

THE CORPORATION OF THE TOWN OF OAKVILLE
BY-LAW NUMBER 2022 - xxxx

Appendix A

A By-law to require the conveyance of parkland or the payment of
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 approved policies regarding the requirements for the conveyance of land for park or other public recreational purposes;

AND WHEREAS Council for the Corporation of the Town of Oakville desires to repeal and replace By-law 2008-195 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 WHEREAS Section 23.1 to 23.3 of the Municipal Act authorize the delegation of powers or duties of the municipality subject to restrictions;

NOW THEREFORE Council enacts as follows:

DEFINITIONS

In this By-law:

“Basement” means the portion of a building between the first storey and any floor below the level of the first floor.

“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.

“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.

“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.

DRAFT for Discussion – August 2, 2022

“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.

“Land Area” means 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.

“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 living a building, or part of a building that is used for the accommodation of a person or persons living together as a single household unit, in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the unit.

“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.

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

PART 1 – Calculation of Conveyance

1.1 Required Parkland Conveyance - General - 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* - in the amount of 2 percent of the Land Area proposed for Commercial and/or Industrial Purposes. Where any form of commercial or industrial 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 in the amount of 2 percent of the Land Area, unless otherwise identified as exempt from parkland dedication by the Town;

- ii. *All Other Non-Residential Purposes* - in the amount of 5 percent of the Land Area proposed for all other non-residential purposes. Where any form of redevelopment is proposed within this land use category, and where no prior parkland dedication has been provided or payment-in-lieu paid (prior to 2008), the Town shall require parkland dedication in the amount of 5 percent of the Land Area, unless otherwise identified as exempt from parkland dedication by the Town;
- iii. *Mixed-Use Development* - based on a formula that pro-rates the parkland dedication on the basis of the mixture of land uses proposed, as follows:

Residential Contribution + Pro-Rated Institutional 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 Institutional uses = ((Institutional GFA/Site Area)*100)*5 percent; PLUS,
- The Pro-Rated Commercial and Industrial = ((Commercial and Industrial GFA/Site Area)*100)*2 percent.

Where payment-in-lieu is considered appropriate by the Town, it shall be based on the payment equivalent of the application of the Mixed-Use Formula;

1.2 Residential Development in Established Neighbourhoods - Residential parkland dedication rates shall be required, as follows:

- i. *Significant Residential Intensification* - Where a significant residential intensification is proposed, and not anticipated by the Official Plan (requiring an Official Plan Amendment) residential development shall be required to contribute the land and/or payment-in-lieu equivalent of the lesser of 1 hectare for each 500 dwelling units proposed or \$22,269.00 per unit. The Town shall index the payment-in-lieu equivalent rate on a semi-annual basis to reflect land value increases or decreases.
- ii. *Small-Scale Residential Intensification within Established Neighbourhoods* - For Small-Scale Residential Intensification, where no Official Plan Amendment is required, the Town establishes a set requirement of 1 hectare per 500 dwelling units. The requirement shall apply only to the new units generated over and above the number of units remaining or being replaced, and may be based on the type of unit (number of bedrooms) consistent with the approach used in the Town's Development Charges By-law; and,
- iii. *Additional Residential Units* - For Additional Residential Units, as defined by the Planning Act, permitted by the Official Plan and Implementing Zoning By-Law, the Town shall exempt those new dwelling units from any parkland dedication requirement.

- 1.3 **Residential Development within Strategic Growth Areas** - Within the Town's identified Strategic Growth Areas, residential development shall be required to contribute the land and/or payment-in-lieu equivalent of the lesser of 1 hectare for each 500 dwelling units proposed or \$22,269.00 per unit. The Town shall index the payment-in-lieu equivalent rate on a semi-annual basis to reflect land value increases or decreases.

PART 2: Parkland Credits

- 2.1 **Lands Previously Conveyed** - Where land has been previously been conveyed, or a payment of 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 residential density (expressed as Gross Floor Area or number of 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 other purposes that generate a higher parkland dedication.

Where such increase in density and/or 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 density/dwelling units/land use proposed and the value determined the day before the day that the first building permit is issued.

- 2.2 **Existing Agreements** - Nothing in this Parkland Dedication By-law shall be interpreted so as to frustrate, invalidate or supersede any existing agreements that have been previously executed between the land owners and the Town with respect to area specific parkland dedication, delivery and funding arrangements, and any amendments to such agreements, provided that the proposed development proceeds in a manner set out under such agreements.
- 2.3 **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 to facilitate the intent of this recommendation.

PART 3: Payment-in-lieu of Land

- 3.1 **Determining when Payment-in-lieu is appropriate** - The Town, at its sole discretion, 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.

Where payment-in-lieu is considered appropriate by the Town, it shall be based on the payment equivalent of the applicable parkland dedication requirement as established in this Parkland Dedication By-law. For residential, or the residential component of a mixed-use development, under no circumstances will a payment-in-lieu equivalent exceed 1 hectare per 500 dwelling units.

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. For lands where no subsequent Site Plan Approval is required, Draft Plan Approval shall be subsequent to Official Plan designations and Zoning By-Law approvals that establish the use and development parameters of the land in anticipation of appropriate development; 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 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 policies of the Official Plan; and,
- 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 or the payment of payment-in-lieu of parkland, the terms of that agreement shall remain binding between the parties, and any parkland dedication or payment of 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 By-law 2008-195 is hereby repealed.

5.6 This By-law may be cited as the "Parkland Dedication By-law".