

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

WHEREAS section 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 by By-law 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 for an Alternative Parkland Rate of one hectare for each three hundred (300) units proposed for development 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 the City of Mississauga Official Plan contains approved policies regarding the requirements for the conveyance of land for park or other public recreational purposes;

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

DEFINITIONS

1. For the purpose of this by-law,

Additional Residential Units (ARU) means one or maximum two accessory Dwelling Units located within a primary detached or semi-detached dwelling, or in an ancillary structure on the same parcel of land as the primary dwelling, so long as the cumulative GFA of the ARUs is less than that of the primary Dwelling Unit;

Applicant means a person who has submitted an application to the City for the Development or Redevelopment of land pursuant to one or more of sections 41, 51.1 and 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, section 9 of the *Condominium Act, 1998* S.O. 1998, c. 19, as amended, or a building permit application pursuant to the *Building Code Act, 1992* S.O. 1992, c. 23, as amended;

Appraisal means an opinion of value prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada by an accredited real-estate appraiser, which identifies the fair market value of one or more parcels of land as of the day before the day a building permit is issued, or the day before the first building permit is issued if more than one

building permit is required, for the Development or Redevelopment of the land, as the case may be.

Building means a structure occupying an area greater than ten (10) square metres consisting of a wall, roof and floor;

Cash-in-lieu (CIL) means monies paid in lieu of a conveyance of land for park or other recreational purposes;

CIL Capped Rate means the maximum CIL per unit that will be required under the alternative rate for Residential Medium Density and Residential High Density uses as set out in Schedule A of this By-law;

City means the Corporation of the City of Mississauga and includes all land within its geographic boundaries;

Conversion means the alteration or change of use of an existing Building or property to some other use;

Council means the Municipal Council of the City;

Development means the construction, erection or placing of one or more Buildings on land, or the making of an addition or alteration to a Building that has the effect of substantially increasing the size or usability thereof, for which approval is required from the City under the *Planning Act* or the *Building Code Act*;

Dwelling Unit means one or more habitable rooms designed, occupied or intended to be occupied as living quarters as a self-contained unit and shall, as a minimum contain sanitary facilities, accommodation for sleeping and one kitchen, but not more than one kitchen;

Environmental Site Assessment means an investigation in relation to land to determine the environmental condition of a property, and includes a phase one environmental site assessment and a phase two environmental site assessment, in accordance with Ontario Regulation 153/04

Gross Land Area means the total area of all lands that are subject of a Development or Redevelopment application;

Gross Floor Area (GFA) means the sum of the areas of each storey of a Building, above or below established grade, excluding storage below established grade and a parking structure above or below established grade, measured from the exterior of outside walls, or from the mid-point of common walls;

Mississauga Official Plan means the official plan, as amended, as revised, adopted or approved from time to time, as the case may be, for the City;

Mixed Use means the use of land, Buildings or structures intended and designed to contain both residential and non-residential uses within the same Building or on discrete portions of the same site;

Natural Hazard Lands means property or lands that could be unsafe for development due to naturally occurring processes, specifically:

- a. Along the shoreline of Lake Ontario, this means the land between a defined offshore distance or depth and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits;
- b. Along river and stream systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits;

Net Land Area means the Gross Land Area minus the land area being conveyed to the City of Mississauga at no cost, prior to the calculation of the parkland dedication requirement;

Non-Residential Use means land, Buildings or structures or portions thereof used, or designed or intended for a use other than for a residential use.

Redevelopment means the removal of a Building or structure from the land, the further Development of the land, or the substantial renovation of a Building or structure and a change in the use or density of the use in connection therewithin, for which approval is required from the City under the *Planning Act* or the *Building Code Act*;

Residential Use means lands, Buildings or structures of any kind whatsoever or any portion thereof, used designed or intended to be used as a Dwelling Unit, and includes:

- a. Accessory uses naturally and normally incidental in purpose to the residential use;
- b. Accessory uses exclusively devoted to the residential use;
- c. A unit designed for combined live/work uses;

Residential Low Density means detached dwellings, semi-detached, duplex, triplex Buildings, and other forms of low-rise dwellings with individual frontages which are designated as Residential Low Density I or Residential Low Density II in the Mississauga Official Plan;

Residential Medium and High Density means all forms of townhouse dwellings, apartment dwellings, and retirement and supportive living dwellings which contain Dwelling Units that are designated as Residential Medium Density or Residential High Density in the Mississauga Official Plan; and

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.

