



Report to: Development Services Committee

Meeting Date: July 8, 2025

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<b>SUBJECT:</b>	Recommendation Report - Parkland Dedication By-law Update
<b>PREPARED BY:</b>	Jyoti Pathak, Project Manager, Parks Planning, ex 2034
<b>REVIEWED BY:</b>	Richard Fournier, Sr. Manager Parks Planning, Design & Construction, ex 2120

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#### **RECOMMENDATION:**

1. That the July 8, 2025 report titled 'Parkland Dedication By-law Update' be received; and,
2. That Council approve the corresponding by-law 'Parkland Conveyance By-law' at the July 8, 2025 Council meeting; and further,
3. That staff be authorized and directed to do all things necessary to give effect to this resolution.

#### **PURPOSE:**

The purpose of this report is to seek approval of an updated 'Parkland Conveyance By-law' attached as 'Attachment A' in response to Bill 23 and the related changes to section 42 and section 51.1 of the Planning Act. Considering recent legislative changes, the update aims to maximize parkland specifically for residential subdivision proposals for which the alternative rate is applicable for medium and high-density residential and mixed-use blocks.

#### **BACKGROUND:**

Section 42 of the Planning Act authorizes Council to pass a by-law to require the conveyance of land, or payment in lieu of such conveyance, for park or other public recreational purposes as a condition of development or redevelopment of land. A by-law is also required to apply alternative criteria pursuant to section 42 and section 51.1, as outlined in the Planning Act.

The City of Markham's Parks Plan (2022) establishes a minimum citywide parkland provision target of 1.2 hectares of parkland per 1000 population.

Markham's current Parkland Dedication By-law- 2022-102 was passed by Council in September 2022 in response to Bill 197. The by-law is currently under appeal to the Ontario Land Tribunal (OLT).

Shortly after passing the 2022 Parkland Dedication By-law, the province passed Bill 23, 'More Homes Built Faster Act' which included a series of changes to section 42 of the Planning Act, including alternative criteria for parkland conveyance. Some of these amendments came into force effective November 28, 2022 or later, and others have not yet been proclaimed into force at the time of this report.

## **OPTIONS/ DISCUSSION:**

Staff initiated the review and update of the Parkland Dedication By-law in response to the changes in legislation through Bill 23. The updated by-law will ensure the City continues to utilize available tools to optimize parkland and to require conveyance of land or payment in lieu of such conveyance for parks and other recreational purposes to meet the needs of the growing population as permitted by the Planning Act.

The scope of the project included a review of the current legislation, Markham's existing Parkland Dedication By-law and preparation of a new Parkland Conveyance By-law. The following is a list of relevant legislation and City of Markham policies, plans, and documents that help inform this report and Staff's recommendation:

### **1. Bill 23**

The amendments currently in force and effect are the following:

- Subsections 42(2.1) - 42(2.4): The determination of parkland dedication for a building permit issued within two years of a Site Plan and/or Zoning By-law Amendment approval would be subject to the requirements of the by-law as at the date of the planning application submission.
- Statutory exemptions for two additional accessory residential units
- Reduction to the alternative requirements provisions:
  - Subsection 42(3): For land conveyance, the alternative requirement of 1 hectare (ha.) per 300 dwelling units is reduced to 1 ha. per 600 net residential units.
  - Subsection 42(6.0.1): For payment in lieu of conveyance of land the alternative requirement of 1 ha. per 500 dwelling units is reduced to 1 ha. per 1,000 net residential units.
  - Subsection 42 (3.3): Parkland conveyance and payment in lieu both are now capped at 10% of the land area, or land value, where the land proposed for development is less than 5 ha, and 15% of the land area or land value where the land proposed for development is 5 ha. or greater.

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- Subsections 42 (1.1) and 42(3.0.3): Statutory exemption for affordable residential units and attainable residential units, as defined in subsection 4.1 (1) of the Development Charges Act, 1997,
  - Subsection 42(1.2): A by-law passed under section 42 of the Planning Act does not apply to non-profit housing development defined in subsection 4.2 (1) of the *Development Charges Act, 1997*.

Parkland Regulation to enable the owners to identify lands for conveyance, as outlined below, has not been issued yet by the Province and new parkland powers and appeals in subsections 42(4.30) to (4.39) are still waiting to be proclaimed

- Applicants will be allowed to identify lands to meet parkland conveyance requirements, within regulatory criteria. These lands may include encumbered lands and Privately Owned Publicly Spaces (POPS). The suitability of land for parks and recreational purposes will be appealable to the Ontario Land Tribunal.

## **2. Current Legislation - Section 42 of the Planning Act**

Under section 42 of the Planning Act, the City may require, as a condition of development or redevelopment, through by-law, conveyance of land or payment in lieu of parkland. The Planning Act establishes a general/ standard rate of up to two per cent (2%) of the land proposed for development or redevelopment for commercial and industrial purposes (or payment in lieu thereof), and five per cent (5%) of land (or payment in lieu thereof), proposed for all other development or redevelopment.

