b) obstruct the safe use and enjoyment of the Sensitive Public Space by another person;

- (c) in any way obstruct the City or its employees, contractors, agents and representatives from access and use.
- (3) Without limiting the generality of (2)(a) above prohibiting unauthorized structures and shelters within a Sensitive Public Area, a person must not erect, or cause to be erected, or occupy any structure or shelter, including of a temporary movable nature, within the following distances of specified Sensitive Public Areas:
 - (a) 10 metres of the boundary/periphery of a playground, waterpark, splash pad, or wading pool;
 - (c) 10 metres of any area prescribed by the City as a Sensitive Public Area and listed in Schedule A of this By-law.

3.6 Designated Areas

- (1) In this By-law, "Designated Area" means outdoor open space, lands and facilities owned by, leased by, licensed to, or under the management of the City defined, constructed or utilized for a special purpose or sensitive land use, and includes but is not limited to, highways, fire routes or areas surrounding a fire hydrant, storm water management facilities and infrastructure, municipal easements, wetlands, wellhead protection areas, municipal wells and water collection areas, watercourses, potable water sources, areas susceptible to erosion or flooding, environmentally sensitive areas, and all Appurtenances.
- (2) A person must not do any of the following activities in a Designated Area:
 - (a) erect, or cause to be erected, or occupy any unauthorized structure or shelter, including of a temporary movable nature;
 - (b) in any way obstruct the City or any authority having jurisdiction or their respective employees, contractors, agents and representatives from access and use.
- (3) Without limiting the generality of (2)(a) above prohibiting unauthorized structures and shelters within a Designated Area, a person must not erect, or cause to be erected, or occupy any structure or shelter, including of a temporary movable nature, within the following distances of specified Designated Areas:
 - (a) 10 metres of the boundary/periphery of a lake, river, pond or other watercourse;
 - (b) 30 metres of any railway or railroad infrastructure;
 - (c) 10 metres of any area prescribed by the City as a Designated Area and listed in Schedule B of this By-law.

Part 4: Enforcement and Penalty Provisions

- 4.1 The enforcement of this By-Law shall be conducted by an Officer.

- 4.2 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.
- 4.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-Law.
- 4.4 Every person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of such Officer's duties.
- 4.5 An Officer may issue an order to any person in contravention of this By-law.
- 4.6 An Officer may order that person to dismantle and remove any building or structure erected or improvement made in contravention of this By-law within such time as specified in the order.
- 4.7 Every person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to such penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (the "*Provincial Offences Act*") and the *Municipal Act*.
- 4.8 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to such penalties as provided for in the *Provincial Offences Act* and the *Municipal Act*.
- 4.9 A person who is required to vacate a Public Space for contravention with this By-law shall remove from the lands, at the person's own expense, any building, structure or thing that the person erected or placed on the lands or that the person was using on the lands on or before the date on which the person is required to vacate the lands. If the person subject to the order fails to comply with the order, the City may cause the building, structure, structure or thing to be dismantled and removed and any cost or expense incurred thereby is a debt due the City and may be recovered by the City in a court of competent jurisdiction in an action against the person.
- 4.10 A person who has not been authorized by the City shall not cause a building, structure or thing to be dismantled and removed from any Public Space.
- 4.11 If a person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Part 5: General

- 5.1 This by-law shall be referred to and may be cited as the "Public Space Use By-law".
- 5.2 If any provision or part of a provision of this By-law is declared by any court or tribunal or any provincial or federal legislation or regulation to be illegal or

inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law or its application in any other circumstance shall not be affected and shall continue to be in full force and effect.

