



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____ - 2022

A By-law to require the conveyance of parkland or the payment in lieu of
parkland pursuant to the Planning Act

WHEREAS Sections 42, 51.1 and 53 of the Planning Act authorize local municipalities to require that land, or payment in lieu thereof, be conveyed to the local municipality for park, or other public recreational purposes as a condition of Development, or Redevelopment, or the subdivision of land;

AND WHEREAS Council for the Corporation of the City of Brampton deems it necessary and expedient to enact a By-law to provide for the provision of lands for park or other public recreational purposes and the use of alternative requirements;

AND WHEREAS the City of Brampton Official Plan contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement;

AND WHEREAS Council for the Corporation of the City of Brampton desires to repeal and replace Bylaw 283-2013 with an updated By-law to provide for the conveyance of land and payment in lieu thereof for park and other public recreational purposes and the use of the alternate requirement;

AND WHEREAS Section 23.1 to 23.3 of the Municipal Act authorize the delegation of powers or duties of the municipality subject to restrictions;

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

Building Permit means the first permit issued under the *Building Code Act, 1992*, S.O. 1992, c. 23 for a building or structure;

City means The Corporation of the City of Brampton;

Commercial Purposes means the use of land, building or structure, or part thereof, for the retail sale of goods and/or services, as well as non-governmental office facilities;

Council means the Council of the City of Brampton;

Designated Greenfield Area means lands within the City's settlement area, but outside of the delineated Built Boundary as defined by A Place to Grow: Growth Plan for the Greater Golden Horseshoe, which have been designated in the Official Plan for future Development;

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;

Dwelling Unit means any property of one or more habitable rooms designed, occupied or intended to be occupied as living quarters of a single domestic establishment (self-contained unit) and shall as a minimum contain sanitary facilities, accommodation for sleeping and prepare and serve meals in which one or more persons may sleep and prepare and serve meals, but does not include a housekeeping hotel suite or a housekeeping suite in a long term care facility;

Established Neighbourhood means areas within Brampton's "Built Boundary", as defined by A Place to Grow: Growth Plan for the Greater Golden Horseshoe, and which are not identified as Designated Greenfield Area or as Intensification/Strategic Growth Area within the City of Brampton Parks Strategy, dated October 2022;

Gross Floor Area means the same as the applicable definition within the City of Brampton Zoning By-law 270-2004, as may be amended from time to time;

Industrial Purposes means the use of land, building or structure, or part thereof for manufacturing, warehousing, distribution and/or recycling operations. Industrial purposes may also include the bulk storage of goods and related accessory uses;

Intensification/Strategic Growth Areas means those areas identified by the City of Brampton Parks Strategy dated October 2022 as Downtown Brampton, Hurontario/Main Corridor, and the Queen Street Corridor;

Land Area means:

- a) The area of land subject to an application for Development; or,
- b) The area of land that is to be conveyed under this by-law in fee simple to the City and which conveyance can be registered in the Land Registry Office;

Mixed Use means the use of land, buildings or structures intended and designated to contain both residential and non-residential uses, or commercial/industrial uses and other non-residential uses, within the same building or on discrete portions of the same site;

Net Dwelling Units means the number of Dwelling Units determined by subtracting the number of Dwelling Units on the land immediately before the proposed Development or Redevelopment from the number of Dwelling 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.

Planning Act means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

Redevelopment means the removal of buildings or structures from land and further Development of the land, or the substantial renovation of a building or structure and a change in the character or intensity (density) of use in connection therewith;

Residential Purposes means lands, buildings, or structures, or portions thereof, used, or designed or intended for use as a home or residence of one or more individuals, and the residential portion of a mixed-use building or structure, and in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the unit;

Temporary Sales Structure means a structure used for the principal purpose of promoting the sale of new residential units, and which will be demolished within no more than three years of completion.

2. Calculation of Conveyance and/or Payment in Lieu

2.1 Required Parkland Conveyance and/or Equivalent Payment in Lieu for Non-Residential Purposes

As a condition of Development or Redevelopment of land, the City shall require the conveyance of land or equivalent payment in lieu to the City for parks and other public recreational purposes as follows:

- a) **Commercial Purpose and Industrial Purpose:** Where any form of commercial or industrial Development or Redevelopment is proposed, and where no prior parkland dedication has been provided, or payment in lieu paid, the City shall require parkland dedication and/or an equivalent payment in lieu in the amount equal to 2 percent of the Land Area, unless otherwise identified as exempt from parkland dedication by the City.
- b) **All Other Non-Residential Purposes:** Where any form of non-residential Redevelopment is proposed, and where no prior parkland dedication has been provided, or payment in lieu paid, the City shall require parkland dedication and/or an equivalent payment in lieu in the amount equal to 5 percent of the Land Area, unless otherwise identified as exempt from parkland dedication by the City.

