



By-law 2025-101

A BY-LAW TO REQUIRE THE CONVEYANCE OF LAND FOR PARK OR OTHER PUBLIC RECREATION PURPOSES AS A CONDITION OF THE DEVELOPMENT OR REDEVELOPMENT OF LAND WITHIN THE CITY OF MARKHAM OR THE PAYMENT OF MONEY IN LIEU OF SUCH CONVEYANCE, PURSUANT TO THE PLANNING ACT, RSO 1990, CP.13, AS AMENDED, AND TO REPEAL BY-LAW-2022-102 (PARKLAND DEDICATION BY-LAW)

WHEREAS Section 42(1) of the Planning Act, RSO 1990, c P.13 (the “Planning Act”), as amended authorizes the Council of the Municipality to require, by By-law, the conveyance of land for park or other public recreational purposes as a condition of the development or redevelopment of land within the Municipality or any part thereof, or to require the payment of money in lieu of such a conveyance;

WHEREAS Section 42(6) of the Planning Act further provides that if a rate authorized by subsection (1) applies, the Council of the Municipality may require the payment of money in lieu to the value of the land otherwise required to be conveyed;

WHEREAS The Corporation of the City of Markham (the “City”) has an Official Plan in effect that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement authorized under section 42(3) of the Planning Act, RSO 1990, c P.13;

AND WHEREAS the City has approved a Parks Plan which examines the need for parkland in the City and determines that alternative rates for parkland conveyance and payments in lieu of conveyance are to be applied to promote high density Residential developments and to achieve minimum 1.2 hectares of parkland per one thousand people across the City.

NOW THEREFORE the Council of the Corporation of the City of Markham enacts as follows:

Short Title:

1. This By-law may be referred to as the Parkland Conveyance By-law.

Severability:

2. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law will continue to remain in full force and effect.

Definitions:

3. The following definitions apply in this By-law:
 - a) “**Agricultural or farm purposes**” means the use of land, buildings or structures that are used for the purposes of or in conjunction with animal farming, the growing of crops including grains and fruit,

market gardening, horticulture or any other use that is customarily associated with a farming operation of a Bona fide farmer;

- b) **“Board of Education”** has the same meaning as “board” as that term is defined in the Education Act, RSO 1990, c E.2, as amended, or any successor thereto;
- c) **“Bona fide farmer”** means an individual currently actively engaged in a farm operation with a valid Farm Business Registration number in the City of Markham.
- d) **“Building”** means a building as defined in the Ontario Building Code Act, as amended, or any successor thereto;
- e) **“Building Code Act”** means the Building Code Act, SO 1992 chapter 23 and includes any amendments thereto, successor legislation, and where the context requires includes precursor legislation;
- f) **“By-law”** means this Parkland Conveyance By-law;
- g) **“Cemetery”** means land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains;
- h) **“City”** means the City of Markham or The Corporation of the City of Markham, and includes all land within its geographic boundaries, as the context dictates;
- i) **“College”** means a college established under the Ontario Colleges of Applied Arts and Technology Act, 2002, as amended, or any successor thereto;
- j) **“Commercial purposes”** means the use of non-residential land, buildings or structures for offices, sales and services, other than for Agricultural, Industrial, or Institutional purposes;
- k) **“Conservation Authority”** means a conservation authority established by or under Conservation Authorities Act R.S.O. 1990, CHAPTER C.27 as amended, or any successor thereto;
- l) **“Council”** means the Council for the City of Markham;
- m) **“Develop”** means:
 - i. the construction, erection or placing of one or more Buildings or structures on Land
 - ii. the making of an addition or alteration to a Building or structure that has the effect of substantially increasing the size or by substantially increasing the usability thereof
 - iii. the addition of one or more new Residential Unit(s)
 - iv. the laying out and establishment of a Commercial parking lot
 - v. “Developed”, “Development”, “Redevelop”, “Redeveloped” and “Redevelopment” have their corresponding meanings
- n) **“Industrial purposes”** means the use of land, buildings or structures used for or in connection with:

