



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2022-108

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 Town of Oakville 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 Town of Oakville 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 Town of Oakville desires to repeal and replace Bylaw 2008-105 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:

DEFINITIONS

In this By-law:

“Apartment dwelling” means any dwelling unit within a building containing more than three dwelling units where the units are connected by an interior corridor and includes a dwelling unit within a retirement home or lodge where the unit has its own private sanitary and full culinary facilities.

“Building Permit” means the first permit issued under the *Building Code Act* for construction at or above the first storey of a building or structure.

“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 Town of Oakville.

"Delineated Built Boundary" means the limits of the developed urban area as defined in the Official Plan for the purpose of measuring the minimum intensification target.

"Designated Greenfield Area" means lands within the Town's settlement area, but outside of Delineated Built Boundary that 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.

“Established Neighbourhood” means an area within Oakville’s *"Built Boundary"*, as defined by *A Place to Grow: Growth Plan for the Greater Golden Horseshoe*, and which is not identified as a "Designated Greenfield Area" or a “Strategic Growth Area”.

“First storey” means the storey of a building, structure or part thereof that has its floor closest to the grade and its ceiling more than 1.8 m above the grade.

“Grade” means the average level of finished ground adjoining a building or structure at all exterior walls.

“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" means the development of a property, site or area at a higher density than currently exists through:

- a) Redevelopment, including the reuse of brownfield sites;
- b) The development of vacant and/or underutilized lots within previously developed areas;
- c) Infill development; and,
- d) The expansion or conversion of existing buildings.

“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 Town and which conveyance can be registered in the Land Registry Office.

“Multiple dwelling” means all dwellings other than single detached dwellings, semidetached dwellings, apartment dwellings, special care/special need dwellings, and accessory dwellings, and includes but is not limited to, back-to-back townhouse dwellings, and the residential portion of a live/work unit;

“Owner” means the registered owner of the land to be developed, redeveloped, or subdivided.

“*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.

“Semi-detached dwelling” means a building divided vertically into two (2) dwelling units each of which has a separate entrance and access to grade.

“Single detached dwelling” means a completely detached building containing only one dwelling unit.

“Stacked townhouse dwelling” means a building containing two or more dwelling units where each dwelling unit is separated horizontally from another dwelling unit by a common wall.

“Storey” means the portion of a building that is:

- a) Situated between the top of any floor and the top of the floor next above it; or,
- b) Situated between the top of the floor and the ceiling above the floor, if there is no floor above it.

"Strategic Growth Areas" means those areas identified by the Town of Oakville Official Plan to be the focus for accommodating intensification and higher-density mixed uses in a more compact built form.

“Town” means The Corporation of the Town of Oakville.

PART 1 – Calculation of Conveyance/Payment-in-Lieu

1.1 Required Parkland Conveyance/Payment-in-lieu Equivalent for Non-Residential Purposes - As a condition of development or redevelopment of land, the Town shall require the conveyance of land or payment-in-lieu equivalent to the Town for parks and other public recreational purposes as follows:

- i. *Commercial and Industrial Purposes* - 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 (prior to 2008), the Town shall require parkland dedication and/or a payment-in-lieu equivalent in the amount equal to 2 percent of the land area, unless otherwise identified as exempt from parkland dedication by the Town;

- ii. *All Other Non-Residential Purposes* - Where any form of redevelopment is proposed within the Other Non-Residential Purposes category, and where no prior parkland dedication has been provided, or payment-in-lieu paid (prior to 2008), the Town shall require parkland dedication and/or payment-in-lieu equivalent in the amount equal to 5 percent of the land area, unless otherwise identified as exempt from parkland dedication by the Town;

1.2 Required Parkland Conveyance/Payment-in-lieu Equivalent for Mixed-Use Development - As a condition of development or redevelopment of land, the Town shall require the conveyance of land or payment-in-lieu equivalent to the Town for parks and other public recreational purposes based on the pro-rated mixture of land uses proposed, as follows:

- i. *The Mixed-Use Formula is:* Residential Contribution + Pro-Rated Other Non-Residential Use Contribution + Pro-Rated Commercial/Industrial Contribution = TOTAL CONTRIBUTION, where:

The Residential Contribution = parkland dedication as per the rate identified in this Parkland Dedication By-law; PLUS,

The Pro-Rated Other Non-Residential Uses = ((Institutional GFA/Site Area)*100)*5 percent; PLUS,

The Pro-Rated Commercial and Industrial Uses = ((Commercial and Industrial GFA/Site Area)*100)*2 percent.

1.3 Required Parkland Conveyance/Payment-in-lieu Equivalent for Residential Development in Designated Greenfield Areas - As a condition of development or redevelopment of land, the Town shall require the conveyance of land and/or payment in-lieu equivalent to the Town for parks and other public recreational purposes within any Designated Greenfield Area, as follows:

- i. *Residential Greenfield Development* - The Town shall apply a parkland dedication rate of 5% of the land area, or 1 hectare per 300 dwelling units, whichever generates the greater parkland dedication to the Town. The Town may require a payment-in-lieu of a land dedication at a rate of 5% of the land area, or 1 hectare per 500 dwelling units, whichever is greater.

