

# The Corporation of the Town of Aurora

## By-law Number 6534-23

### Being 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 be conveyed, or payment in lieu thereof be made, 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** sections 42 and 51.1 of the Planning Act provide for the use of alternative requirements;

**And whereas** the Town of Aurora 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 has prepared and made available to the public a parks plan that examined the need for parkland in the municipality;

**And whereas** Council for the Town desires to repeal and replace Bylaw Number 4291-01.F 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;

**And whereas** Council for The Corporation of the Town of Aurora 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;

**Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:**

#### 1. Definitions

1.1 In this By-law, the following words have the following meanings:

- (a) **"Building Permit"** means the first permit issued under the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, for a building or structure within the Development or Redevelopment;
- (b) **"Council"** means the Council of the Town;
- (c) **"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;
- (d) **"Director of Operations"** means the Director of Operational Services of the Town, or his, her or their designate;

- (e) **“Director of Planning”** means the Director of Planning and Development Services of the Town, or his, her or their designate;
- (f) **“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;
- (g) **“Land Area”** means:
  - i. The area of land subject to an application for Development or Redevelopment; or,
  - ii. 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;
- (h) **“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;
- (i) **“Natural Hazard Lands”** means Land that could be unsafe for Development or Redevelopment because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (j) **“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;
- (k) **“Privately Owned Public Spaces (POPS)”** means physical space that is privately owned but appears and functions as public space. These spaces: are secured through an easement in favour of the Town; are designed and maintained to the standards established by the Town; and remain open and accessible to the public or on a schedule established by agreement with the Town;
- (l) **“Planning Act”** means the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or successor legislation;
- (m) **“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;
- (n) **“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;

- (o) **“Strata Park”** means publicly owned parkland or a publicly accessible privately owned open space located on top of buildings or structures, including but not limited to parking garages. The strata component of this definition refers to the horizontal delineation of ownership, as it is described in the *Condominium Act, 1998*, S.O. 1998, c. 19;
- (p) **“Town”** means The Corporation of the Town of Aurora, or where the context requires, the geographical jurisdiction of The Corporation of the Town of Aurora;
- (q) **“Treasurer”** means the Treasurer of the Town and his, her or their designate.

## 2. **Lands Affected**

2.1 This By-law applies to all lands within the corporate limits of the Town.

## 3. **Calculation of Conveyance and/or Payment in Lieu**

### 3.1 **Required Parkland Conveyance and/or Equivalent Payment in Lieu for Non-Residential Purposes**

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

- (a) **Commercial Purposes and Industrial Purposes:** Where any form of Development or Redevelopment is proposed for commercial purposes or industrial purposes, and where no prior parkland dedication has been provided for the Development or Redevelopment, or payment in lieu paid, the Town 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 Town.
- (b) **All Other Non-Residential Purposes:** Where any form of Development or Redevelopment is proposed for other non-residential purposes, and where no prior parkland dedication has been provided for the Development or Redevelopment, or payment in lieu paid, the Town 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 Town.

### 3.2 **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 Town shall require the conveyance of land and/or equivalent payment in lieu to the Town for parks and other public recreational purposes based on the pro-rated mixture of land uses proposed in accordance with the other sections of this By-law.

### 3.3 **Required Parkland Conveyance and/or Equivalent Payment in Lieu for Residential Development**

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

- (a) The Town shall require 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 Town. As an alternative, 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 Net Dwelling Units, whichever is greater.

### 3.4 **Strata Parks and POPS**

The Town, in its sole discretion, may accept the following lands toward satisfying the parkland dedication requirements to the satisfaction of the Town:

- (a) lands that are subject to Strata Park arrangements will be accepted at a pro-rated rate based on percentage of use and ownership to a maximum 50% parkland dedication credit, subject to legal agreements being entered into with the Town and registered on title to the lands, which addresses matters including but not limited to, maintenance, programming, and operations, to the satisfaction of the Town;
- (b) lands that are Privately Owned Public Spaces will be accepted at a rate of 100% parkland dedication credit toward parkland dedication, subject to legal agreements being entered into with the Town and registered on title to the lands, which addresses matters including but not limited to, maintenance, programming, and operations, to the satisfaction of the Town.

### 3.5 **Maximum Conveyance or Payment in Lieu**

Notwithstanding subsections 3.2, 3.3 or 3.4, 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 Area or the value of the Land Area, 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 Area or the value of the Land Area, as the case may be.

