

The Corporation of the Town of Ajax
By-law Number 60-2022

Being a By-Law to require the conveyance of land or cash-in-lieu thereof for parks and other recreational purposes, in accordance with the provisions of the *Planning Act*, R.S.O., 1990, c.P.13.

Whereas, Sections 42, 51.1 and 53 of the *Planning Act*, R.S.O. 1990, c P. 13, as amended (the Act), authorizes the Town to pass By-laws requiring the conveyance of land or cash-in-lieu thereof to the municipality for parks and other recreational purposes, as a condition of Development or Redevelopment, the subdivision of land, or the granting of provisional consent;

And whereas, the Council of the Corporation of the Town of Ajax wishes to exercise this authority to further the acquisition of lands and acceptance of cash-in-lieu thereof for parks and other recreational purposes;

And whereas, the Town of Ajax has adopted Official Plan policies pertaining to the conveyance of land and cash-in-lieu thereof for parks or other recreational purposes, and the use of the alternative requirement in accordance with the *Planning Act* and the Town's Official Plan;

Now Therefore, the Council of the Corporation of the Town of Ajax hereby **enacts as follows**:

1.0 Short Title

1.1 This by-law may be cited as the "Parkland Dedication By-law".

2.0 Definitions

In this by-law:

- a) "Agricultural Operation" means land, buildings or structures used for general farm practices including such uses as breeding and rearing of livestock, including poultry, fowl and fur-bearing animals, the general cultivation of land and associated production, conditioning, processing and storing of field crops, fruits, vegetables and horticultural crops and the selling of such produce on the premises. For the purposes of this by-law, "agricultural operations" shall exclude greenhouses and retail sales and commercial activities, including but not limited to restaurants, banquet facilities, hospitality and accommodation facilities, gift shops, services related to grooming, boarding, or breeding of household pets, and marijuana and alcohol processing or production facilities;
- b) "Accessory Dwelling Unit" means a separate dwelling unit located on the same lot as one detached, semi-detached or townhouse dwelling, and is subordinate or incidental to the principal dwelling;
- c) "Building Permit" means a permit issued under the *Building Code Act, 1992*, SO 1992, c. 23, as amended or successor thereto;
- d) "Cash-in-lieu" means the payment of money for park or other public recreational purposes which is collected in lieu of conveyance of land which would otherwise be required to be conveyed pursuant to the parkland provisions of the *Planning Act* as implemented by this by-law;
- e) "Cemetery" means the same as the Town's Zoning By-law, as amended;
- f) "Commercial" means the use of land, building or structure, or a portion thereof, for the purposes of buying, selling, or providing commerce, trade, business or recreation services, including but not limited to offices, restaurants, personal service, retail store, temporary lodging, places of gathering and places of entertainment, but shall be distinctive from an Industrial use;

- g) “Council” means the Council of the Corporation of the Town of Ajax;
- h) “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 “Develop”, “Redevelop” and “Redevelopment” have corresponding meanings;
- i) “Gross Floor Area” means the aggregate of the floor area measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, excluding any area for the purposes of parking a motor vehicle or bicycle;
- j) “Hospital” means an institution, building or other premises or place that is established for the purposes of treatment of patients and that is approved under the *Public Hospitals Act*, 1990, R.S.O. c. P.40, as amended or successor thereto;
- k) “Industrial” means the use of land, building or structure, or a portion thereof, for use in connection with manufacturing, processing or assembly of materials, goods, wares, articles or things to finished products or by-products, including the warehousing, bulk storage, self-storage, and distribution of such materials and products, and may include an office, research and development facility or retail sale of goods manufactured, processed or distributed in connection with the use, and a greenhouse;
- l) “Mixed-use Building” means a building containing both Residential and Commercial uses;
- m) “Official Plan” means the Town of Ajax Official Plan, as amended;
- n) “Planning Act” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or successor thereto;
- o) “Residential” means the use of land, building or structure for the provision of one or more dwelling unit, where each dwelling unit is an independent housekeeping unit with its own kitchen and sanitary facilities;
- p) “Town” means the Corporation of the Town of Ajax;
- q) “Zoning By-law” means the Town’s Comprehensive Zoning By-law 95-2003, as amended, or any successor thereto.