1.4 Required Parkland Conveyance/Payment-in-lieu Equivalent for Residential Intensification in Established Neighbourhoods - As a condition of development or redevelopment of land, the Town shall require the conveyance of land and/or payment in-lieu equivalent to the Town for parks and other public recreational purposes as follows:

- i. *Additional Residential Units* - For Additional Residential Units, as defined by the *Planning Act*, permitted by the Official Plan and Implementing Zoning Bylaw, the Town shall exempt those new dwelling units from any parkland dedication requirement.
- ii. *Minor Residential Intensification* - Where residential intensification is proposed within an Established Neighbourhood, and no Official Plan Amendment is required, the residential component of the development or redevelopment shall be required to contribute a parkland dedication based on a rate of 5% of the land area, or 1 hectare per 300 dwelling units, whichever generates the greater parkland dedication to the Town. The Town may require a payment-in-lieu of a land dedication at a rate of 5% of the land area, or 1 hectare per 500 dwelling units, whichever is greater.

This requirement shall apply only to the new units generated over and above the number of units remaining or being replaced.

- iii. *Major Residential Intensification* - Where residential intensification is proposed within an Established Neighbourhood, and requires an Official Plan Amendment, the residential component of the development or redevelopment shall be required to contribute a parkland dedication, and/or payment-in-lieu, as follows:
 - *For ground-related dwellings (such as single-detached, semi-detached, duplex and street, row or block townhouse dwellings)* - based on a rate of 5% of the land area, or 1 hectare per 300 dwelling units, whichever generates the greater parkland dedication to the Town. The Town may require a payment-in-lieu of a land dedication at a rate of 5% of the land area, or 1 hectare per 500 dwelling units, whichever is greater; and,
 - *For stacked townhouses and apartment dwellings* - based on a land dedication and/or a payment-in-lieu of a land dedication at a rate of 1 hectare per 500 dwelling units.

1.5 Required Parkland Conveyance/Payment-in-lieu Equivalent for Residential Development within Strategic Growth Areas - As a condition of development or redevelopment of land, the Town shall require the conveyance of land and/or payment in-lieu equivalent to the Town for parks and other public recreational purposes within the Town's identified Strategic Growth Areas as follows:

- i. *Residential Dwelling Units in Strategic Growth Areas* - The Town shall require a parkland dedication rate/payment-in-lieu equivalent of \$22,269.00 per dwelling unit, or 1 hectare per 500 dwelling units, whichever is less.
- ii. *Land Value Index* - Any applicable payment-in-lieu equivalent rate shall be adjusted annually on April 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.

PART 2: Parkland Credits

2.1 Lands Previously Conveyed - Where land has previously been conveyed, or a payment-in-lieu of such conveyance has been previously received by the Town, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by the Town in respect of subsequent development or redevelopment applications, unless:

- i. 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,
- ii. 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.

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 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.

2.2 Credits Considered - This Parkland Dedication By-law identifies that parkland dedication credits may be considered by the Town where a specified developer has over-provided a parkland dedication on one site, and then, subject to approval by the Town, may reduce the required parkland dedication on another site being developed by the same developer. Legal agreements between the developer and the Town may be required.

PART 3: Payment-in-lieu of Land

3.1 Determining when Payment-in-lieu is appropriate - The Town shall determine when payment-in-lieu is acceptable versus where a land contribution will be required. The Town may also consider when a combination of on-site land dedication, off-site land dedication and/or payment-in-lieu of land is appropriate.

PART 4: Establishing Land Value

4.1 Timing for Land Value Assessment - Where land is required to be conveyed to the Town, and/or payment-in-lieu is required to be paid to the Town 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 payment-in-lieu equivalent 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 Town shall calculate and require the conveyance of land for park purposes or the payment of payment-in-lieu in accordance with the provisions of this Parkland Dedication By-law, on a phase by phase basis.

PART 5: Administration

5.1 Applicability of this By-law - this Parkland Dedication By-law is applicable to all lands within the corporate limits of the Town of Oakville.

5.2 Delegation to Staff - Council hereby delegates to the Treasurer and the Director of Planning in consultation with the Director of Parks and Open Space and the Manager of Realty Services, the administration of this Parkland Dedication By-Law, including the authority to:

- i. Negotiate parkland dedication and/or 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 Town's Parkland Dedication By-Law and the Official Plan;
- 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 parkland dedication record and associated financial statements shall be reported to the Town 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.

5.3 Agreements Apply - Notwithstanding any other provisions in this Parkland Dedication By-law, where before, or after the passing of this By-law, the Council of the Town of Oakville has approved or authorized an Agreement with respect to the dedication of parkland and/or the 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.

5.4 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 considered to be severed from the balance of this By-law, which will continue to operate in full force and effect.

5.5 Repeal - By-law 2008-105 is hereby repealed.

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

5.7 Effective Date - This By-law shall come into force and effect at 12:01 am on September 13, 2022.

PASSED this 12th day of September, 2022

Rob Burton

Mayor

Kathy Patrick Acting Town Clerk