Part 6: Effective Date:

6.1 This By-law shall come into force and take effect on March 1, 2024.

Draft

Passed this day of , 2024

Cam Guthrie, Mayor

Stephen O'Brien, City Clerk

Draft

Schedule A
Sensitive Public Areas

Draft

Schedule B Designated Areas

1. Aqueduct Laneway and Surrounding Properties:

1stly: Part Lot 2, East of the Blind Line, Plan 131, Lying North of Cooks Mill Rd., as in IS8876, Township of Puslinch (PIN 71185-0111) and **2ndly:** Part Lot 2, East of the Blind Line, Plan 131, Lying South of Cooks Mill Rd, as in IS8876, S/T IS8876 ; Part Lot 3, East of the Blind Line, Plan 131, as in IS9352 Save and Except PT 10, 61R3435 ; Part Lots 3, 4 & 5, East of the Blind Line, Plan 131, as in IS8885, S/T MS128959, Township of Puslinch (PIN 71185-0112)

2. Carter Lands:

1stly: Part Lot 2, West of the Blind Line, Plan 131, PT 1, 61R2727; Parts Lot 3 & 4, West of the Blind Line, Plan 131, as in MS27654 ; Township of Puslinch (PIN 71185-0059), **2ndly:** PT Lot 2, West of the Blind Line, Plan 131, as in IS9024, Township of Puslinch (PIN 71185-0061), **3rdly:** Part Lot 1, West of the Blind Line, Plan 131 , as in IS9032, South West of the Railway, City of Guelph (PIN 71185-0011), **4thly:** Part Lot 1, West of the Blind Line, PLAN 131 , as in IS9032, North East of the Railway, City of Guelph, **5thly:** Part Lot 1, West of the Blind Line, Plan 131 , as in ROS534101 ; S/T ROS154382,ROS590118, City of Guelph (PIN 711850013)

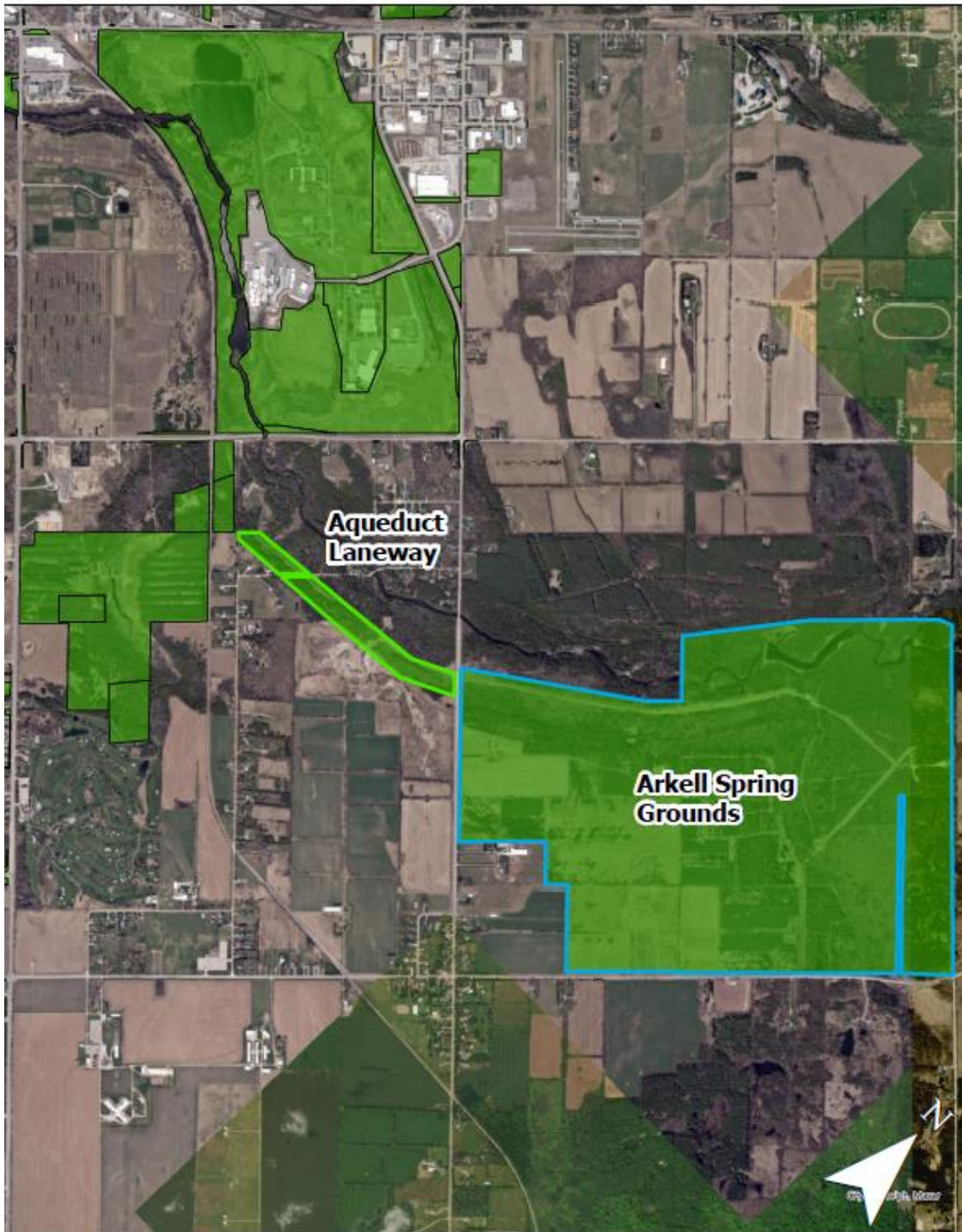
3. Clythe Lands:

1stly: Part Lot 6, Concession 3, Div C, formerly Township of Guelph, designated as Part 1, 61R21370, City of Guelph (PIN 71356-1386) **2ndly:** Part Lot 5, CON 3, DIV C, Formerly Township of Guelph, PT 3 61R9256; City of Guelph (PIN 71493-1822) **3rdly:** Part Lot 5, CONCESSION 3, DIVISION C , formerly Township of Guelph, PT 1 61R1342 ; City of Guelph (PIN 71493-0769)




4. Area Surrounding Dolime Quarry:

Part Lot Broken Front Con 4, Division G, Guelph, PT LT 1 CON 4 DIVISION G GUELPH; PT LT 2 CON 4 DIVISION G GUELPH; PT LT 3 CON 4 DIVISION G GUELPH; PT LT 4 CON 4 DIVISION G GUELPH; PT LT 5 CON 4 DIVISION G GUELPH; PT LT 1 CON 5 DIVISION G GUELPH; PT LT 2 CON 5 DIVISION G GUELPH; PT LT 3 CON 5 DIVISION G GUELPH; PT LT 4 CON 5 DIVISION G GUELPH; PT LT 5 CON 5 DIVISION G GUELPH; PT LT 1 CON 1 DIVISION E GUELPH TOWNSHIP; PT RDAL BTN CON 4 & CON 5 DIVISION G GUELPH CLOSED BY MS88381; PT RDAL BTN LT BROKEN FRONT CON 4 DIVISION G & LT 1 CON 1 DIVISION E GUELPH CLOSED BY MS88381; PT RDAL BTN LT 1 & LT BROKEN FRONT CON 4 DIVISION G GUELPH CLOSED BY MS99224; PT RDAL BTN LT 1 CON 5 DIVISION G & LT 1 CON 1 DIVISION E GUELPH CLOSED BY MS25475; PT 2, 61R2725 & AS IN ROS198786 EXCEPT PT 1, 61R2295 AND RO739715; S/T MS26308, MS87485, ROS175179, ROS216912; GUELPH; T/W EASEMENT OVER PTS 1, 2 & 3, 61R7512 AS IN RO792112 (PIN 71488-0188)

