



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____

To enact a New Parkland Dedication By-law and
Repeal By-law 41-2000 (as amended)

DRAFT

WHEREAS section 42 of the Planning Act, as amended, provides that, as a condition of the Development or Redevelopment of land, the council of a local municipality may, by by-law, require that land in an amount not exceeding, in the case of land proposed for Development or Redevelopment for Commercial or Industrial purposes 2 per cent, and in all other cases 5 per cent, be conveyed to the municipality for park or other public recreational purposes.

AND WHEREAS section 51.1 of the Planning Act, as amended, provides that the approval authority may impose, as a condition of the approval of a plan of subdivision, that land be conveyed to the municipality for park or other public recreational purposes, such land not to exceed, in the case of a subdivision proposed for Commercial or Industrial purposes 2 per cent, and in all other cases 5 per cent.

AND WHEREAS section 53 of the Planning Act, as amended, provides that a Council may impose, as a condition of the giving of a provisional consent, that land be conveyed to the municipality for park or other public recreational purposes, such land not to exceed, in the case of land proposed to be severed for Commercial or Industrial purposes 2 per cent, and in all other cases 5 per cent.

AND WHEREAS in the case of land proposed for Development or Redevelopment for residential purposes, pursuant to the Planning Act, a municipality may require that such land be conveyed at the rate of up to one hectare for each 300 Dwelling Units, provided that the municipality has specific policies dealing with the provision of lands for park or other public recreational purposes, and the use of this alternative requirement is included within its Official Plan.

AND WHEREAS the City of Brampton has such specific policies dealing with the provision land to be conveyed at the rate of up to one hectare for each 300 Dwelling Units.

AND WHEREAS the Council of The Corporation of the City of Brampton wishes to use the provisions of the Planning Act for the purposes of acquiring and providing parkland for the use and enjoyment of the residents of the City of Brampton.

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

Definitions

1. For the purposes of interpretation of this by-law, the following definitions shall apply:
 - a) “**Act**” means the Planning Act, R.S.O. 1990, c.P.13, as amended.
 - b) “**Apartment**” means a Residential building containing six (6) or more Dwelling Units which have a common entrance from the street level, and the occupants of which have the right to use common elements.
 - c) “**Board of Education**” has the same meaning as the term “board”, as defined in the Education Act, R.S.O. 1990, c.E.2, as amended.
 - d) “**CIL**” means cash in lieu of parkland equivalent to the value of the lands otherwise required to be conveyed.
 - e) “**City**” means The Corporation of the City of Brampton.
 - f) “**Commercial**” means the use of land, buildings, or structures for a use which is not Industrial, and which are used in connection with:
 - i) the selling of commodities to the general public; or
 - ii) the supply of services to the general public; or
 - iii) office or administrative facilities.
 - g) “**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.
 - h) “**Dwelling Unit**” means any property that is used or designed for use as a single domestic establishment in which one or more persons may sleep and prepare and serve meals, in addition to which may be included not more than one (1) Second Unit, but does not include a housekeeping hotel suite or a housekeeping suite in a long-term care facility.
 - i) “**Industrial**” means the use of land, buildings, or structures in connection with:
 - i) manufacturing, producing, or processing of raw goods; or
 - ii) warehousing or bulk storage of goods; or
 - iii) a distribution centre; or
 - iv) a truck terminal; or
 - v) research or development in connection with manufacturing, producing or processing of raw goods.

and includes office uses and the sale of commodities to the general public where such office or retail uses are ancillary to an industrial use, but does not include a building used exclusively for office or administrative purposes unless it is attached to an industrial building or structure as defined above, and does not include a retail warehouse.

- j) “**Institutional**” means the use of land, buildings, or structures for hospitals, correctional institutions and associated facilities, municipal facilities, elementary and secondary schools, colleges, universities, places of worship and ancillary uses, military and cultural buildings, daycare centres, residential care facilities for more than ten persons and long term care centres.
- k) “**Mixed Use**” means the physical integration of two or more of the following uses within a building or structure or separate buildings or structures on the lands proposed for Development or Redevelopment: Commercial; Industrial; Institutional; Residential; or any other use not noted herein.
- l) “**Net Area of the Lands**” means the total area of the lands being Developed or Redeveloped, less the area of any lands to be conveyed gratuitously to the City, the Regional Municipality of Peel, or a conservation authority established under the Conservation Authorities Act, R.S.O. 1990 c.C.27 or a predecessor thereto, pursuant to an approval or provisional consent issued in accordance with the Act, in support of natural heritage systems, including but not limited to, wetlands, valley and watercourse corridors, tableland woodlands and other environmentally sensitive lands as determined by the City.
- m) “**Official Plan**” means the City of Brampton Official Plan, as amended.
- n) “**Redevelopment**” means the removal of a building or structure from land and the further Development of the land or, the expansion or renovation of a building or structure which results in a change in the character or density of the use in connection therewith.
- o) “**Residential**” means the use of land, buildings, or structures for human habitation.
- p) “**Rowhouse**” means a Residential building that is divided into three (3) or more Dwelling Units, but shall not include an Apartment.
- q) “**Second Unit**” means a single Residential unit that is used or designed for use as a single domestic establishment in which one or more persons may sleep and prepare and serve meals, and which is:
 - i) contained within and is ancillary to either a Single-Detached Dwelling, a Semi-Detached Dwelling or a Rowhouse; and is
 - ii) permitted by all of the following: the Act; the Official Plan; and Zoning By-law.
- r) “**Semi-Detached Dwelling**” means a Residential building divided into only two (2) separate Dwelling Units.
- s) “**Single-Detached Dwelling**” means a detached Residential building containing only one (1) Dwelling Unit.
- t) “**Temporary Building or Structure**” means a building or structure constructed or erected or placed on land for a continuous period not exceeding eight (8) months, or an addition or alteration to a building or structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding eight (8) months.
- u) “**Total Floor Area**” has the same meaning as in the City of Brampton’s Development Charges By-law 222-2009, as amended or replaced.
- v) “**Zoning By-law**” means the City of Brampton By-law 270-2004, as amended or replaced.

Geographic Applicability

2. This by-law applies to all lands within the geographic boundary of the City of Brampton.

Conveyance of Land for Parks Purposes

3. As a condition of Development or Redevelopment of land pursuant to the Act, the City shall require the conveyance of land for park purposes as follows:
 - a) In the case of lands proposed for Residential purposes, at a rate of five per cent (5%) of the land being Developed or Redeveloped, or one (1) hectare for each three hundred (300) Dwelling Units proposed, whichever is greater;
 - b) In the case of lands proposed for Commercial, Industrial or Institutional purposes, land in the amount of two per cent (2%) of the land to be Developed or Redeveloped;
 - c) In the case of lands proposed for Development or Redevelopment for a use other than those referred to in subsections 3(a) and 3(b) of this by-law, land in the amount of five per cent (5%) of the land to be Developed or Redeveloped;
 - d) In the case of a Mixed Use Development or Redevelopment, land in the aggregate, calculated as follows:
 - i) the Residential component, if any as determined by the City, of the lands being Developed or Redeveloped, shall require the conveyance of land as determined in accordance with subsection 3(a) of this by-law; plus
 - ii) the Commercial, Industrial, or Institutional component of the lands being Developed or Redeveloped, if any as determined by the City, shall require the conveyance of land as determined in accordance with subsection 3(b) of this by-law; plus
 - iii) the component of the lands proposed for any use other than Residential, Commercial, Industrial or Institutional, if any as determined by the City, shall require the conveyance of land as determined in accordance with subsection 3(c) of this by-law.

Condition of Conveyance

4. The location and configuration of land required to be conveyed pursuant to this by-law shall be as determined by the City and all such lands shall be free of all encumbrances, including but not limited to such easements which the City in its sole and absolute discretion is not prepared to accept, and shall be free of any contamination, including but not limited to any toxic, noxious or dangerous contaminants, and shall otherwise be in a condition to the satisfaction of the City.
5. The conveyance of any valleyland or watercourse corridors, woodlands, natural heritage system lands and associated buffers, easements, vista blocks and storm water management ponds, as defined in the Official Plan or any secondary plan adopted under the Official Plan, shall not be considered a conveyance of land for park purposes pursuant to the requirements of section 3 of this by-law.

Timing of Conveyance

6. Where land is required to be conveyed in accordance with section 3 of this by-law, the lands shall be conveyed as follows:

- a) In the case of Development or Redevelopment to be approved pursuant to sections 51 or 53 of the Act, the City may require the conveyance of land as a condition of approval, and said lands shall be conveyed to the City either prior to or immediately upon registration of the plan or the consent being given, as determined by the City;
- b) In the case of Development or Redevelopment where land has not been conveyed or has not been required pursuant to sections 51.1 or 53 of the Act, the City shall require the conveyance of land as a condition of Development or Redevelopment prior to building permit issuance in accordance with section 42 of the Act.

Cash-in-Lieu of Parkland

- 7. In lieu of requiring the conveyances referred to in section 3 of this by-law, the City may require the payment of cash to the value of the lands otherwise required to be conveyed, calculated in accordance with the following:
 - a) Where, as a condition of Development or Redevelopment, the City has required the payment of CIL as a condition of an approval or consent pursuant to sections 51.1 or 53 of the Act, CIL shall be calculated using City-wide average land values which the City determines reflect land values as of the day prior to draft plan approval, or the day before the day a provisional consent is given, as applicable. Land values shall be established by the City by way of appraisal for the following land use categories:
 - i) Single-Detached Dwelling / Semi-Detached Dwelling;
 - ii) Rowhouse;
 - iii) Apartment;
 - iv) Commercial;
 - v) Industrial;
 - vi) Institutional.

For any other use not categorized pursuant to this subsection 7(a), the land value to be applied for the purposes of calculating CIL shall be the land value established by the City pursuant to this subsection 7(a) for the Institutional category.
 - b) Notwithstanding subsection 7(a) of this by-law, for Residential Development or Redevelopment in the Apartment category only, where, as a condition of Development or Redevelopment the City has required the payment of CIL as a condition of an approval or consent pursuant to sections 51.1 or 53 of the Act, the land value to be used for the calculation of CIL shall be forty per cent (40%) of the value established pursuant to subsection 7(a) of this by-law.
 - c) Land values for the land use categories noted in subsection 7(a) of this by-law shall be reviewed annually by the City by way of appraisal, on or before January 1st of every calendar year, and where the City determines that the prior land values established by the City have changed, the City shall adjust the land values for the land use categories noted in subsection 7(a) of this by-law in accordance with the land values established by the latest annual appraisal.
 - d) For any Development or Redevelopment for which subsection 7(a) of this by-law does not apply, CIL shall be calculated as follows:
 - i) For Residential Development or Redevelopment in the Single-Detached Dwelling/Semi-Detached Dwelling, and Rowhouse categories, CIL shall be calculated in accordance with the values established pursuant to subsection 7(a) of this by-law;

- ii) For Residential Development or Redevelopment in the Apartment category only, CIL shall be calculated in accordance with the values established pursuant to subsection 7(b) of this by-law.
- iii) For Commercial, Industrial, Institutional or any other Development or Redevelopment that is not in the Single-Detached Dwelling/Semi-Detached Dwelling, Rowhouse or Apartment categories, CIL shall be calculated by the City using the market value of the lands as of the day before the issuance of the first building permit in respect of the Development or Redevelopment, as evidenced by an appraisal.

Timing of CIL Payment

8. CIL shall be paid as follows:

- a) For Development or Redevelopment where the City has required the payment of CIL as a condition of an approval or a consent, pursuant to either sections 51.1 or 53 of the Act, CIL shall be paid prior to plan registration or the consent being given;
- b) For Development or Redevelopment approved pursuant to section 41 of the Act, or in any other case where CIL has not been required as a condition of an approval or a consent pursuant to sections 51.1 or 53 of the Act, CIL shall be paid prior to the issuance of the first building permit in respect of the Development or Redevelopment.

Credits for Previous Conveyances

9. Land or CIL required to be conveyed or paid to the City for park or other public recreation purposes pursuant to sections 3 or 7 of this by-law shall be reduced by the amount of land or CIL previously received by the City pursuant to sections 42, 51.1 or 53 of the Act in respect of the lands being Developed or Redeveloped.
10. Notwithstanding sections 3 and 7 of this by-law, if land has been conveyed or is required to be conveyed to the City for park or other public recreational purposes or CIL has been received by the City or is owing to it pursuant to a condition imposed pursuant to sections 42, 51.1 or 53 of the Act, no additional conveyance or payment in respect of the lands subject to the earlier conveyance or payment will be required by the City 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 the development; or
 - b) Land originally proposed for Development or Redevelopment for Commercial, Industrial, or Institutional purposes is now proposed for Development or Redevelopment for other purposes.

Limits of the Lands to be Developed or Redeveloped

11. For the purposes of calculating the land conveyance or CIL requirements of sections 3 or 7 of this by-law, the following shall be used as the area of the lands being Developed or Redeveloped:
- a) For Development or Redevelopment of land which occurs pursuant to section 41 of the Act, the Net Area of the Lands denoted within the plan or drawings;

- b) For Development or Redevelopment of land which occurs pursuant to section 51 of the Act, and for which the City has required the conveyance of land or the payment of CIL as a condition of approval, the Net Area of the Lands denoted within the approved draft plan of subdivision;
- c) For Development or Redevelopment of land which occurs pursuant to section 53 of the Act, and for which the City has required the conveyance of land or the payment of CIL as a condition of approval, the Net Area of the Lands to be severed pursuant to the consent;
- d) In all other cases, the area of the lands to be Developed or Redeveloped shall be determined by the City in accordance with the Act, and the Net Area of the Lands shall be determined by the City and shall be used for the purposes of calculating land conveyance or CIL requirements pursuant to sections 3 or 7 of this by-law.

Phased Development

- 12. Notwithstanding sections 6 and 8 of this by-law, for Development or Redevelopment which occurs pursuant to either of sections 41 or 51 of the Act and for which approvals are issued in phases, the City shall calculate and require the conveyance of land for park purposes or the payment of CIL, in accordance with the provisions of sections 3 and 7 of this by-law, on a phase by phase basis.

Parkland Conveyance Agreements

- 13. Nothing in this by-law shall limit the City's ability to enter into a parkland conveyance agreement with one or more landowners, for the purposes of assembling parkland, including but not limited to community and city parks. Parkland conveyance agreements entered into by the City shall include provisions for the conveyance of land for park purposes or CIL, the calculation of which shall be as provided in this by-law.

Exemptions

- 14. This by-law shall not apply to any of the following:
 - a) Development or Redevelopment of land, buildings or structures owned by and used for the purposes of The Corporation of the City of Brampton;
 - b) Development or Redevelopment of land, buildings or structures owned by and used for the purposes of a Board of Education;
 - c) The replacement of any building that is a direct result of destruction due to accidental fire or other accidental cause provided that no intensification or change of use is proposed, including but not limited to an increase in total Dwelling Unit count or Total Floor Area;
 - d) The enlargement of an existing Dwelling Unit provided that the enlargement does not result in additional Dwelling Units;
 - e) The enlargement of an existing Commercial, Industrial, or Institutional building or structure if the Total Floor Area is enlarged by 50% or less. The area of the existing building or structure shall be calculated by reference to the first building permit which was issued in respect of the building or structure for which the exemption is sought;
 - f) A Temporary Building or Structure;

- g) In cases where the total CIL payable for Development or Redevelopment is less than \$100.

Appraisals

15. All appraisals of land required pursuant to this by-law shall be prepared by City staff or by an accredited appraiser approved by the City, in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.

General Provisions

- 16. Should any section or part of this by-law be declared or determined by a court or tribunal of competent jurisdiction to be invalid, that portion of this by-law shall be considered to be severed from the balance of this by-law, which will continue to operate in full force and effect.
- 17. Any word or term which has been capitalized in this by-law shall be interpreted as the word or term is defined in section 1 of this by-law. Any word or term not defined in section 1 of this by-law, which has been defined in either of the Act, Zoning By-law, or Official Plan, shall have the same meaning as provided in either of the Act, Zoning By-law, or Official Plan, using the following order of priority in the event of a conflict: 1. Act; 2. Zoning By-law; 3. Official Plan. Any word which appears in ordinary case and has not been defined in either of the Act, Zoning By-law, or Official Plan, shall be interpreted in accordance with its regularly applied meaning.
- 18. The headings inserted in this by-law are for convenience and reference only, and shall not affect the construction or interpretation of this by-law.
- 19. References to items in the plural include the singular, as applicable.
- 20. This by-law may be cited as the Brampton Parkland Dedication By-law, 2012.
- 21. In the case of Development or Redevelopment where land has not been conveyed or CIL has not been paid in accordance with the requirements of this by-law, an amount equal to the value of the lands not conveyed, calculated in accordance with this by-law, shall be added to the tax roll for the lands subject to the Development or Redevelopment, and shall be collected in the same manner as taxes.

Repeal

22. By-law 41-2000 together with all amendments thereto are hereby repealed effective on the date that this by-law comes into force and effect.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS day of , 2013.

Approved as to form.
____/____/____

Susan Fennell, Mayor

Approved as to content.
____/____/____

Peter Fay, City Clerk