2.2 Required Parkland Conveyance and/or Equivalent Payment in Lieu for Mixed-Use Development

As a condition of Development or Redevelopment of land for mixed-use Development, the City shall require the conveyance of land and/or equivalent payment in lieu to the City for parks and other public recreational purposes based on the pro-rated mixture of land uses proposed, as follows:

- i.
$$\text{Total Contribution} = \text{Residential Contribution} + ((\text{Other Non-Residential GFA} / \text{Total GFA}) * (\text{Site Area} * .05)) + ((\text{Commercial/Industrial GFA} / \text{Total GFA}) * (\text{Site Area} * .02))$$

2.3 Required Parkland Conveyance and/or Equivalent Payment in Lieu for Residential Development in Established Neighbourhoods and Designated Greenfield Areas

As a condition of Development or Redevelopment of land, the City shall require the conveyance of land and/or an equivalent payment in-lieu to the City for parks and other public recreational purposes within any Established Neighbourhood or Designated Greenfield Area, as follows:

- i. The City shall apply a parkland dedication rate of 5% of the Land Area, or 1 hectare per 600 Net Dwelling Units, whichever generates the greater parkland dedication to the City. As an alternative, the City may require a payment in lieu of a land dedication at a rate of 5% of the Land Area, or 1 hectare per 1000 Net Dwelling Units, whichever is greater.

Within Established Neighbourhoods and Designated Greenfield Areas, the City's priority shall be land dedication, and payment in lieu shall only be considered where no reasonable alternative exists.

2.4 Required Parkland Conveyance and/or Equivalent Payment in Lieu for Residential Development within Intensification/Strategic Growth Areas

- i. As a condition of Development or Redevelopment of land, the City shall require the conveyance of land and/or an equivalent payment in lieu to the City for parks and other public recreational purposes within the City's identified Intensification/Strategic Growth Areas as follows:

Upon passage of the Parkland Dedication By-law -	\$14,000 per Dwelling Unit
February 1, 2024-	\$18,000 per Dwelling Unit
February 1, 2025-	\$21,200 per Dwelling Unit

or the conveyance of land and/or equivalent payment in lieu of 1 hectare per 1000 Net Dwelling Units, whichever is less.

- ii. The City, in its sole discretion, may accept the following encumbered lands at 50% credit toward satisfying the parkland dedication requirements in Intensification/Strategic Growth Areas:
 - a) lands that are subject to strata park arrangements, subject to legal agreements being entered into with the City which addresses matters including but not limited to, maintenance, programming, and operations, to the satisfaction of the City;
 - b) Privately Owned Public Spaces, subject to legal agreements being entered into with the City which addresses matters including but not limited to, maintenance, programming, and operations, to the satisfaction of the City.
- iii. In no circumstances will the City accept lands that restrict in any way, public programming on the lands.

2.5 Maximum Conveyance or Payment in Lieu

- i. Notwithstanding sections 2.2, 2.3 or 2.4, the maximum conveyance or payment in lieu to be paid is:
 - a) In the case of land proposed for development or redevelopment that is five hectares or less in area, 10 percent of the land or the value of the land, as the case may be; and

- b) In the case of land proposed for development or redevelopment that is greater than five hectares in area, 15 percent of the land or the value of the land, as the case may be.

2.6 Affordable or Attainable Residential Units

Notwithstanding sections 2.2, 2.3 or 2.4, for Development or Redevelopment that will include affordable residential units or attainable residential units, as defined in subsection 4.1(1) of the *Development Charges Act, 1997*, or residential units described in 4.3(2) of the *Development Charges Act, 1997*, the amount of land to be conveyed shall not exceed 5 percent 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 or attainable residential units, as defined in subsection 4.3(2) of the *Development Charges Act, 1997*; and

“B” is the number of residential units that are part of the development or redevelopment.

3. Parkland Credits

3.1 Lands Previously Conveyed

- i. Where land has previously been conveyed, or a payment in lieu of such conveyance has been previously received by the City, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by the City in respect of subsequent Development or Redevelopment applications, unless:
 - a) 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,
 - b) 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.
- ii. 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 payment 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.

3.2 Credits Considered

Parkland dedication credits may be considered by the City where a specified developer has over-provided a parkland dedication on one site, and then, subject to approval by the City, 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 City may be required.

4. Determining when Payment in lieu is appropriate

The City shall determine when payment in lieu of a land conveyance is acceptable versus where a land contribution will be required. The City may also consider when a combination of on-site land dedication, off-site land dedication, subject to a determination of appropriate value, and/or payment in lieu of land is appropriate.

5. Timing for Land Value Assessment

Where land is required to be conveyed to the City, and/or payment in lieu is required to be paid to the City in accordance with this Parkland Dedication By-law:

- i. For Development or Redevelopment subject to Section 42 of the Planning Act, the value of the land or payment in lieu equivalent to be paid shall be determined as the value of the land the day before the day that the building permit is issued, and if more than one building permit is required, the value shall be calculated the day before the day that the first building permit is issued;
- ii. For Development or Redevelopment subject to Sections 51.1 and 53 of the Planning Act, the value of the land or equivalent payment in lieu shall be determined in accordance with the conditions of approval of a plan of subdivision or condominium pursuant to Section 51 of the Planning Act or the conditions of provisional consent pursuant to Section 53 of the Planning Act; or,
- iii. For Development or Redevelopment which occurs pursuant to either of Sections 42 or 51.1 of the Planning Act and for which approvals are issued in phases, the City shall calculate and require the conveyance of land for park purposes or the payment of an equivalent payment in lieu, in accordance with the provisions of this Parkland Dedication By-law, on a phase by phase basis.

