

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2023-***

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

WHEREAS Sections 42 of the *Planning Act* authorizes 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;

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 the Town of Oakville has prepared and made available to the public a parks plan that examines the need for parkland in the municipality;

AND WHEREAS the Province has made significant changes in relation to the alternative requirement for parkland conveyances and payments in lieu, including to change the maximum rates and provide a maximum amount of land or value thereof that may be required to be provided, Council for the Corporation of the Town of Oakville desires to repeal and replace By-law 2022-108 with an updated By-law;

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:

PART 1 - DEFINITIONS

1. In this By-law:

"Additional Residential Unit" means a residential unit referred to in subsection 35.1 (2) of the *Planning Act*;

"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;

"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;

"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;

“Net residential units” means the net residential units proposed which shall be determined by subtracting the number of residential units on the land immediately before the proposed development or redevelopment from the number of residential units that will be on the land after the proposed development or redevelopment. Upon proclamation of section 42(3.0.3) of the *Planning Act*, affordable residential units and attainable residential units, as defined in subsection 4.1(1) of the *Development Charges Act*, 1997, and residential units described in subsection 4.3(2) of that Act shall be excluded from the number of net residential units otherwise determined in accordance with subsection (3.0.2);

“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;

“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;

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

PART 2 – Application

2.1 A parkland conveyance / payment-in-lieu shall be applicable for development and redevelopment of all lands in the geographic area of the Town of Oakville, with the exception of land that is owned by and used for the purposes of:

- i. a board of education;
- ii. a provincial or federal crown agency;
- iii. a publicly-funded university, community college or a college of applied arts and technology established under the *Ontario Colleges of Applied Art and Technology Act, 2002*, S.O 2002, c.8, Schedule F, as amended, or
- iv. the municipality or Regional Municipality of Halton, or local board thereof.

2.2 Additional Residential Units – This by-law does not apply to the erection or location of,

- i. 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;
 - ii. 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
 - iii. one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of 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
-

PART 3 – Calculation of Conveyance / Payment-in-Lieu

3.1 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;

3.2 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.
$$\text{Total Contribution} = \text{Residential Contribution} + ((\text{Other Non-Residential GFA}/\text{Total GFA}) * (\text{Site Area} * .05)) + ((\text{Commercial/Industrial GFA}/\text{Total GFA}) * (\text{Site Area} * .02))$$

3.3 Required Parkland Conveyance/Payment-in-lieu Equivalent for Residential Intensification - 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. 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 600 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 1000 dwelling units, whichever is greater.

3.4 Maximum Conveyance or Payment in Lieu- Notwithstanding section 3.3, the maximum conveyance or payment in lieu to be paid is:

- i. 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

-
- ii. 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.
-

PART 4: Parkland Credits

4.1 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.

4.2 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 5: Payment-in-lieu of Land

5.1 Council may require Payment-in-lieu – Council may require a payment in lieu, to the value of the land otherwise required to be conveyed.

PART 6: Determination of Land Value

6.1 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 in respect of the development or redevelopment, 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 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 7: Administration

7.1 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.

7.2 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.

7.3 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.

7.4 Repeal - By-law 2022-108 is hereby repealed.

7.5 Short Title - This By-law may be cited as the "Parkland Dedication By-law".

7.6 Effective Date - This By-law shall come into force and effect at 12:01 am on ****

PASSED this _____

MAYOR

CLERK