APPLICATION

2. This By-law shall apply to all lands within the City.

ADMINISTRATION

3. Council hereby delegates to the Commissioner of Community Services the powers and authority conferred upon the Council under Sections 42, 51.1 and 53 of the Planning Act, R.S.O. 1990, as amended, to apply matters pertaining to this by-law, as written, and further allows the Commissioner of Community Services to sub-delegate these same powers and authority to the Manager of Park Planning, or his or her designate.

PARKLAND DEDICATION REQUIREMENTS

4. As a condition of Development or Redevelopment of land, the Applicant shall be required to convey to the City land to be used for park purposes. The amount of land required is as follows:
 - (1) Non-Residential Development or Redevelopment shall convey parkland at a rate of two percent (2%) of Net Land Area;
 - (2) Residential Low Density Development or Redevelopment shall convey parkland equivalent to the greater of:
 - (a) five percent (5%) of Net Land Area; or
 - (b) an alternative rate of 1 hectare per 300 Dwelling Units.
 - (3) Residential Medium and High Density Development or Redevelopment shall convey parkland equivalent to the greater of:
 - (a) five percent (5%) of Net Land Area; or
 - (b) an alternative rate of 1 hectare per 500 Dwelling Units.
 - (4) In the case of a Residential Use Development or Redevelopment that includes both Residential Low Density Development and Residential Medium and High Density Development, the conveyance shall be calculated per subsection 4(3).
 - (5) In the case of Conversion of land originally used for Non-Residential Uses to Residential Uses, parkland shall be conveyed at a reduced rate in accordance with Section 7 of this By-law.
 - (6) In the case of a Mixed Use Development or Redevelopment where the Residential component is comprised entirely of Residential Low Density Development, the conveyance for each component of the project will be based on the Net Land Area prorated proportionally to the Gross Floor Area allocated between Residential Uses and Non-Residential Uses, according to the following formula:

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

- (7) In the case of a Mixed Use Development or Redevelopment, where the Residential Use component includes Residential Medium and High Density Development, the conveyance shall be determined in accordance with the following formula:

$$\begin{aligned} & \text{The Greater of} \left(\left(\frac{GFA \text{ for Residential Uses}}{GFA \text{ for All Uses}} \times 5\% \times \text{Net Land Area} \right) \right. \\ & \qquad \qquad \qquad \text{or} \\ & \left. \left(\frac{\text{Number of Residential Dwelling Units}}{500} \times 1 \text{ hectare} \right) \right) \\ & + \left(\frac{GFA \text{ for Non Residential Uses}}{GFA \text{ for All Uses}} \times 2\% \times \text{Net Land Area} \right) \end{aligned}$$

- (8) Notwithstanding subsections 4(6) and 4(7) of this By-law, in the case of a Mixed Use Development or Redevelopment where the Gross Floor Area for Non-Residential Uses is equal to or less than twenty percent (20%) of the Gross Floor Area for all uses, no parkland dedication requirement shall be imposed on the non-residential portion.

CONDITION OF LAND FOR CONVEYANCE

5. The land required to be conveyed to the City shall be in a location, configuration and condition satisfactory to the City, subject to the following conditions, unless otherwise agreed to by the Commissioner:
- (1) The lands are free and clear of all legal and other encumbrances;
 - (2) Delivery to the City of a record of site condition that satisfies, at a minimum, a Phase I Environmental Site Assessment as meets the requirements of Ontario Regulation 153/04. The City reserves the right to require a Phase II Environmental Site Assessment be undertaken to further identify contaminants of concern following the Phase I assessment.
6. The City may elect not accept the conveyance of any land that is determined by the City to be unsuitable for park or public recreation purposes, and without limiting the generality of the foregoing. Lands which are unsuitable includes:
- (1) Any land that has been or is to be conveyed to the City for stormwater management facilities, or for highways, roadways, walkways, or any other non-parkland purpose;
 - (2) Natural Hazard Lands;
 - (3) Where the location, grade and configuration of the lands are constrained or undesirable as determined by the City;
 - (4) Any lands having unsuitable or unstable soil conditions;
 - (5) Utility rights-of-way or easements, including but not limited to hydro, gas, cable and telecommunications; or
 - (6) Lands that which are contaminated as determined by an Environmental Site Assessment.

7. The Applicant shall restore the land to be conveyed to the City to a condition satisfactory to the prior to any conveyance where it has been determined by the City that the lands to be conveyed have been physically disturbed by:
 - (1) The dumping of debris, unconsolidated fill or other refuse;
 - (2) By stripping the topsoil; or
 - (3) By any other means or works;
8. All costs associated with the conveyance of land in accordance with this By-law shall be the responsibility of the Applicant.

CASH-IN-LIEU OF PARKLAND

9. In cases where the City determines, at its sole discretion, that the size, shape or location of land proposed for parkland dedication is deemed to be unsuitable for parks or public recreation purposes, the City may require payment of Cash-In-Lieu of land equal to the value of the land that would otherwise be conveyed, subject to the following conditions:
 - (1) In the case of land proposed for Residential Development or Redevelopment, the payment of Cash-In-Lieu shall be equivalent to a value of no more than one hectare of land for each 500 Dwelling Units.
 - (2) In cases where a conveyance of land is to be provided that does not fully meet the requirements of Section 4 of this by-law, the calculation of Cash-In-Lieu land value for the purposes of subsection 9(1) shall be calculated on the number of Dwelling Units outstanding to meet the requirements of subsections 4(2) and 4(3) after accounting for land conveyed;
 - (3) Notwithstanding subsections 9(1) of this By-law, for Medium and High Density Development or Redevelopment, the payment of Cash-In-Lieu for the outstanding residential conveyance requirement shall be no greater than an amount equal to the number of residential Dwelling Units, or outstanding Dwelling units per subsection 9(2), multiplied by the CIL Capped Rate.

PREVIOUS PARKLAND DEDICATION OR CASH-IN-LIEU PAYMENT

10. In determining the amount of land required to be conveyed or the cash-in-lieu to be paid pursuant to this By-law, the amount shall be reduced by any previous parkland conveyance or cash-in-lieu payment made to the City in accordance with the following:
 - (1) For Residential Development or Redevelopment, including the Residential Use component of Mixed Use Developments, the amount to be conveyed or paid shall be calculated on the basis of the total number of Dwelling Units, less the number of Dwelling Units that existed on the

site at the time of previous parkland conveyance or Cash-In-Lieu payment, in accordance with the following formula;

(Total Dwelling Units – Existing Dwelling Units)

- (a) For the purposes of calculating the five percent (5%) dedication requirement on the Development or Redevelopment of Residential uses, the amount to be conveyed or paid shall be calculated as follows:

$$\left(\frac{\text{Total Dwelling Units} - \text{Existing Dwelling Units}}{\text{Total Dwelling Units}} \right) \times 5\% \times \text{Net Land Area}$$

- (b) Additional Residential Units shall not be included in the Dwelling Unit count in subsection 10(1) and subparagraph 10(1)(a) of this By-law.
- (2) For Non-Residential Development or Redevelopment, including Non-Residential components of Mixed Use Developments, the amount to be conveyed or paid shall be reduced by a percentage equal to the Non-Residential Gross Floor Area that existed on the site at the time of previous parkland conveyance or cash-in-lieu payment, divided by the total Non-Residential Gross Floor Area of Development or Redevelopment, in accordance with the following formula;

$$\left(\frac{\text{New Non Residential GFA} - \text{Existing Non Residential GFA}}{\text{New Non Residential GFA}} \right) \times 2\% \times \text{Net Land Area}$$

- (3) Where there is a claim of a previous parkland conveyance or Cash-In-Lieu payment, the Applicant shall be required to provide evidence of such previous conveyance or payment, to the satisfaction of the City.

VALUATION OF LAND FOR THE PURPOSE OF CASH-IN-LIEU

11. Where the City determines a payment of cash-in-lieu of parkland conveyance is required, the Appraisal for the lands to be Developed or Redeveloped shall be prepared as follows:
- (1) All Appraisals of land value shall be carried out under the direction of the Manager, Realty Services, and shall be determined in accordance with generally accepted appraisal principles.
 - (2) In the case of a Medium or High Density Residential Development or Redevelopment where there is no parkland conveyance required related to a Non-Residential use, the Applicant may choose to waive their right to an Appraisal on the condition that they agree to pay the CIL Capped Rate to satisfy the Cash-In-Lieu requirement.
 - (3) The value of the land shall be determined as follows:

- (a) As of the day before granting of draft approval for Development in the case of a draft plan of subdivision or draft condominium declaration; or,
- (b) The day before the granting of provisional consent in the case of a consent application; or,
- (c) As of the day before the issuance of a building permit for the Development or Redevelopment in all other cases, and where more than one building permit is required for the Development or Redevelopment, the value of the land shall be determined as of the day before the day the first permit is issued.

TIMING

- 12. Title for parkland to be conveyed for any Development or Redevelopment in accordance with Section 42 of the *Planning Act* shall be transferred to the City prior to the issuance of any building permit for the proposed Development or Redevelopment.
- 13. Title for parkland to be conveyed shall be transferred to the City in accordance with the conditions of approval of a draft plan of subdivision or draft condominium application or in accordance with the conditions of a provisional consent, as the case may be.

EXEMPTIONS

- 14. The following types of Development or Redevelopment are exempt from this By-Law:
 - (1) Any replacement of a Building which was razed by fire, by accidental cause or by an act of God, provided that the size of the replacement Building does not exceed the GFA of the prior Building which was destroyed;
 - (2) Any Development or Redevelopment undertaken by the Regional Municipality of Peel;
 - (3) Any Development or Redevelopment being undertaken by the City;
 - (4) Any Development or Redevelopment being undertaken on lands included within the City's parkland inventory;
 - (5) Any Development or Redevelopment located on lands designated "Utility" in the Mississauga Official Plan;
 - (6) Additional Residential Units;
 - (7) Temporary Sales Structures;

- (8) Additions or interior alterations to existing Buildings used for Residential Purposes, provided that there is no increase in the existing number of Dwelling Units;
- (9) The first 200m² of addition or interior alterations to existing or ancillary Building for Non-Residential Uses, net of any demolition.

CONTRAVENTION

- 15. Every Person who contravenes any provision of this By-Law is guilty of an offence and on conviction is liable to pay a fine, exclusive of costs, and such other penalties, as may be provided for or imposed under the *Provincial Offences Act* R.S.O. 1990, c.P33 as amended.
- 16. If this By-law is contravened by any person, in addition to any other remedy and to any penalty imposed by this By-Law, the Commissioner of Community Services or his or her designate, may instruct the City Solicitor to commence and undertake legal proceedings against the person to restrain the contravention, or for such other remedy as may be appropriate.
- 17. If a Cash-in-lieu payment is required under this By-law, 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 that are satisfactory to the Council have been made.

IMPLEMENTATION SCHEDULE FOR THE CIL CAPPED RATE

- 18. Schedule A attached to this By-law shall form part of this By-law.

ENACTMENT

- 19. This By-law shall be enacted and come into force on the 23rd day of June, 2022.

REPEAL

- 20. By-Law 0400-2006 and By-Law 166-2007 are repealed as of the 23rd day of June, 2022.

PARTIAL VALIDITY

- 21. Should any section or part of this By-Law be declared or determined by a court or tribunal of competent jurisdiction to be invalid, it is Council's intent that the remainder of this By-law continue to remain in force and effect.

TITLE

22. This By-law shall be cited as “Mississauga Parkland Conveyance By-Law”.

ENACTED and **PASSED** this _____ day of _____, 2022.

MAYOR

CLERK

**SCHEDULE 'A' TO
PARKLAND CONVEYANCE BYLAW NO. XXXX-2022
IMPLEMENTATION SCHEDULE FOR THE CIL CAPPED RATE**

Effective Date:	CIL Capped Rate per Unit:
By-law passage	\$11,370
1 August, 2022	\$15,493
1 February, 2023	\$19,615
1 August, 2023	\$25,112
1 February, 2024	\$26,116
1 August, 2024	\$27,161
1 February, 2025	\$28,248
1 August, 2025	\$29,377
1 February, 2026	\$30,553
1 August, 2026	\$31,775
1 February, 2027	\$33,046
For every subsequent 6-month period following	Increase by 4.0%