3.0 Statutory Authority

- 3.1 The *Planning Act* provides the statutory framework for municipalities to require land for park and public recreational purposes or require the payment of money based on the value of the land otherwise required to be conveyed in lieu of the conveyance.

4.0 Delegation of Authority

- 4.1 The authority to determine whether a conveyance of a portion of the lands to be Developed or Redeveloped, or the payment of cash-in-lieu of such conveyance in accordance with this by-law shall be delegated to the Director of Planning and Development Services, or an officer or employee of the Town designated by the Director of Planning and Development Services.

5.0 Conveyance of Parkland Dedication Requirements

- 5.1 Parkland dedication requirements are identified through the Development approval process for: draft plans of subdivision, site plan applications, consent applications, and building permit applications. It shall be the responsibility of Town staff to identify the requirement for the dedication of land, or cash-in-

lieu thereof.

5.2 As a condition of Development or Redevelopment of lands within the Town, Council requires land to be conveyed to the Town for park or other recreational purposes such that:

- a) In the case of land proposed for Development or Redevelopment for Commercial or Industrial purposes, two percent (2%) of lands shall be conveyed to the Town.
- b) In the case of land proposed for Development or Redevelopment for Residential purposes, land is to be conveyed at a rate of:
 - i. Five percent (5%) for low density Residential;
 - ii. One (1) hectare per five hundred (500) dwelling units for medium density Residential; and
 - iii. One (1) hectare per five hundred fifty (550) dwelling units for high density Residential.
- c) For all other cases of Development or Redevelopment not identified in sections 5.2 a) or b), or Section 10.1, five percent (5%) of land shall be conveyed to the Town.

5.3 For the purposes of this by-law, density refers to the rate of Residential units generated per net hectare on a Development site and can be categorized as Low Density Residential, Medium Density Residential or High Density Residential based upon the numerical ranges identified in the Official Plan. Where the density of a Development site falls within the permitted range of more than one density category (e.g. Medium Density Residential and High Density Residential), the density category resulting in the greatest dedication requirement shall apply.

5.4 Parkland dedication for lands with multiple density categories shall be calculated on a proportionate basis using the land area dedicated to each use and shall be the sum of the cumulative value.

6.0 Cash-in-lieu of Parkland Dedication Requirements

6.1 As a condition of Development or Redevelopment of lands within the Town, the Town may elect, in its sole discretion, to receive cash-in-lieu for parkland and other public recreational purposes, in accordance with the following:

- a) In the case of land proposed for Development or Redevelopment for Commercial or Industrial purposes, two percent (2%) of the market value of the land that would otherwise be conveyed to the Town.
- b) In the case of land proposed for Development or Redevelopment for Residential purposes, the market value of the land that would be otherwise conveyed to the Town at a rate of:
 - i. Five percent (5%) for low density Residential;
 - ii. One (1) hectare per five hundred (500) dwelling units for medium density Residential; and
 - iii. One (1) hectare per six hundred fifteen (615) dwelling units for high density Residential.
- c) For all other cases of Development or Redevelopment not identified in 6.1 a) or b), or Section 10.1, five percent (5%) of the market value of land that would otherwise be conveyed to the Town.

6.2 For the purposes of this by-law, density refers to the rate of Residential units generated per net hectare on a Development site and can be categorized as Low Density Residential, Medium Density Residential or High Density Residential based upon the numerical ranges identified in the Official Plan.

Where the density of a Development site falls within the permitted range of more than one density category (e.g. Medium Density Residential and High Density Residential), the density category resulting in the greatest dedication requirement shall apply.

