

Bill No. 8
2023

By-law No. CP - _____

A by-law to require the conveyance of land for park or other public recreational purposes as a condition of the development or redevelopment of land within the City of London, or the payment of money in lieu of such conveyance (the “Parkland Dedication By-law”)

WHEREAS the Municipal Council of The Corporation of the City of London enacts as follows:

WHEREAS section 42 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, authorizes the council of a local municipality to pass by-laws requiring as a condition of development or redevelopment the conveyance of land or the payment of money to the value of the land otherwise required to be paid in lieu of such conveyance for park or other public recreational purposes;

AND WHEREAS sections 51.1 and 53 of the *Planning Act, RSO 1990, c. P.13*, as amended, authorize the council of a local municipality to require, as a condition to the approval of a plan of subdivision or as a condition of the approval of a Consent, the conveyance of land or the payment in lieu of such conveyance for park or other public recreational purposes;

AND WHEREAS The London Plan, the City of London Official Plan, contains specific policies dealing with the provision of land for park or other public recreational purposes, and the payment in lieu of a conveyance otherwise required under section 42;

AND WHEREAS sections 23.1 to 23.3 of the *Municipal Act* authorize the delegation of powers or duties of the municipality;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

SHORT TITLE: PARKLAND DEDICATION BY-LAW

Part 1 INTERPRETATION

1.1 Definitions

In this by-law:

"Act" shall mean the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

"City" shall mean The Corporation of the City of London;

"Council" shall mean the Council of the City;

"Dwelling unit" - means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

"Development" – means the construction erection, or placing of one or more buildings or structures on land or making 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 establishing a commercial parking lot;

"Gross Floor Area" has the meaning given to it in the City's Zoning By-law;

"Redevelopment" – means the removal of a building or structure from land and the further development of the land or the substantial renovation of a building or structure and a change in the character or density of the use in connection therewith;

“Building permit” – means a building permit issued under the *Building Code Act*, 1992, S.O. 1992, c.23;

“Hazard Lands” – means those lands that could be unsafe for development due to naturally occurring processes. Generally lands located along rivers and streams, including the land covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits as defined by the *Conservation Authorities Act*, R.S.O. 1990, c. C.27;

“Other Constrained Lands” – means lands that are not constrained by flood or erosion hazards, but that contain significant natural heritage features, ecological functions, or ecological buffers that have been identified for protection through an environmental impact study, accepted by the City.

“Owner” – means the registered owner of land as listed on the provincial land registry within the Ontario Land Registry Office;

“Parkland” means land for parks and other public recreational purposes;

“Tableland” – means those lands that do not contain hazard, open space or other constrained features that would prohibit Development.

1.2 Application

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

1.3 Administration

Council hereby delegates to the Deputy City Manager, Environment and Infrastructure, the power and authority to administer and apply this by-law, including but not limited to determining whether a conveyance of a portion of land or the payment of money in lieu of such conveyance shall be required as a condition to the Development or Redevelopment of lands, and if required, the amount of said conveyance or payment, in accordance with this By-law, and further allows the Deputy City Manager, Environment and Infrastructure, to sub-delegate these same powers and authority to the Manager of Park Planning and Design, or his or her designate.

Part 2 PARKLAND CONVEYANCE OR PAYMENT IN LIEU

2.1 Land - for park purposes - conveyance - calculation

Where it has been determined by the City, in its sole discretion, that a conveyance of land is required as a condition of Development or Redevelopment, the amount of land to be conveyed by the Owner to the City will be calculated in accordance with the following provisions:

1. In the case of land proposed for Development or Redevelopment for residential purposes, land in the amount of five (5%) percent of the land;
2. In the case of land proposed for Development or Redevelopment for commercial purposes, land in the amount of two percent (2%) of the land;
3. In the case of land proposed for Development or Redevelopment for Industrial purposes, Parkland dedication requirements will not be required;
4. In the case of land proposed for Development or Redevelopment for uses other than those referred in 2.1 1), 2.1 2), and 2.1 3) land in the amount of five per cent (5%) of the land; and
5. Where land is proposed for Development or Redevelopment for a mix of land uses, the Parkland conveyance will be calculated based upon the proportion of the site devoted to each use at the rates identified above, and when a mix of uses is proposed within a building, the Parkland requirement for each use will be determined proportionally to the Gross Floor Area allocated to each use.