- i. manufacturing, producing, fabricating, processing, storing or distributing goods;
 - ii. research or development in connection with manufacturing, producing, fabricating or processing goods;
 - iii. retail sales by a manufacturer, producer, fabricator or processor of goods they manufactured, produced, fabricated or processed, if the retail sales are at the site where the manufacturing, producing, fabricating or processing takes place; or,
 - iv. office or administrative purposes, if they are,
 - a. carried out with respect to manufacturing, producing, fabricating, processing, storing or distributing of goods; and,
 - b. in or attached to the building or structure used for that manufacturing, producing, fabricating, processing, storing or distributing;
- o) **“Institutional purposes”** means the use of land, buildings or structures for a public or non-profit purpose including a religious, charitable, educational, health or welfare purpose, and without limiting the generality of the foregoing, may include such uses as schools, hospitals, places of worship, recreation facilities, community centres and government buildings;
- p) **“Land”** means, for the purposes of this By-law, the lesser of the area defined as:
 - i. The whole of a parcel of property or parcels of property associated with the Development or Redevelopment; or
 - ii. The whole of a lot or lots or a block or blocks on a registered plan of subdivision or a unit or units within a vacant land condominium that is associated with the Development or Redevelopment.
 - iii. For Industrial or Commercial Redevelopment, the portion of property where the Development or Redevelopment is occurring.
- q) **“Market Value”** means the value of the Land determined in accordance as nearly as may be with section 14 of the Expropriations Act, RSO 1990 c E.26, as amended or any successor thereto, as of the day before the day of the issuance of the first building permit for each phase of the Development, as permitted by the Planning Act;
- r) **“Owner”** means, in respect of the Land on which the Development is to take place, the registered owner of the Land;
- s) **“Parkland”** means land for parks and other public recreational purposes;
- t) **“Planning Act”** means the Planning Act, RSO 1990 c P.13 and includes any amendments thereto, successor legislation, and where the context requires includes precursor legislation;
- u) **“Qualified Appraiser”** means a member of the Appraisal Institute of Canada in good standing;

- v) **“Record of Site Condition”** means a record of site condition under Part XV. 1 of the Environmental Protection Act, RSO 1990 c E.19, as amended, or any successor thereto;
- w) **“Residential purpose”** means the use of Land, Building or structure containing one or more Residential units;
- x) **“Residential unit”** means a unit that,
 - i. consists of a self-contained set of rooms located in a Building or structure,
 - ii. is used or intended for use as residential premises, and
 - iii. contains kitchen and bathroom facilities that are intended for the use of the unit only;
- y) **“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;
- z) **“University”** means a university to which the University Expropriation Powers Act, RSO 1990, c U.3, as amended, or any successor thereto, applies; and

General Requirement:

- 4. This By-law applies to the entirety of the City, and the City is hereby established as an area for which the conveyance of a portion of Land to be Developed or Redeveloped, or the payment of money in lieu of such conveyance, shall be required as a condition of Development or Redevelopment.
- 5. No person shall Develop or Redevelop Land within the City unless they have first conveyed a portion of the Land to the City for Parkland, or paid money in lieu of such conveyance, in accordance with this By-law.

Non-application, residential units

- 6. This By-law does not apply to the erection or location of,
 - a) a second Residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which a 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;
 - b) a third Residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which a 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
 - c) 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.

Delegation of Authority - Conveyance of a Portion of Land or Money in Lieu:

7. Unless expressly specified as Council authority, all administrative authority for the management of this By-law is delegated to the Commissioner of Development Services or designate.
8. The Commissioner of Development Services or designate is authorized by Council to determine the specific combination of conveyance of a portion of the Land for Parkland and/or payment of money in lieu of such conveyance on a site-specific basis.
9. The Commissioner of Development Services or designate shall have regard for the Provincial Planning Statement, the Planning Act, this By-law, the relevant policies of the City's Official Plan, and general conformity with any other policies and guidelines established by the City from time to time for the determination of whether a conveyance of a portion of the Land for Parkland or the payment of money in lieu of such conveyance or a combination thereof shall be required.
10. The authority to establish the Market Value of Land for the purpose of calculating any required payment pursuant to this By-law is hereby delegated to the Senior Manager of Real Property or designate.
11. Council shall have regard for the Provincial Planning Statement, the Planning Act, this By-law, the relevant policies of the City's Official Plan, and general conformity with any other policies and guidelines established by the City from time to time and retains the authority to determine at its discretion: i) whether a conveyance of a portion of the Land for Parkland or the payment of money in lieu of such conveyance shall be required; and ii) an alternative process to that set out in this By-law to determine the Market Value of the Land. The decisions pursuant to sections 8, 9, and 10 must not be contrary to or inconsistent with any resolution of Council passed at any time prior to the issuance of a Building permit.