Section 42 also permits municipalities to utilize an “alternative requirement” whereby a municipality may require parkland for the land proposed for development or redevelopment for residential purposes, be conveyed to the municipality for park or other recreational purposes at a rate of one hectare for every 600 net residential units proposed. Alternatively, Council may require payment in lieu of land, calculated by using a rate of one hectare for each 1,000 net residential units proposed or such lesser rate as may be specified in the by-law.

The alternative requirement results into a greater parkland requirement compared to the standard rate of 5% for the proposed medium and high-density residential developments.

## **3. Current Legislation - Section 51.1 of the Planning Act**

Subsection 51.1(2) of the Planning Act allows municipalities to apply an alternative rate of one hectare for each 600 net residential units proposed or at such lesser rate as may be determined by the municipality in the case of a subdivision proposed for residential purposes. To maximize parkland conveyance post Bill 23, the most effective approach is to apply the alternative rate criteria upfront at the time of approval of a draft plan of subdivision based on the number of net residential units proposed. At this stage in the development, there is the greatest opportunity to identify and secure the most optimal locations and largest contiguous parkland.

#### **4. Official Plan Requirement**

For the alternative requirement to be included in a by-law, a municipality's Official Plan must contain specific policies dealing with the provision of land for park or other public recreational purposes and the use of the alternative requirement.

The alternative requirement authorized by subsection 42(3) of the Planning Act may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement.

Markham Official Plan 1987 Policy 3.9.4 is currently in effect which deals with the provision of lands for park or other public recreational purposes and the use of the alternative requirement for residential purposes.

#### **5. Parks Plan (2022)**

The Parks Plan (2022) is a statutory document approved by Council under section 42 of the Planning Act. The Parks Plan establishes the community's need for parkland and sets out a citywide parkland provision target of 1.2 hectares of parkland per 1,000 population. Council has approved a reduced parkland provision target of 0.4 hectare of parkland per 1,000 population for the proposed intensification areas within Markham.

#### **6. Integrated Leisure Master Plan (ILMP) 2019**

The Integrated Leisure Master Plan is a long-range planning study for Markham's parks, recreation, arts & culture and library facilities and services. It identifies current needs, service improvements, and future facility provision strategies. The City of Markham is committed to providing safe, accessible, and community-responsive services and facilities that appeal to a wide range of interests and abilities. Bill 23 changes have significantly impacted the City's ability to achieve outdoor recreation facility provision targets and updating the Parkland Conveyance By-law supports meeting ILMP objectives.

Relying only on parkland conveyance provisions permitted under the Planning Act for acquisition of parkland through approval of development applications is no longer sufficient enough to achieve the parkland targets outlined in the City's Official Plan and Parks Plan due to the amendments to the Planning Act, through Bill 23.

With property values demonstrating a continued increase over the long term and accelerated by market demand for housing, to avoid reduction in service levels, parkland acquisition will need to be supplemented with community benefits charges, tax supported funding and other funding sources to deliver adequate and timely parks infrastructure.

### **Land Valuation for the purpose of calculation of payment in lieu of land**

The updated by-law will continue to provide a fair approach to determine market values of development lands through site-specific appraisals for all uses. Staff does not support identifying residential unit rate or average land values in the by-law for the purpose of calculation of payment in lieu of land conveyance as they can become outdated quickly and individual properties may have unique features that impact value. Site specific appraisals will deliver more accurate and fair valuations than utilizing averages.

### **Alternative forms of parkland infrastructure**

The City's existing parks system includes alternative forms of parks as follows:

**Strata Parks** are typically located above private parking garage structures in residential condominiums. The strata park has a higher total cost of ownership to the City compared to a conventional park in terms of operating, rehabilitation and replacement costs, to be carried out over the course of its lifecycle.

**Dual-use Parks** are parks encumbered with underground public stormwater management tanks and associated infrastructure.

### **Privately Owned Public Spaces (POPS):**

The City currently does not accept POPS for fulfillment of the parkland conveyance requirement under the Planning Act. In some cases, POPS are being considered and approved to form part of the City's open space system to contribute towards active transportation network/ system or trails. Typically, the City does not accept trails and active transportation links as parkland conveyance.

Staff intends to undertake a city-wide POPS Standards and Guideline Study as part of the Urban Parks Strategy project.

**Alternative Infrastructure Policy (AIP) (2016)**

AIP applies to all infrastructure constructed to support development, which is to be assumed by the City, and that will be more costly for the City to operate, maintain, repair, and replace than more conventional forms of infrastructure that are currently maintained by the City. This Policy sets out a framework for the City to approve alternative forms of infrastructure and the recovery of additional costs incurred by the City in respect of the alternative forms of infrastructure. Where a developer seeks to build infrastructure that has a higher total cost of ownership and more expensive to repair or replace than City Conventional Infrastructure, the City may request payment of the cost differential, based on the cost for two (2) lifecycles to a maximum of 50 years.