2.1.2 Timing of Parkland conveyance

For Development or Redevelopment, the Parkland conveyance requirements will be determined at the time of development review and the amount of land will be identified as a condition of development.

2.1.3 Land - for park purposes - conveyance – Hazard Lands and Other Constrained Land

1. The City retains the right not to accept the conveyance of land that is considered not suitable or required for park and public recreation purposes including but not limited to:
 - 1) 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) The size, location, grade and configuration of the parcel;
 - 3) Hazard Lands and Other Constrained Lands;
 - 4) Hydro lands, easements or other encumbrances that would restrict the City's use of the land; or
 - 5) Having unsuitable or unstable soil conditions or are contaminated as determined by an Environmental Site Assessment.
2. The lands conveyed to the City for park purposes shall be in a location, configuration and condition satisfactory to the City and subject to the following conditions:
 - 1) The lands are free and clear of all legal and other encumbrances;
 - 2) Shall be graded, serviced, and seeded, and fenced in accordance with any applicable City Standards and to the City's satisfaction.
3. Where the City determines that it will accept Hazard Lands or Other Constrained Lands representing part or all of the conveyance required, the following ratios will apply to calculate the amount of Hazard Lands or Other Constrained Lands to be conveyed:
 - 1) Hazard Land - 45 hectares of hazard land for every required 1 hectare of Tableland;
 - 2) Other Constrained Lands – 30 hectares of Other Constrained Lands for every required 1 hectare of Tableland.
4. Where a Development or Redevelopment application contains Hazard Lands or Other Constrained Lands, these lands will be excluded from the calculation of Parkland dedication as set out in Section 2.1 provided the said lands, are in some form, dedicated to the City.

2.2 Payment in lieu of land conveyance

Where the payment of money is required in lieu of a conveyance of land for Parkland, the Owner shall pay money to the City in lieu of such conveyance in accordance with section 2.2 of this By-law.

2.2.1 Calculation of payment in lieu – residential

To determine the amount of payment in lieu to be required, the following shall apply:

1. In the case of land proposed for Development or Redevelopment for residential purposes, the payment required in lieu of the conveyance of a portion of land for Parkland, shall be five percent of the value of land as determined in 2.2.2 of this By-law;
2. If Hazard Lands or Other Constrained Lands are being conveyed, the value of these lands, as determined in 2.2.2 of this By-law, will be deducted from the value of Tableland required to be conveyed, and the balance of the required conveyance shall be provided as payment in lieu.

2.2.2 Land – value – per residential dwelling type – Table 1

The value of land otherwise required to be conveyed under section 2.1 of this by-law shall be determined by multiplying the value per Dwelling unit in Column II of Table 1 for the corresponding type of residential Dwelling unit in Column I by the number of that type of Dwelling unit proposed on the land, and then adding all of the values for each type of Dwelling unit to arrive at the prevailing land value.

Table 1

Column I	Column II
Residential Units	
Up to 11.99m lot frontage	\$ 2600.00
12m -14.99m lot frontage	\$ 3300.00
15m -17.99m lot frontage	\$ 4700.00
18m or greater lot frontage	\$ 5900.00
**Where lot frontage is defined under Zoning By-law Z.-1	
Cluster detached / Semi-detached / duplex	\$ 2600.00
Multi-Unit Development less than 75 units per hectare	\$ 2200.00
Multi-Unit Development 75 units to 150 units per hectare	\$ 1250.00
Multi-Unit Development greater than 150 units per hectare	\$ 1125.00
**Where density is defined under Zoning By-law Z.-1	
Value of Constrained Land and Ratio to Tableland for the Purpose of Conveyance in Lieu	
Hazard Land	\$24,710/hectare (\$10,000/acre)
Other Constrained Lands	\$37,066/hectare (\$15,000/acre)
Ratio of hazard land to Tableland	45 to 1
Ratio of open space land to Tableland	30 to 1
Tableland to be purchased by the City for Parkland use	\$1,111,950/hectare (\$450,000/acre)

2.2.2.1 Land Values Used to Calculate Values Per Dwelling

To determine the rates in Table 1, the following land values were used:

- 1) Singles/Semi-detached/Duplex: \$1,111,950/hectare (\$450,000/acre)
- 2) Multi-Unit Development less than 75 units per hectare: \$2,162,125/hectare (\$875,000/acre)
- 3) Multi-Unit Development 75 units to 150 units per hectare: \$2,779,875/hectare (\$1,125,000/acre)
- 4) Multi-Unit Development greater than 150 units per hectare: \$5,559,750/hectare (\$2,250,000/acre)

2.2.3 Land – value – Subdivision Conveyance and Consent

The value of land otherwise required to be conveyed as an approval of a plan of subdivision in accordance with section 51.1 of the Act or as a condition of the approval of a Consent given under section 53 of the Act shall be determined using the calculation described in 2.2.2 of this By-law.

2.2.4 Land – value – Commercial and other Non-Residential

To determine the amount of payment in lieu to be required, the following shall apply:

1. In the case of land proposed for Development or Redevelopment for commercial purposes, the payment required in lieu of the conveyance of a portion of land for Parkland, shall be two percent of the value of land as determined in 2.2.3 of this By-law;
2. In the case of land proposed for Development or Redevelopment for industrial purposes, no payment in lieu will be required.
3. In the case of land proposed for Development or Redevelopment for the purpose of anything other than residential, commercial, or industrial, the payment required in lieu of the conveyance of a portion of land for Parkland, shall be five percent of the value of land as determined in 2.2.3 of this By-law.
4. The value of land otherwise required to be conveyed under section 2.1 of this by-law for commercial and other non-residential purposes shall be determined by a registered property appraiser as of the day before the day the Building permit is issued in respect of the Development or Redevelopment or, if more than one Building permit is required for the development or redevelopment, as of the day before the day the first permit is issued.
5. Where land is proposed for Development or Redevelopment for a mix of land uses, the payment in lieu will be calculated based upon the proportion of the site devoted to each use at the rates identified above, and when a mix of uses is proposed within a building, the payment in lieu for each use will be determined proportionally to the Gross Floor Area allocated to each use. Commercial gross floor area will be required at the rate of one Dwelling unit for each 100.0 square metres (1,076 sq. ft.) of Gross Floor Area devoted to non-residential uses and included in the density calculation for the lands and provided as per the residential unit rates as stated in Table 1.

2.2.5 Timing of Payment in Lieu

No person shall construct a building on the land proposed for Development or Redevelopment unless the payment of money in-lieu has been made or arrangements, that are satisfactory to the City, have been made for the payment.

2.2.6 Payment of Parkland - Over Dedication

Where Parkland in excess of the required dedication under Section 2.1 is included in a development application, the City may choose to purchase this land at the average, City-wide Tableland rate described in Table 1.

2.3 Reduction for previous conveyance or payment in lieu

2.3.1 If land has been conveyed or is required to be conveyed to a municipality 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.

2.3.2 If there is a change under clause 2.3.1 (a) or (b), the land that has been conveyed or is required to be conveyed or the payment of money that has been received or that is owing, as the case may be, shall be included in determining the amount of land or payment of money in lieu of it that may subsequently be required under this section on the development, further development or redevelopment of the lands or part of them in respect of which the original conveyance or payment was made.

2.4 Application - to Ontario Land Tribunal - dispute

In the event of a dispute between the City and an Owner of land on the value of land, either party may apply to the Tribunal to have the value determined and the Tribunal shall, in accordance as nearly as may be with the Expropriations Act, determine the value of the land and, if a payment has been made under protest, the Tribunal may order that a refund be made to the Owner.

Part 3 GENERAL

3.1 Severability

If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole, in part, or in certain circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

3.2 Other powers not affected

Nothing in this By-law is intended to or has the effect of restricting or derogating from the authority of council to require a conveyance for Parkland or payment of money in lieu thereof as a condition of the approval of a plan of subdivision in accordance with section 51.1 of the *Act*, or as a condition of the approval of a consent given under section 53(12) of the *Act*.

Part 4 FORCE AND EFFECT

4.1 Previous By-law - repeal

By-law CP-9 and all amendments to such by-law are hereby repealed, effective January 1, 2023.

4.2 Effective date

This by-law comes into force on January 1, 2023.

PASSED in Open Council on December 13, 2022.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – December 13, 2022
Second Reading – December 13, 2022
Third Reading – December 13, 2022