City Of Guelph Properties at the Aqueduct Laneway and Surrounding Property



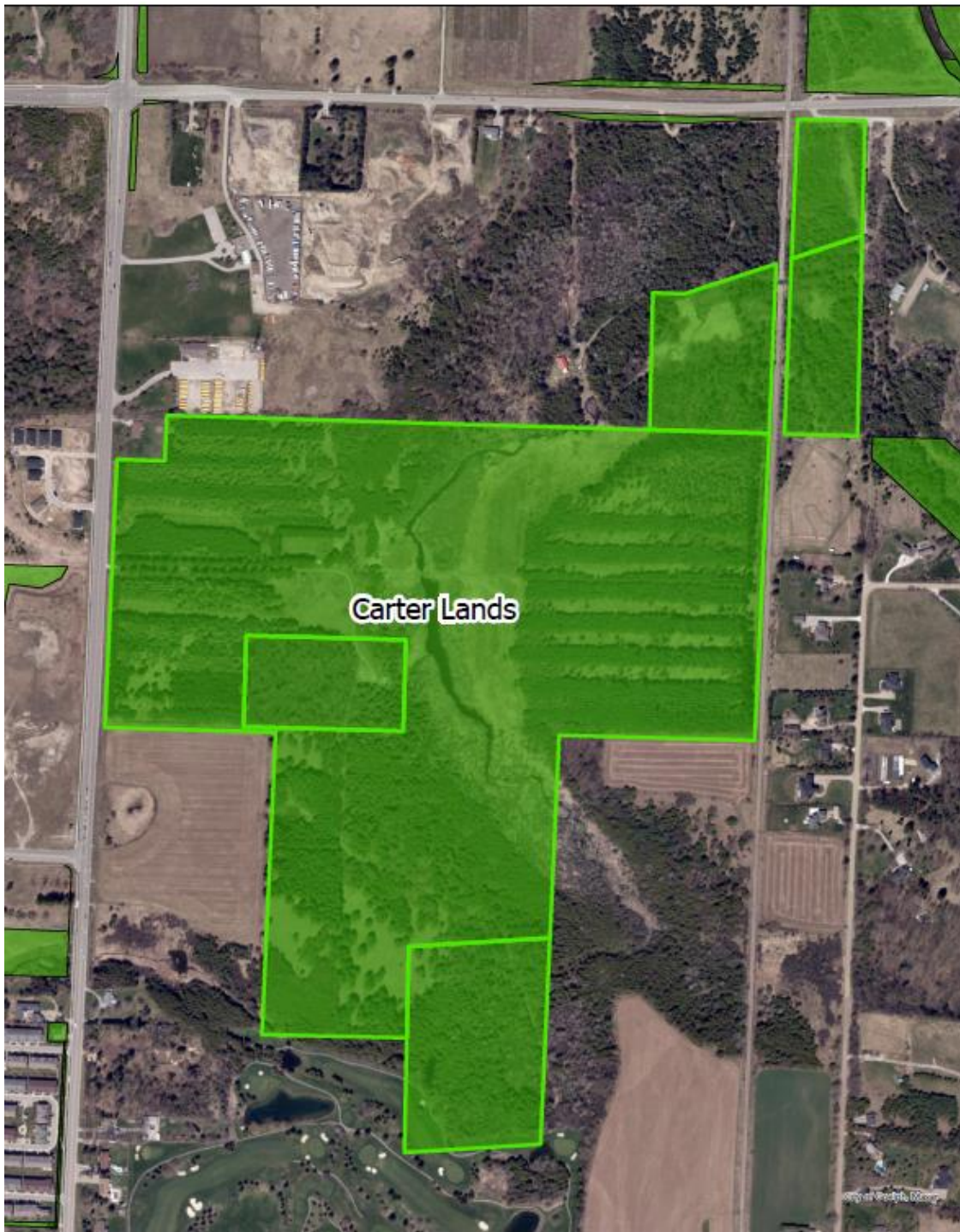
Legend

-  Arkell Spring Grounds
-  Aqueduct Property
-  City Of Guelph Owned Property





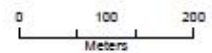
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City Of Guelph Owned Property at the Carter Lands



Legend

-  Carter Lands Boundary
-  City Of Guelph Owned Property



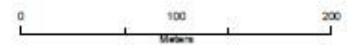
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City Of Guelph Owned Properties at the Clythe Lands



Legend

- Clythe Lands Boundary
- City Of Guelph Owned Property



City Owned Properties surrounding Dolime Quarry



Legend

- Dolime Quarry
- City Of Guelph Owned Property

