

A By-law to require the conveyance of land or the payment of
cash-in-lieu for park or other public recreational purposes

WHEREAS sections 42, 51.1 and 53 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, provide that the Council of a local municipality may by by-law or condition of approval require that land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of lands;

AND WHEREAS sections 42 and 51.1 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, provide that in the case of land proposed for development or redevelopment for residential purposes, an alternative requirement of one hectare for each 300 dwelling units proposed provided the municipality has an official plan that contains specific policies dealing with the provision of lands for park and other public recreational purposes;

AND WHEREAS sections 42 and 51.1 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, provide that municipalities may require payment of in lieu of land at rate of one hectare for each 500 dwelling units proposed;

AND WHEREAS section 3.9 of the City of Markham Official Plan, 1987, contains policies dealing with the provision of lands for park and other recreational purposes and the use of the alternative requirement of one hectare for each 300 dwelling units;

AND WHEREAS the City of Markham Official Plan, 1987, sets a City wide parkland standard of 1.2 hectares of parkland per one thousand people;

AND WHEREAS the City has determined that alternative rates for parkland and in lieu payments are appropriate to promote high density developments and to ensure the achievement of the 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:

1. In this by-law,

a. “**Affordable**” means,

In the case of ownership housing, the least expensive of:

- a) housing for which the purchase price results in annual accommodation costs not exceeding 30 percent of gross annual household income for low and moderate income households; or
- b) housing for which the purchase price is at least 10 percent below the average purchase price or a resale unit in the regional market area;

In the case of rental housing, the least expensive of:

- a) a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or
- b) a unit for which the rent is at or below the average market rent of a unit in the regional market area.

For the purposes of this definition, “low and moderate income households” means in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for Markham with particular attention to households in the lowest 30 percent of the income distribution or, in the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for rental households in Markham with particular attention to the households in the lowest 30 percent of the income distribution.

- b. **"Apartment Building"** means a Residential building, other than a Townhouse, Back-to-Back Townhouse or Stacked Townhouse, where the Residential units are connected by an interior corridor or have a common entrance to grade;
- c. **"Back-to-Back Townhouse"** means a Residential building other than a Plex, Stacked Townhouse or Apartment Building, that is vertically divided and contains a minimum of six units, each of which has an independent entrance to grade and each of which shares a common wall, including a rear wall, with adjoining units above grade;
- d. **"City"** means the Corporation of the City of Markham;
- e. **"Convey"** means conveyance free and clear of all encumbrances, and “conveyed” and “conveyance” shall have the same meaning;
- f. **"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 that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot, and includes the subdivision of land;
- g. **"Duplex"** means a building that is divided horizontally into two units, each of which has an entrance either directly to the outside or through a common vestibule;
- h. **"Fourplex"** means a building that is divided horizontally or a combination of horizontally and vertically into four units, each of which has an independent entrance to the outside or through a common vestibule;
- i. **"Gross Floor Area (GFA)"** means the total floor area (inside the building envelope, including the external walls, and excluding the roof) above and below grade less area dedicated to underground parking or associated parking structure;
- j. **"Land Area"** means the total amount land that is the subject of an application for Development or Redevelopment;
- k. **"Live Work Unit"** means a unit which contains separate areas intended for Residential and Non-Residential uses, that share a common wall with direct access between the Residential and Non-Residential areas;

- l. **“Mixed-Use Development”** means Development or Redevelopment designed or intended to be used for Residential and Non-Residential uses where:
 - a) The Non-Residential uses comprise not more than 50 percent of the Gross Floor Area; and
 - b) A minimum of 100 square metres of Gross Floor Area is used for Non-Residential uses;
- m. **“Non-Profit Housing Corporation”** means a corporation without share capital that has objects of a charitable nature;
- n. **“Non-Residential”** means Development or Redevelopment designed or intended for other than residential use, including the Non-Residential portion of a Live-Work Unit;
- o. **“Plex”** means a Duplex, a Semi-Detached Duplex, a Triplex, a Fourplex, or a Semi-Detached Triplex;
- p. **“Redevelopment”** means the removal of buildings or structures from land and further development on the land, or the substantial renovation of a building or structure and a change in the character or density of use in connection therewith;
- q. **“Residential”** means lands, buildings or dwelling units designed or intended to be used as a residence for one or more individual;
- r. **“Residential Medium and High Density Apartments”** means Development or Redevelopment that is Stacked Townhouses or Apartment Buildings containing more than three units;
- s. **“Semi-Detached Duplex”** means one of a pair of attached Duplexes, each Duplex divided vertically from the other by a party wall;
- t. **“Semi-Detached Triplex”** means one of a pair of Triplexes divided vertically one from the other by a party wall;
- u. **“Stacked Townhouse”** means Residential Development or Redevelopment, other than a Plex, Townhouse, Back-to-Back Townhouse or Apartment Building, containing at least 3 units, each units being separated from the other vertically and/or horizontally and each unit having an entrance to grade that may be shared with no more than 3 other units;
- v. **“Townhouse”** means a Residential building other than a Plex, Stacked Townhouse, Back-to-Back Townhouse or an Apartment Building, that is vertically divided into a minimum of three units, each of which has an independent entrance to grade, and each of which shares a common wall with adjoining units above grade;