- 6.3 Cash-in-lieu of parkland dedication for lands with multiple density categories shall be calculated on a proportionate basis and shall be the sum of the cumulative dedication.
- 6.4 In the case of cash-in-lieu payment made pursuant to Section 42 of the Act, the payment shall be based on the value of land as of the day before the building permit is issued or, where more than one permit is required for the Development, as of the day before the day of the issuance of the first building permit.
- 6.5 In the case of approval under Sections 51.1 (draft plan of subdivision) and 53 (consent) of the *Act*, the cash-in-lieu payment shall be based on the market value of the lands established one day prior to final approval, following clearance of all conditions, of a plan of subdivision or consent.
- 6.6 The market value of the land for which the cash-in-lieu payment is based upon shall be established by way of a formal land appraisal prepared by a qualified professional appraiser of real estate who is accredited to appraise all types of land, including experience appraising the land type considered in the application. The appraisal shall be obtained at the sole cost of the owner. All appraisals obtained pursuant to this by-law shall state the criteria used to determine the market value within the appraisal to the satisfaction of the Town. Where a peer review of an appraisal is required in the opinion of the Town, the owner shall be required to cover the cost of such peer review.
- 6.7 An appraisal filed with the Town shall remain valid for a maximum of one (1) year from the date of appraisal.
- 6.8 If land has been conveyed or is required to be conveyed to the Town for park or other public purposes or a payment in lieu has been received by the municipality or is owing to it under this section or a condition imposed under section 51.1 or 53, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by a municipality in respect of subsequent Development or Redevelopment unless,
 - a) there is a change in the proposed Development or Redevelopment which would increase the density of Development; or
 - b) land originally proposed for Development or Redevelopment for Commercial or Industrial purposes is now proposed for Development or Redevelopment for other purposes.

7.0 Combined Parkland Conveyance and Cash-in-lieu

- 7.1 Partial conveyance of parkland shall be discouraged. Where a Development is to provide a partial conveyance of parkland and the remaining value as a cash-in-lieu payment, the applicable parkland dedication requirement for the parkland conveyance shall be applied first and cash-in-lieu requirement for the remaining dwelling units shall be utilized to calculate the cash-in-lieu balance owing.

8.0 Calculation of Cash-in-lieu of Parkland Dedication for a Mixed-use Building

- 8.1 Where a single parcel of land is to be Developed for a Mixed-use Building, the respective parkland dedication requirements shall continue to be applied in the same proportion as the gross floor area for the non-residential use and the number of units for the residential use. The following formula shall be applied:

Value of parkland dedication = $(.02 \times A \times (B/C) + ((E/F) \times A^*)$

Where:

A = Appraised value of land

A* = Appraised per hectare value of land

B = Gross Floor Area of non-Residential use

C = Total Gross Floor Area of building

E = Number of Residential units

F = Applicable Residential parkland dedication requirement (500 or 615)

9.0 Exemptions

9.1 Parkland dedication shall not apply to the following Development or Redevelopment:

- a) Land, buildings or structures owned and used in connection with a municipal and other governmental use, or a Conservation Authority having jurisdiction within the Town;
- b) In connection with additions to a Residential building that do not result in an increase in dwelling units, excluding Accessory Dwelling Units;
- c) The creation of up to two accessory dwelling units on land containing an existing detached, semi-detached or townhouse dwelling permitted in accordance with the Town's Official Plan and Zoning By-law;
- d) In connection with additions to existing Commercial and Industrial buildings;
- e) Land, building or structures owned and used by a "School" or "District School Board" as defined in the *Education Act, R.S.O. 1990, c.E.2*, as amended or successor thereto;
- f) Land, building or structure used for a Hospital or hospice, or accessory use thereof on the same land;
- g) The replacement of any building that is demolished or destroyed by fire, natural disaster, or any other cause beyond the owner's control provided that there is no increase in density or gross floor area beyond which previously existed;
- h) Temporary buildings, structures, or uses pursuant to Section 39 of the Act;
- i) Agricultural operation buildings or structures, excluding greenhouse;
- j) A cemetery.

