

Document 1 – Details of Recommended New Parkland Dedication By-law

The following is recommended for the implementation of a new Parkland Dedication By-law:

1. Adopt a new Parkland Dedication By-law with provisions similar in effect to the following:

Section 1 - Definitions

In this by-law:

“accessory” means a use that is normally, naturally and customarily subordinate and incidental to a principal use and an integral part of the normal operation of that principal use;

“building” means a structure that has a roof, walls and a floor that stands more or less permanently in one place;

“cash-in-lieu” means a payment of money for park purposes that is collected in lieu of a conveyance of land which would otherwise be required to be conveyed pursuant to the parkland provisions of the Planning Act as incorporated into this by-law;

“City” means the City of Ottawa;

“community design plan” means a comprehensive land use and infrastructure planning exercise that applies the principles of the City’s official plan in more detail to specific areas of the City undergoing growth or change and provides for the location of specific land uses and the co-ordination and provision of infrastructure and services and community design plans, Council approved concept plans, special policy areas in the official plan and secondary plans to the Official plan have the same meaning;

“college” means a college of applied arts and technology or other similar place of post secondary education which has a body of teachers and students on the premises, and that provides instruction in business, a trade, or a craft; and that is empowered by law to grant diplomas, licenses or certificates that permit the holders to represent themselves as qualified to work in a particular trade or occupation;

“Council” means the Council of the City of Ottawa;

“develop” 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 or creating dwelling units, or the layout and

establishment of a commercial parking lot, and “development”, “redevelop” and “redevelopment” have their corresponding meanings;

“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;

“encumbrance” means any burden, interest, right, or claim that adversely affects a property’s use and value but does not necessarily prohibit the ability to transfer title;

“existing dwelling unit” means a dwelling unit that existed legally on the land within the previous twenty-four (24) months prior to an approval issued under the Planning Act or the issuance of a building permit for redevelopment, whichever occurs first;

“floor” includes mezzanine;

“General Manager” means the General Manager of Recreation, Cultural and Facilities Services for the City or delegate;

“grade” means the average elevation of the finished level of the ground adjoining all the walls of a building;

“gross floor area” means the total area of each floor whether located above, at or below grade, measured from the interiors of outside walls and including floor area occupied by interior walls and floor area created by bay windows, but excluding: floor area occupied by shared mechanical, service and electrical equipment that serve the building; common hallways, corridors, stairwells, elevator shafts and other voids, steps and landings; bicycle parking; motor vehicle parking or loading facilities; common laundry, storage and washroom facilities that serve the building or tenants; common storage areas that are accessory to the principal use of the building, common amenity area and play areas accessory to a principal use on the lot; and living quarters for a caretaker of the building;

“gross land area” means, for the purposes of this by-law, the lesser of the area defined as:

- a) The whole of a parcel of property associated with the development or redevelopment and any abutting properties in which a person holds the fee or equity of redemption in, power or right to grant, assign or exercise a power of appointment in respect of;
- b) The whole of a lot or a block on a draft or registered plan of subdivision, or a unit within a vacant land condominium, that is associated with the development or redevelopment; or
- c) For industrial or commercial redevelopment, the portion of property that is impacted by the proposed development.

But not including any hazard lands or natural heritage features identified in the official plan, an approved Secondary Plan, or through an environmental impact study accepted by the City;

“mixed-use development” means a development used for more than one purpose;

“net hectare” means residential land area exclusively in residential use, including access lanes, private streets and parking areas internal to developments, but excludes public streets, rights-of-ways and all non-residential uses;

“net unit gain” means the total number of dwelling units after development or redevelopment minus existing dwelling units;

“non-profit organization” means a corporation or other similar entity that provides a service to the public, is subsidized in whole or in part by public money and its principles are dictated by one or more provincial or federal acts regulating non-profit organizations.

“official plan” means the official plan of the City of Ottawa;

“other purposes” means purposes other than residential purposes, commercial purposes or industrial purposes;

“parkland” means property that has been acquired, or is intended to be acquired, by the City pursuant to the parkland provisions of the Planning Act as incorporated into this by-law for park or recreation purposes;

“permitted use” means a use permitted in a zone in a zoning by-law of the City of Ottawa;

“residential purposes” means a building that contains one or more dwelling units;

“rural severance” means a consent granted under section 53 of the Planning Act for land located within a Rural Transect pursuant to the B-Series Schedules of the official plan and which is not located within a Village designation on those schedules;

“transect” means the geographic area of the City pursuant to the B-Series of schedules of the official plan;

“university” means a place of higher education, which has a body of teachers and students on the premises and that offers instruction at the undergraduate level, post-graduate level or both, and which is empowered by law to grant a degree upon the successful completion of a prescribed course of study;

“use” means a use of land for any purpose and “used” and “using” and other such forms of the word have their corresponding meanings.