Where Conveyance of a Portion of the Land Required:

12. Where it has been determined that a portion of the Land will be required to be conveyed to the City as Parkland, the following shall apply:
 - a) Where Land in the City is to be Developed or Redeveloped for Commercial purposes or Industrial purposes, a portion of the Land not exceeding 2% of the total area of the Land shall be conveyed to the City for Parkland; or
 - b) Where Land in the City is to be Developed or Redeveloped for Residential purposes, the greater of:
 - i. a portion of the Land not exceeding 1 hectare (1ha) per six-hundred (600) net Residential Units proposed as part of the Development or Redevelopment, or
 - ii. five percent (5%) of the total area of the Landshall be conveyed to the City for Parkland; or
 - c) In all cases other than Commercial purposes, Industrial purposes, or Residential purposes, a portion of the Land not exceeding five percent (5%) of the total area of the Land shall be conveyed to the City for Parkland.

13. Where a Development or Redevelopment will include a mix of uses, and two or more of the requirements under section 12 a) -c) of this By-law may apply to the Development or Redevelopment, the Owner shall be required to convey a portion of the Land at the rate applicable to the predominant proposed use of the Land and all of the Land proposed for Development or Redevelopment shall be included for the purpose of calculating the amount of the Land required to be conveyed to the City for Parkland.

Acceptance of Land for Park or Other Public Recreational Purposes:

14. Any portion of Land required to be conveyed to the City for Parkland shall be:
 - a) Fee Simple, free of encumbrances except as may be satisfactory to the City Solicitor; and
 - b) In a physical condition satisfactory to the City and in accordance with the requirements of the City's Official Plan, Environmental Policy and Procedures for the Conveyance of Land to the City and other policies respecting the acquisition of real property.
15. The following shall not be accepted by the City in satisfaction of a requirement to convey a portion of the Land for Parkland under this By-law:
 - a) Areas of Land that are natural heritage and hydrologic features identified as part of the City's Natural Heritage Network including any required vegetation protection zone in the City's Official Plan, an approved Secondary Plan, or through an environmental impact study accepted by the City;
 - b) Areas of Land that are hazardous lands and hazardous sites that are susceptible to flooding, have poor drainage, erosion issues, extreme slopes, wetlands or other environmental or physical conditions that would interfere with their potential use as a public park;
 - c) Areas of Land that are required to accommodate stormwater management ponds;
 - d) Areas of Land containing contaminants that exceed applicable standards for park use as established by the Ministry of Environment's Soil, Ground Water and Sediment Standards under Part XV.1 of the Environmental Protection Act;
 - e) Land for trails or active transportation purposes;
 - f) Areas of land containing a heritage building and/or cultural landscape that is designated to be of cultural value or interest pursuant to Part IV of the Ontario Heritage Act;
 - g) Areas of Land that are used or proposed to be used for utility corridors or other infrastructure incompatible with their use as a public park;
 - h) Land that is encumbered by such easements or other instruments that would unduly restrict or prohibit public recreational use;
 - i) Subject to section 16, land outside the Development, subject to the discretion of the Commissioner of Development Services and the Senior Manager of Real Property or designates;
 - j) Any land unsuitable for public recreational programming and deemed unacceptable by the City for Parkland or other recreational purposes, in the Commissioner of Development Services or designates sole and unfettered discretion, acting reasonably.
16. Where conveyance of a portion of the Land is not feasible, an off-site Parkland conveyance that is accessible to the area where the Land is

located, may be substituted for conveyance of a portion of the Land, provided that:

- a) The off-site Parkland is a good physical substitute for conveyance of a portion of the Land acceptable under this By-law;
 - b) The Market Value of the off-site Parkland or combination of the Market Value of the off-site Parkland and payment of money is equal to the Market value of the portion of the Land that would otherwise be required ; and
 - c) Both the City and the Owner agree to the substitution.
17. Any costs associated with a conveyance of a portion of Land for Parkland purposes required under this By-law, including but not limited to costs related to the preparation and registration of documents, surveys or reference plans, and any applicable taxes, shall be borne by the person seeking to Develop or Redevelop the Land at no cost to the City.
18. Any requirement to convey a portion of Land to the City for park and other recreational purposes is fulfilled only when title of that portion of the Land is transferred to the City and required agreement(s) have been entered into.
19. The City may accept conveyance of alternative forms of parkland including Privately Owned Public Spaces, Strata Park or Encumbered Parkland and apply appropriate Parkland credits according to the provisions of the Planning Act.