10.0 Over Dedication of Parkland or Credits

10.1 The Town's long range planning for parks and open spaces may result in plans of subdivision requiring an over dedication of parkland. In these situations, the Town shall compensate the developer for the over-dedication as a condition of draft approval under Section 51 of the Act.

10.2 Where Development or Redevelopment located within the Downtown Region Centre, as identified in the Official Plan, provides a Privately Owned Public Space (POPS) in accordance with the policies of the Official Plan, the Town may provide a full or partial credit, at its sole discretion, towards the parkland dedication requirements. In addition to the Official Plan policy, the Town may establish guidelines outlining the location, size and recreational criteria, applicable credits, and any other criteria or requirements deemed necessary

by the Town in providing a Privately Owned Public Space.

11.0 Environmental Protection, Hazard and Valley Lands

- 11.1 Through the Development approval process, the Town of Ajax may accept the gratuitous conveyance of hazard lands, valley lands, or any other lands identified for Environmental Protection in the Official Plan or Environmental Impact Study. All gratuitous conveyances for valley lands, hazard lands or Environmental Protection lands are to be made to the appropriate public authority. No portion of Environmental Protection, hazard or valley lands will be contributed toward the requisite parkland dedication requirements.

12.0 Location and Configuration of Parks

- 12.1 The design and location of parkland to be conveyed to the Town shall take into account the following:
- i) Must meet the parkland policies and standards of the Town's Official Plan;
 - ii) Must be integrated and well connected to the surrounding community, be accessible and have sufficient frontage from public streets to ensure the safety of its users;
 - iii) Must be free from encumbrances wherever possible, unless expressly agreed to by the municipality;
 - iv) Must meet the design and topographical requirements of its intended use;
 - v) Must meet the applicable Ministry of Environment, Conservation and Parks (MECP) guidelines for soil and groundwater conditions;
 - vi) Be integrated with natural features including small woodlots and hedgerows where possible;
 - vii) Must not be encumbered or contain stormwater management facilities, unless expressly agreed to by the Town, at their sole discretion.
- 12.2 The Town may require a Record of Site Condition be filed in respect of the land prior to accepting the conveyance of a portion of the land for parkland required in accordance with this By-law.
- 12.3 The Town shall first consider the conveyance of parkland within the lands to be Developed or Redeveloped. The Town may consider the conveyance of parkland off-site within the Town, at its sole discretion.

13.0 Park Standards and Requirements

- 13.1 In requiring parkland dedication through the Development review process, the following standards and requirements have been identified in *The Town of Ajax Recreation and Parks Master Plan*, as amended from time to time:
- i) An active parkland provision of 1.8 hectares/1,000 population;
 - ii) a range of park spaces (neighbourhood parks and parkettes) based on its intended use;
 - iii) the acquisition of Lake Ontario waterfront properties.

14.0 Community Improvement Plans

- 14.1 The Town may establish Community Improvement Plans, in accordance with the Official Plan, that provide reduced parkland dedication requirements for specified Development. All criteria, financial incentives and processes shall be outlined in the respective Community Improvement Plan and carried out in

accordance with the *Planning Act* and *Municipal Act*.

15.0 Allocation of Parkland Cash-in-lieu

- 15.1 In accordance with the Act, cash-in-lieu of parkland dedication payments shall be allocated to the Parkland Reserve Fund and shall be used for the provision of land for parks or public recreation purposes, including the erection, improvement or repair of buildings, and the acquisition of machinery for park or other public recreational purposes. The fund may be used for these purposes unless superseded by Provincial legislation or regulation.
- 15.2 The Town shall report the balance of any accounts in accordance with any legislative requirements.

16.0 Effective Date

- 16.1 This by-law is effective as of the date of passage.

17.0 Repeal

- 17.1 By-law 79-2006 is hereby repealed.

READ a first and second time
this Twenty-sixth day of
September, 2022.

READ a third time and passed
this Twenty-sixth day of
September, 2022.

Shaun Collier, Mayor

Jason McWilliam, Deputy Clerk