## 4. **Parkland Dedication 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:

- (a) there is a change in the proposed Development or Redevelopment 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 and industrial purposes are instead proposed for Development or Redevelopment for Residential Purposes or any other non-residential land use that generates 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 Purpose, 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 or land use proposed and the value determined the day before the day that the first Building Permit is issued.

#### 4.2 Credits Considered

Parkland dedication credits may be considered by the Town where an applicant has over-provided a parkland dedication for a Development or Redevelopment. Within two years of the over-provided parkland dedication conveyance or payment by the applicant, and at the sole discretion of the Town, the Town may require a lesser parkland dedication on another Development or Redevelopment by the same applicant, at an appropriate value as determined by the Town and subject to the applicant and the Town entering into an agreement, if required.

#### 5. Determining when Payment in lieu is appropriate

- 5.1 The Town shall determine when payment in lieu of a land conveyance is acceptable versus where a land conveyance will be required. The Town 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.

#### 6. Timing for Land Value Assessment

- 6.1 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 By-law:
  - (a) 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;
  - (b) 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*.

#### 7. Administration

### 7.1 Delegation to Staff

Council hereby delegates to the Director of Planning and the Director of Operations the administration of this By-Law, including the authority to:

- (a) negotiate parkland dedication and/or payment of an equivalent payment in lieu for each Development or Redevelopment, and execution of parkland dedication agreements or amendments thereto as may be necessary, in accordance with the provisions of this By-Law;
- (b) establish the location and configuration of land required to be conveyed;
- (c) establish the value of land for the purpose of calculating any required payment; and,
- (d) maintain records of all lands and payment in lieu received and include 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 annually 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.

### 7.2 Agreements Apply

Notwithstanding any other provisions in this By-law, where before, or after the passing of this By-law, the Director of Planning has entered into 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 By-law.

### 7.3 Condition of Land

Where land is required to be conveyed to the Town for parks and other public recreational purposes:

- (a) subject to 3.4 above, the land shall be free and clear of all legal and other encumbrances;
- (b) except in accordance with this By-law, the Town will not accept lands that restrict public programming on the lands in any way;
- (c) where ordered by the Minister, encumbered lands which are considered programmable to the satisfaction of the Town may be accepted at a maximum rate of 50% parkland dedication credit towards satisfying the parkland dedication requirements;
- (d) the Town may require the delivery 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 park or other public recreational purposes. Prior to accepting lands for park or other public recreational purposes, the Town reserves the right

to require a Phase 2 Environmental Site Assessment be undertaken following the Phase 1 Environmental Site Assessment.

- (e) the Town shall have the right to refuse the conveyance of land that is deemed unsuitable for park or public recreation purposes which includes, but is not limited to, the following:
  - i. land that has been or will be conveyed to the Town for stormwater management facilities, highways, roadways, walkways, or any other non-parkland purpose;
  - ii. Natural Hazard Lands;
  - iii. lands that are constrained or otherwise deemed undesirable by the Town due to, among other things, their size, location, grade, drainage, flooding, or configuration;
  - iv. lands which have unsuitable or unstable soil conditions, including lands which are contaminated;
  - v. utility rights of way or easements, including but not limited to hydro, gas, cable, and telecommunications.

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

#### 7.4 Exemptions

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

- (a) Development or Redevelopment undertaken by the Province of Ontario, a municipality including any corporation owned, controlled, and operated by the Town or the Regional Municipality of York, or a Board of Education as defined in the *Education Act*, R.S.O., 1990, c.E2;
- (b) Non-profit housing development defined in subsection 4.2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27;
- (c) replacement of an existing Dwelling Unit on an existing lot;
- (d) 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*, S.O. 2021, c. 39, Sched 1;
- (e) a college or university in Ontario that receives direct, regular, and ongoing operating funding from the Government of Ontario;
- (f) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched 20;
- (g) public hospitals;

- (h) 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;
- (i) 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;
- (j) 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;
- (k) temporary sales structures; and
- (l) places of worship.

**7.5 Valuation of Land**

The valuation of land shall be based on vacant land on a date as determined by this By-Law and in accordance with the Town’s land valuation policies.

**7.6 Severability**

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

**7.7 Repeal**

By-law Number 4291-01.F be and is hereby repealed.

**7.8 Short Title**

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

**Enacted by Town of Aurora Council this 11th day of July, 2023.**

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**Tom Mrakas, Mayor**

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**Michael de Rond, Town Clerk**