Payment of Money in Lieu of Conveyance:

20. The City may determine, in its discretion, whether it seeks a conveyance of a portion of Land for Parkland, a payment of money in lieu of conveyance of a portion of Land for Parkland, or a combination of Conveyance of a portion of a portion of Land and payment in lieu of conveyance in order to satisfy the requirements of this By-law.
21. Where it has been determined that the payment of money will be required in lieu of a conveyance of a portion of the Land for Parkland, the following shall apply:
- a) Where Land in the City is to be Developed or Redeveloped for Commercial purposes or Industrial purposes, the payment required in lieu of the conveyance of a portion of the Land for Parkland shall be two percent (2%) of the Market Value of the Land; or
 - b) Where Land is to be Developed or Redeveloped for Residential purposes, the payment required in lieu of the conveyance of a portion of the Land for Parkland shall be the greater of:
 - i. the equivalent Market Value of 1 hectare (1ha) per one-thousand (1000) net Residential Units proposed to be added by the Development or Redevelopment, or;
 - ii. Five-percent (5%) of the total Market Value of the Land; or
 - c) In all cases other than Commercial purposes, Industrial purposes or Residential purposes, the payment required in lieu of the conveyance of a portion of the Land for Parkland shall be five percent (5%) of the Market Value of the Land.
22. Where a Development or Redevelopment will include a mix of uses, and two or more of the requirements under section 21 a) -c) of this By-law may apply to the Development or Redevelopment, the Owner shall be required to pay money in lieu of conveyance of a portion of the Land at

the rate applicable to the predominant proposed use of the Land and all of the Land proposed for Development or Redevelopment shall be included for the purpose of calculating the payment required in lieu of the Land required to be conveyed to the City for Parkland.

23. For the purposes of sections 12 and 21, the net Residential Units proposed 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.

Determination of Market Value:

24. The Owner of the Land shall obtain and furnish the City with an appraisal of the Market Value of the Land from a Qualified Appraiser of real estate who is designated as an Accredited Appraiser by the Appraisal Institute of Canada (AIC), and who is a member in good standing of the AIC, at no expense to the City. All appraisals must comply with the current Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) as adopted by the Appraisal Institute of Canada. No limiting conditions will be accepted that restricts distribution of the appraisal report, in part or in whole, to Owner(s) of the subject property, any representative of the Owner, or representative of the City.
25. Where the City is satisfied with the Market Value determined by the appraisal submitted in accordance with section 24 of this By-law, that value shall be used in the determination of the payment required.
26. Where the City is not satisfied with the Market Value determined by the appraisal submitted in accordance with section 24 of this By-law, the City may obtain its own appraisal of the Market Value of the Land from a Qualified Appraiser of real estate who is designated as an Accredited Appraiser by the Appraisal Institute of Canada (AIC), and who is a member in good standing of the AIC, which appraisal shall be shared with the Owner of the Land. The City may also provide Market Data to the Owner's Appraiser to support an alternative fair Market Value, without obtaining a formal appraisal report from the AIC.
27. Where the City has obtained an appraisal under section 26 of this By-law, the Owner of the Land may agree to fix the Market Value of the Land in accordance with the appraisal obtained by the City, or the City and the Owner of the Land may agree to fix the Market Value of the Land at another amount, which shall in no case be less than the lowest estimate of Market Value in either appraisal or more than the highest estimate of Market Value in either appraisal.
28. Where the City has obtained an appraisal under section 26 above, or provided Market Data information, and the City and the Owner of the Land cannot agree on the Market Value of the Land to be used in determining the required payment, the Market Value may be fixed in accordance with subsections 42(10) to 42(13) of the Planning Act.
29. Appraisals submitted to or obtained by the City for the purposes of this By-law shall be considered valid for a maximum period of six (6) months from the date the appraisal was completed, or such lesser time as may be specified in the appraisal.

No building without payment:

30. If a payment is required pursuant to section 21 or 22 above, no person shall construct a building on the Land proposed for Development or Redevelopment unless the payment has been made or arrangements for the payment satisfactory to the City have been made.

Payment Under Protest:

31. Any person who is required to pay money in lieu of a conveyance of a portion of Land to be Developed or Redeveloped may make that payment under protest in accordance with section 42(12) of the Planning Act. Subsections 42 (10), (11), (12) and (13) of the Planning Act shall govern any dispute that arises out of application of this section.

Form of Payment:

32. Any payment of money required under this By-law shall be made in the form of cash, certified cheque, bank draft or another form acceptable to the City.