- w. **"Triplex"** means a Residential building that is divided horizontally or a combination of horizontally and vertically into three units, each of which has an independent entrance to the outside or through a common vestibule.
2. This By-law applies to all lands within the corporate limits of the City.
3. As a condition of Development or Redevelopment of land subject to this By-law, the owner of the land shall Convey (or cause to be Conveyed) to the City land for park or other public recreational purposes at a rate of:
- a. for Residential Medium and High Density Apartments: 0.55 hectare per 500 dwelling units proposed;
 - b. for all other Residential Development or Redevelopment, the greater of:
 - i. five percent (5%) of the land proposed for Development or Redevelopment; and
 - ii. one hectare (1 ha) for each three-hundred (300) dwelling units proposed;
 - c. for land proposed for Development or Redevelopment for all Non-Residential purposes: two percent (2%) of the land proposed for Development or Redevelopment;
 - d. for Mixed Use Development or Redevelopment where the Residential component includes Residential Medium and High Density Apartments, the Conveyance shall be determined according to the following formula:

$$\left(\frac{\text{Number of Residential Dwelling units}}{500} \right) \times 0.55 \text{ hectare} \\ + \left(\frac{\text{GFA for Non Residential Uses}}{\text{GFA for All Uses}} \times 2\% \times \text{Land Area} \right)$$

- e. for Mixed Use Development or Redevelopment where the Residential component is not Residential Medium and High Density Apartments the conveyance shall be determined according to the following formula:

$$\text{The Greater of} \left(\begin{array}{c} \left(\frac{\text{GFA for Residential Uses}}{\text{GFA for All uses}} \right) \times 5\% \times \text{Land Area} \\ \text{or} \\ \left(\frac{\text{Number of Residential Dwelling Units}}{300} \times 1 \text{ hectare} \right) \end{array} \right) \\ + \left(\frac{\text{GFA for Non Residential Uses}}{\text{GFA for All Uses}} \times 2\% \times \text{Land Area} \right)$$

Or;

- f. for additions to existing Non-Residential buildings according to the following formula:

$$\left(\frac{\text{New GFA}}{\text{New GFA} + \text{Existing GFA}} \right) \times 2\% \times \text{Land Area}$$

But in no event shall the amount of land required be greater than 2% of the Land Area.

4. As an alternative to requiring the Conveyance in section 3, the City may, in its sole discretion, require a payment in lieu equivalent to the value of the land calculated in accordance with the Planning Act, R.S.O. 1990 c.P.13, as amended otherwise required to be Conveyed at a rate of:

- a. For Development or Redevelopment subject to section 3 (a): 0.55 hectare per five hundred (500) dwelling units proposed;
- b. For Development or Redevelopment subject to section 3 (b), the greater of:
 - i. five percent (5%) of the land proposed for Development or Redevelopment;
 - ii. one hectare (1 ha) for each five hundred (500) dwelling units proposed;
- c. For Development or Redevelopment subject to section 3(c) s: two percent (2%) of the land proposed for Development or Redevelopment;
- d. for Mixed Use Development or Redevelopment where the Residential component includes Residential Medium and High Density Apartments which is subject to 3 d):

$$\left(\frac{\text{Number of Residential Dwelling units}}{500} \right) \times 0.55 \text{ hectare} \\ + \left(\frac{\text{GFA for Non Residential Uses}}{\text{GFA for All Uses}} \times 2\% \times \text{Land Area} \right)$$

Or;

- e. for Mixed Use Development or Redevelopment where the Residential component is not Residential Medium and High Density Apartments which is subject to 3 e) :

$$\text{The Greater of } \left(\begin{array}{c} \left(\frac{\text{GFA for Residential Uses}}{\text{GFA for All uses}} \right) \times 5\% \times \text{Land Area} \\ \text{or} \\ \left(\frac{\text{Number of Residential Dwelling Units}}{500} \times 1 \text{ hectare} \right) \end{array} \right)$$

$$+ \left(\frac{GFA \text{ for Non Residential Uses}}{GFA \text{ for All Uses}} \times 2\% \times Land \text{ Area} \right)$$

5. Residential Development or Redevelopment undertaken by Housing York Inc. or a Non-Profit Housing Corporation where more than 50% of units are Affordable are exempt from the parkland dedication requirements of this By-law.
6. Notwithstanding section 5, Council may also exempt other Residential Development or Redevelopment which provides housing that is Affordable.
7. The City, at its sole discretion, may accept a combination of Conveyance of land and payment in lieu in order to satisfy the requirements of this By-law.
8. All land Conveyed to the City pursuant to this By-law or as a condition of approval shall be in physical condition satisfactory to the City.
9. The City may accept parkland where the ownership of the land is stratified, or where the parkland is encumbered, including by underground structures.
10. In determining whether to accept parkland pursuant to section 9 the City may consider:
 - a. What amount the value of the parkland should be discounted in determining whether the requirements of this By-law are met;
 - b. Whether the land is encumbered by underground structures, including but not limited to parking garages or stormwater infrastructure;
 - c. What agreements may be required to ensure park design standards, public access and park maintenance are maintained to the City's satisfaction.
11. By-law 195-90 is hereby repealed.