**New Parkland Conveyance By-law**

Staff are recommending a new Parkland Conveyance by-law, included as Attachment 'A' which is consistent with section 42 of the Planning Act and the parkland dedication policies currently in effect in the City's Official Plan.

The updated by-law will:

- Establish criteria to maximize the alternative requirement of parkland for site plan and subdivision proposals
- Continue to use the greater of the standard requirement and alternative requirement to calculate parkland conveyance for residential developments
- Incentivize Commercial, Industrial and Institutional Redevelopment by calculating the amount for payment in lieu only for the area of the property impacted due to the redevelopment, if the proposed addition is 50% or more of the existing gross floor area.
- Increase the requirement for development and redevelopment for all other purposes other than industrial, commercial and residential from two percent (2%) to the standard rate of five per cent (5%).
- Incentivizes the high-density residential and commercial mixed-use development or redevelopment by waiving parkland requirements (or equivalent of payment in lieu) for the portion of the building that is for non-residential use.
- Provide flexibility to consider off-site parkland, strata, dual-use or Privately Owned Public Spaces (POPS).
- Provide clarification of what lands will be used for calculation of parkland conveyance and what type of lands will not be accepted as parkland
- Continue to provide a fair approach in determination of market values of development lands through site-specific appraisals for all uses.
- Identify the types of developments which are exempt from the parkland dedication requirement.

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As part of the process to develop a new Parkland Conveyance By-law, and as required by subsection 42(3.1) of the Planning Act, staff has consulted with internal stakeholders, TRCA and provided an update at the Markham City Builders Forum on April 22, 2025. Staff made a presentation and provided an overview of the proposed changes to the by-law and received feedback.

The City's use of the permitted statutory alternative rates makes this new by-law appealable. Appeals to OLT are limited specifically to policies related to the alternative rate for land conveyance, and the alternative rate for payment in lieu of land. The last day for appealing the by-law is August 15<sup>th</sup>, 2025 which is 40 days after Council approval. After passing the by-law, the city will publish notice of by-law passage within 20 days, before July 28<sup>th</sup>, 2025.

## **Conclusion**

The City is experiencing a significant deficit in the amount of parkland conveyance (or payment in lieu) as a result of the More Homes, Built Faster Act, severely impacting the City's ability to achieve its parkland needs, and service level targets.

Staff are bringing forward this updated Parkland Conveyance By-law to bring it into compliance with Bill 23 legislative requirements and to establish criteria to maximize the alternative parkland requirement for residential purposes permitted in section 42 of the Planning Act. This by-law update also proposes increasing the rate to 1 ha per 600 net residential units which is currently set as 0.55 ha per 500 dwelling units in the Parkland dedication By-law-2022-102. The new by-law is consistent with section 42 of the Planning Act and the Parkland Dedication policies currently in effect in the City's Official Plan.

The new Parkland Conveyance By-law will replace the current Parkland Dedication By-law and will allow the City to maximize the parkland requirement using the alternative rate for medium and high-density residential developments and redevelopment blocks included in the plans of subdivisions and site plans.

The by-law supports the City's vision of safe, sustainable, healthy and complete neighborhoods and communities.

## **FINANCIAL CONSIDERATIONS**

### **Parkland Reserve Fund**

Section 42(15) of the Planning Act requires that all funds collected through payment in lieu of parkland dedication or the sale of lands dedicated as parkland be deposited in a special account to be spent only for the acquisition of land, the construction, improvement or repair of buildings, and the acquisition of machinery for park and other recreational purposes.

The City maintains a Parkland Reserve Fund created pursuant to this section.

This reserve fund is one of the primary funding sources for parkland acquisitions and is used through the capital budget planning process, subject to Council approval.

Staff anticipate that the City will be able to acquire more parkland (or payment in lieu) by replacing the reduced alternative rate of 0.55 ha per 500 dwelling units identified in the Parkland Dedication By-law 2022-102 with the maximum permitted alternative rate according to the Planning Act.

### **Operating Impact**

If the land value appraisal submitted by the landowner is not satisfactory, the updated by-law proposes that the City obtain an independent site-specific appraisal. Any costs to obtain an appraisal will be managed through Legal Services Operating Budget.

### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

The Parkland Dedication By-law update is aligned with Building Markham's Future Together: 2020-2026 Strategic Plan, particularly with the goals of Engaged, Diverse, Thriving and Vibrant City, a Safe, Sustainable and Complete Community and Stewardship of Money & Resources.

### **BUSINESS UNITS CONSULTED AND AFFECTED:**

Parks Planning, Development Planning, Policy Planning, Recreation, Building Standards, Real Property, Legal Services and Finance have been consulted.

### **RECOMMENDED BY:**



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M.C.I.P., R.P.P.  
Director of Planning &  
Urban Design

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Trinela Cane  
  
Acting Commissioner of  
Development Services

**ATTACHMENTS:**

Attachment A – Proposed Parkland Conveyance By-law