6. Administration

6.1 Applicability of this By-law

This Parkland Dedication By-law is applicable to all lands within the limits of the City.

6.2 Delegation to Staff

Council hereby delegates to the Commissioner of Community Services, or his or her designate, the administration of this Parkland Dedication By-Law, including the authority to:

- i. Negotiate parkland dedication and/or payment of an equivalent payment in lieu for each Development or Redevelopment application, and execution of parkland dedication agreements or amendments thereto as may be necessary, in accordance with the provisions of the City's Parkland Dedication By-Law;
- ii. Establish the location and configuration of land required to be conveyed;
- iii. Establish the value of land for the purpose of calculating any required payment; and,
- iv. Maintain records of all lands and payment in lieu received and including all expenditures from the payment in lieu parkland reserve fund. The payment in lieu of parkland dedication record and associated financial statements shall be reported to the Treasurer.

Notwithstanding the foregoing, Council retains the authority to make or reconsider, at any time and without notice, revoke or restrict any delegated power that has been delegated pursuant to this By-law.

6.3 Agreements Apply

Notwithstanding any other provisions in this Parkland Dedication By-law, where before, or after the passing of this By-law, Council has approved or authorized an Agreement with respect to the dedication of parkland and/or the equivalent payment in lieu of parkland, the terms of that Agreement, including any subsequent amendments to that Agreement, shall remain binding between the parties, and any parkland dedication and/or payment in lieu of parkland shall be in accordance with the rates specified in the Agreement, rather than the rates provided for in this Parkland Dedication By-law.

6.4 Condition of Land

Where land is required to be conveyed to the City for park purposes:

- i. Subject to 1.4 (b) above, the land shall be free and clear of all legal and other encumbrances;
- ii. the land shall be subject to the delivery to the City of a Record of Site Condition that satisfies, at a minimum, a Phase 1 Environmental Site Assessment that meets the requirements of Ontario Regulation 153/04 pursuant to the Environmental Protection Act, R.S.O. 1990, c. E.19, for the use of the land as a public park. Prior to accepting lands for park purposes, the City reserves the right to require a Phase 2 Environmental Site Assessment be undertaken following the Phase 1 Environmental Site Assessment.
- iii. the City shall have the right to refuse the conveyance of land that is deemed unsuitable for park or public recreation purpose which includes, but is not limited to, the following:
 - a) land that has been or will be conveyed to the City for stormwater management facilities, highways, roadways, walkways, or any other non-parkland purpose;
 - b) Natural Hazard Lands;
 - c) lands that are constrained or otherwise deemed undesirable by the City due to, among other things, their size, location, grade, drainage, flooding, or configuration;
 - d) lands which have unsuitable or unstable soil conditions, including lands which are contaminated;
 - e) utility rights of way or easements, including but not limited to hydro, gas, cable, and telecommunications.

In cases where the City determines that the proposed for parkland dedication is unsuitable for parks or public recreation purposes, the City shall require payment of cash in lieu of the land conveyance, in the amounts set out this Parkland Dedication By-law.

6.5 Exemptions

The following types of Development or Redevelopment are exempt from this By-law:

- i. Development or Redevelopment undertaken by the Province of Ontario, a municipality including any corporation owned, controlled, and operated by the City of Brampton or the Regional Municipality of Peel or a Board of Education as defined in the Education Act, R.S.O., 1990, c.E2;
- ii. Non-profit housing development defined in subsection 4.2(1) of the *Development Charges Act, 1997*.
- iii. Replacement of an existing Dwelling Unit on an existing lot;
- iv. Development or redevelopment of a building or structure intended for use as a long-term care home within the meaning of subsection 2 (1) of the Fixing Long-Term Care Act, 2021;
- v. a college or university in Ontario that receives direct, regular, and ongoing operating funding from the Government of Ontario;
- vi. an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017;
- vii. Public hospitals;
- viii. Places of Worship
- ix. a second residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;
- x. a third residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; or
- xi. one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; and
- xii. Temporary Sales Structures.

6.6 Index

Any applicable equivalent payment in lieu rate shall be adjusted annually on February 1 and August 1, without amendment to this By-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, Construction Price Statistics (Non-residential Building Construction Price Index) or any successor thereto.

6.7 Severability

In the event that any section of this Parkland Dedication By-Law is determined by a Court or Tribunal, to be invalid, that specific portion of this Parkland Dedication By-law shall be severed from the balance of this By-law, which will continue to operate in full force and effect.

6.8 Repeal

By-law 283-2013 is hereby repealed.

6.9 Short Title

This By-law may be cited as the “Parkland Dedication By-law.”

6.10 Effective Date

This By-law shall come into force and effect at 12:01 am on December XX, 2022.

PASSED this XX day of December, 2022

Patrick Brown, Mayor

Peter Fay, City Clerk

Approved as
to form.

20 __/month/day

[insert name]

Approved as
to Content.

20 __/month/day

[insert name]