Special Account:

33. All money received by the City in lieu of the conveyance of a portion of Land for Parkland, or received on the sale of any property that has been conveyed to the City pursuant to this By-law, shall be paid into a special account established in accordance with section 42(15) of the Planning Act, and used only as permitted under that Act or any successor thereto, or any other general or special Act.
34. The City Treasurer shall give Council the financial statement of the special account established pursuant to this By-law in accordance with the requirements of subsections 42(17) and (18) of the Planning Act.

Other Powers Not Affected:

35. Nothing in this By-law is intended to or has the effect of restricting or derogating from the authority of Council to require a conveyance for Parkland or the payment of money in lieu of such conveyance as a condition of the approval of a plan of subdivision in accordance with section 51.1 of the Planning Act, or the authority of Council, the committee of adjustment or any successor body thereto established under section 44 of the Planning Act, to require a conveyance for Parkland or the payment of money in lieu of such conveyance as a condition of the approval of a consent given under section 53(12) of the Planning Act.

Reduction for Previous Conveyance or Payment in Lieu:

36. If Parkland has been previously conveyed or is required to be conveyed for Parkland, or a payment of money in lieu of such conveyance has been made or is required to be made under this By-law, a previous By-law passed under section 42 of the Planning Act, or as a condition of an approval under section 51.1 or 53(12) of the Planning Act, no additional conveyance or payment shall be required under this By-law as a condition of Development or Redevelopment of the Land unless:
 - a) There is a change in the proposed Development or Redevelopment which would increase the density of the Development or Redevelopment; or
 - b) Land originally proposed for Development or Redevelopment for Commercial or Industrial purposes is now proposed for Development or Redevelopment for other purposes.
37. Section 36 of this By-law does not apply to land proposed for Development or Redevelopment if, before March 28, 1995 (the date subsection 42(8) of

the Planning Act came into force), the land was subject to a condition that a portion of Land be conveyed to the City for Parkland or that a payment of money in lieu of such conveyance be made under section 42 or under section 51 or 53 of the Planning Act.

38. Where section 36 applies, and a change referred to in (a) or (b) of that section has occurred, any conveyance that has previously been made or is required to be made for Parkland, or any payment of money that has previously been made or is required to be made in lieu of such conveyance, as the case may be, shall be credited in calculation of the requirement for Parkland conveyance or the payment of money in lieu of such conveyance under this By-law.

Legislative Caps

39. The maximum amount of Parkland to be conveyed or payment in lieu of such conveyance under this By-law shall be in accordance with the legislated alternative maximums established in the Planning Act.

Exception, non-profit housing development

40. This By-law does not apply to non-profit housing development defined in subsection 4.2 (1) of the Development Charges Act, 1997.

Exemptions from General Requirement:

41. The Parkland Conveyance By-law does not apply to the following classes of Development or Redevelopment:
- a) Development or Redevelopment of Land owned by the City and used for non-residential, non-commercial and non-industrial purposes;
 - b) Development or Redevelopment of Land owned by a Board of Education and used for non-commercial, institutional and/or educational purposes;
 - c) Development or Redevelopment of Land owned by a College or University for non-commercial, institutional and/or educational purposes;
 - d) Development or Redevelopment of a hospital as defined in Section 1 of the Public Hospitals Act;
 - e) Development or Redevelopment of Land owned by and used for non-residential purposes of the Regional Municipality of York;
 - f) Development or Redevelopment of Land owned and used for the purposes of conservation by a Conservation Authority;
 - g) Development of 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 subsection 4.3 (2) of the Development Charges Act, 1997;
 - h) The enlargement or replacement of an existing Residential unit;
 - i) Development or Redevelopment that consists solely of a Temporary Sales Structure;

- j) Development or Redevelopment on any Land for a non-residential Agricultural Building or structure, used for Agricultural or farm purposes by a Bona fide farmer;
- k) Development or Redevelopment that consists solely of the replacement of any Building destroyed due to fire or a natural cause beyond the control of the Owner of the Land, provided that no change in use is proposed, including but not limited to increasing the total number of Residential units.
- l) Development or Redevelopment of a cemetery exempt from taxation under the Assessment Act, R.S.O. 1990, c. A.31, or any successor thereof;
- m) Such other land uses, projects or specific Development or Redevelopment as may be exempted by resolution of Council.

Repeal:

- 42. By-law 2022-102 is repealed immediately upon the coming into force of this Parkland Conveyance By-law.
- 43. This By-law does not frustrate or supersede the terms of any executed agreement on the conveyance of land or payment in lieu of parkland dedication between the Owner and the City.

Coming Into Force:

- 44. This By-law shall come into force on the day it is passed.

Read a first, second, and third time and passed on October 28, 2025.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor