

If this information is required in an alternate format, please contact the Accessibility Coordinator at 905-623-3379 ext. 2131

The Corporation of the Municipality of Clarington

By-law Number 2022-043

Being a By-law to Govern Parkland and Open Space Dedication in the Municipality of Clarington.

WHEREAS Section 42(1) of The Planning Act, R.S.O. 1990 provides the Council with the authority to enact a by-law to require the conveyance of land to the municipality for park or other public recreational purposes as a condition of development or redevelopment of land.

AND WHEREAS Section 51.1 of The Planning Act, R.S.O. 1990 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 public recreational purposes;

AND WHEREAS Section 53 of The Planning Act, R.S.O. 1990 provides that the approval authority may impose, as a condition of approval of a consent, that a payment of money be required by the municipality in lieu of the conveyance of land for park or recreational purposes;

AND WHEREAS Section 42(3) of The Planning Act, R.S.O. 1990 provides the Council with the authority pursuant to the Official Plan policies to require the conveyance of land at the rate of up to 1 hectare per 300 dwelling units proposed for development or redevelopment, as an alternative method to the conveyance of land under Section 42(1) of The Planning Act, R.S.O. 1990;

AND WHEREAS Section 42(6) of The Planning Act, R.S.O. 1990 provides the Council with the authority to require a payment-in-lieu of the value of land otherwise conveyed under Section 42(1) of The Planning Act, R.S.O. 1990;

AND WHEREAS Section 42(6.0.1) of The Planning Act, R.S.O. 1990 provides the Council with the authority to require a payment-in-lieu of the value of land otherwise conveyed under Section 42(3) of The Planning Act, R.S.O. 1990 at the rate of up to 1 hectare per 500 dwelling units proposed for development or redevelopment, as an alternative method to the conveyance of land under Section 42(6) of The Planning Act, R.S.O. 1990;

AND WHEREAS the Council of the Corporation of the Municipality of Clarington deems it appropriate to repeal By-Laws 95-104 and 97-68.

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Municipality of Clarington enacts as follows:

1. For the purpose 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) "Consent" shall refer to the subdivision of land as defined in Section 53 of the Act;
 - (c) "Development" shall refer to
 - i. the construction, erection, or placing of a building or structure, excluding infrastructure authorized by the Environmental Assessment Act;
 - ii. the addition to or alteration of a building or structure;
 - iii. the creation of a new lot and/or increase in the number of permitted units on a lot;
 - iv. the change in use or the increase in intensity of use of any building, structure, or premises;
 - v. site-grading, excavation, removal of topsoil or peat, the placing or dumping of fill, or the extraction of mineral aggregate;
 - vi. drainage works, except for the maintenance of existing municipal and agricultural drains; or
 - vii. redevelopment.
 - (d) "Dwelling Unit" shall refer to one or more habitable rooms, occupied or capable of being occupied as an independent and separate housekeeping establishment, in which separate kitchen and sanitary facilities are provided for the exclusive use of the occupants;
 - (e) "Gross Developable Area" shall refer to the area of the site or lot less the area designated Environmental Protection and the Minimum Vegetation Protection Zone, and major infrastructure that is built or approved under the *Environmental Assessment Act*;
 - (f) "Municipality" shall refer to the Corporation of the Municipality of Clarington, or its geographical area, as the context requires;
 - (g) "Minimum Vegetation Protection Zone" shall refer to a vegetated buffer area surrounding a natural heritage feature or hydrologically sensitive feature within which only those land uses permitted within the feature itself are permitted. A vegetation protection zone is intended to be restored with native, self-sustaining vegetation and be of sufficient width to protect the feature and its functions from effects of the proposed change and associated activities before, during, and after, construction, and where possible, restore and enhance the feature and/or its function;

- (h) "Mixed Use Building" shall refer to a building containing residential units and at least one non-residential use;
 - (i) "Mixed Use Development" shall refer to a development comprised of a mix of land uses in addition to residential uses, either in a mixed-use building or in separate buildings;
 - (j) "Natural Heritage System" shall refer to a system made up of natural heritage features and areas, hydrologically sensitive features and linkages intended to provide connectivity (at the regional or site level) and support natural processes which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species, and ecosystems. These systems can include natural heritage features and areas, hydrologically sensitive features, federal and provincial parks and conservation reserves, other natural heritage features, lands that have been restored or have the potential to be restored to a natural state, areas that support hydrologic functions, and working landscapes that enable ecological functions to continue;
 - (k) "Park" shall refer to municipally owned or leased sites that are designated, and appropriately developed (including un-serviced sites), for community use for indoor and/or outdoor, programmed and/or self-directed sport, fitness, physical activity, culture, leisure and social pursuits;
 - (l) "Park Purposes" shall refer to the use of land for public park or other public recreational purposes;
 - (m) "Plan of Subdivision" shall have the same meaning as found in the Act;
 - (n) "Site Plan" shall have the same meaning as found in the Act;
 - (o) "Regulatory Shoreline" shall refer to the lands identified in the Municipality's Official Plan and the implementing Zoning By-law in accordance with the detailed Lake Ontario Flood and Erosion Risk Mapping of the relevant Conservation Authority;
 - (p) "Unserviced Park" shall refer to a park that provides recreational opportunities and facilities, including playing fields, but without outdoor lighting, accessory commercial facilities, paved parking lots or permanent water or sewer facilities;
2. As a condition of the development of land, including approval of a plan of subdivision, site plan or consent, land shall be conveyed to the Municipality for park purposes at the rate of two percent of the lands for commercial or industrial development, and a rate of five percent in all other cases.

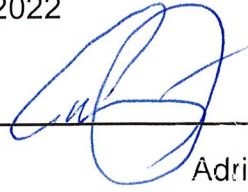
3. Notwithstanding Section 2, for land that is developed for residential purposes, land shall be conveyed to the Municipality for park purposes at a rate of five percent of the lands or 1 hectare per 300 dwelling units, whichever is greater.
4. As a condition of development, redevelopment, or approval of a plan of subdivision, site plan or consent application of land, for mixed use development purposes, land shall be conveyed or dedicated to the Municipality for park purposes in an amount of 1 hectare per 300 dwelling units applicable only to the residential portion of the development proposal; and;
 - (a) that in all cases, the amount of the conveyance shall be a minimum of two percent of the land.
5. At the sole discretion of the Director of Planning and Development Services, the Municipality may, in substitution for the conveyance of land, require a payment-in-lieu at the rate of 1 hectare per 500 dwelling units under the following circumstances:
 - (a) The use of the alternative parkland conveyance or dedication consumes more than 10% of the site area thereby rendering the site undevelopable.
 - (b) The amount of land for parkland dedication does not result in a sufficient area for park development; or
 - (c) The dedication of land is not deemed necessary.
6. If a cash-in-lieu payment is required pursuant to this by-law, the value of the land will be determined in accordance with the Act.
7. For the purposes of this by-law, any land valuation shall be supported by a certified land appraisal, to the satisfaction of the Director of Planning and Development Services.
8. If land has been conveyed or is required to be conveyed for park purposes or a payment-in-lieu of land for park purposes has been received or is owing under a condition imposed under Sections 51.1 or 53 of the Act, no additional conveyance or payment in respect of the land subject to the conveyance or payment may be required unless;
 - (a) there is a change in the proposed development or redevelopment that 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.

9. This by-law does not apply to development where the additions or expansions to existing uses represent a gross floor area less than 100 square metres and provided that the addition or expansion does not create additional dwelling units.
10. The Municipality shall not accept any natural heritage system, minimum vegetation protection areas, regulatory shoreline, flood susceptible lands or lands with hazardous characteristics in fulfilment of the land conveyance requirements of this by-law.
11. Notwithstanding the above requirements, the Municipality shall request the gratuitous dedication of open space lands including natural heritage system, minimum vegetation protection areas, regulatory shoreline, flood susceptible lands and lands with hazardous characteristics within development or redevelopment proposal.

These lands may be required to be dedicated to the Municipality or appropriate Conservation Authority where such dedication is consistent with the Municipality's Official Plan objectives or the long term goals of such Conservation Authority.

12. In determining the area of land required for conveyance of land or payment-in-lieu of land conveyance for park purposes, gross developable area shall be used, provided the lands referred to in Section 11 are dedicated to the Municipality gratuitously.
13. Lands conveyed to the Municipality pursuant to this by-law shall be free of encumbrances except as may be satisfactory to the Municipal Solicitor and conveyed in a condition satisfactory to the Municipality, bearing the full depth of its original topsoil, being clear of unconsolidated fill or refuse and graded in accordance with the Municipality's policies.
14. Notwithstanding other applicable sections in this by-law, the following non-residential uses shall be exempt from the requirement of parkland dedication:
 - (a) all private structures developed by registered charitable, non-profit and hospital organizations; and,
 - (b) all public facilities and buildings developed by a government agency.
15. Should any part of this By-Law be declared by a Court of competent jurisdiction to be invalid in part or in whole, the validity of the other provisions of this By-Law shall not be affected thereby, the intent of Council being that each provision of the By-Law shall be determined to be separately valid and enforceable to the fullest extent permitted by law.
16. By-Laws 95-104 and 97-68, are repealed on the date of passing hereof.

Passed in Open Council this 12th day of September, 2022



Adrian Foster, Mayor



John Paul Newman, Deputy Clerk