Section 2 – Interpretation

1. This by-law contains the schedules and annexes attached hereto and the schedules and annexes are hereby declared to form part of this by-law and enact the regulation, the description or the map they contain.
2. Unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning.
3. This by-law is gender-neutral and, accordingly, any reference to one gender includes the other.
4. Words in the singular include the plural and words in the plural include the singular.
5. It is declared that if any section, subsection or part thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
6. Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

Section 3 – Requirement for Parkland Dedication

1. Pursuant to Section 42, Section 51.1 and Section 53 of the Planning Act, as a condition of development or redevelopment of land, the General Manager shall require the conveyance of parkland, cash-in-lieu of conveyance of parkland, or combination thereof.
2. Conveyance of parkland shall be in the form of conveyance of land, cash-in-lieu of conveyance of parkland, or a combination of conveyance of land and cash-in-lieu of conveyance of parkland.
3. The General Manager is authorized to determine the amount of conveyance of land, cash-in-lieu of conveyance of parkland, or combination thereof, on a site-specific basis in accordance with this by-law, the Delegation of Authority By-law and the official plan policies.
4. Except as otherwise identified herein, only Council has the authority to waive the parkland dedication requirements for development or redevelopment as calculated pursuant to the provisions herein.
5. The parkland conveyance or cash-in-lieu of parkland requirements will be determined at the time of planning application or building permit review,

whichever is applicable, and will be identified as conditions of approval for a planning application or required before the issuance of a building permit.

Section 4 – Conveyance Requirement

1. As a condition of development or redevelopment of land, the General Manager shall require the conveyance of parkland, cash-in-lieu of conveyance of parkland, or combination thereof, in accordance with Table 1 of this by-law:

Table 1: Conveyance Requirement per Use

Density	Type of Development or Use	Maximum Conveyance Requirement
All	Commercial and Industrial purposes	<ul style="list-style-type: none"> • Conveyance of parkland: 2% of the gross land area; • Cash-in-lieu of parkland: 2% of the gross land area; or • Combination thereof
	Secondary Dwelling Units and Coach Houses	Flat rate per unit: \$500, indexed annually
	Other purposes, excluding residential purposes	<ul style="list-style-type: none"> • Conveyance of parkland: 5% of the gross land area; • Cash-in-lieu of parkland: 5% of the gross land area; or • Combination thereof
	Detached dwelling,	<ul style="list-style-type: none"> • Conveyance of parkland: 1 hectare per 300 dwelling units;

Density	Type of Development or Use	Maximum Conveyance Requirement
Residential density greater than 18 dwelling units/net hectare	semi-detached dwelling, duplex dwelling, three-unit dwelling, linked-detached dwelling, and stacked dwellings (as defined by the Zoning By-law)	<ul style="list-style-type: none"> • Cash-in-lieu parkland: 1 hectare per 500 dwelling units; or • Combination thereof Where the conveyance is comprised entirely of cash-in-lieu of parkland, the payment of cash-in-lieu of parkland shall not exceed an amount equivalent to 10% of the gross land area
	Dwelling units within an apartment dwelling, low-rise (as defined by the Zoning By-law); and Dwelling units within a mixed use building (as defined by the Zoning By-law) of four storeys or less	<ul style="list-style-type: none"> • Conveyance of parkland: 1 hectare per 300 dwelling units; • Cash-in-lieu parkland: 1 hectare per 500 dwelling units; or • Combination thereof The required conveyance shall not exceed an amount equivalent to 10% of the gross land area
	Dwelling units within an apartment dwelling, mid-rise (as defined by the Zoning By-law); and Dwelling units within a mixed use building (as defined by the Zoning By-law) of five to nine storeys, inclusive	<ul style="list-style-type: none"> • Conveyance of parkland: 1 hectare per 300 dwelling units; • Cash-in-lieu parkland: 1 hectare per 500 dwelling units; or • Combination thereof The required conveyance shall not exceed an amount equivalent to 15% of the gross land area
	Dwelling units within an apartment dwelling, high-rise (as defined by the Zoning By-law); and	<ul style="list-style-type: none"> • Conveyance of parkland: 1 hectare per 300 dwelling units; • Cash-in-lieu parkland: 1 hectare per 500 dwelling units; or

Density	Type of Development or Use	Maximum Conveyance Requirement
	Dwelling units within a mixed use building (as defined by the Zoning By-law) of 10 storeys or greater	<ul style="list-style-type: none"> • Combination thereof <p>The required conveyance shall not exceed an amount equivalent to 25% of the gross land area</p>
Residential density equal to or less than 18 dwelling units/net hectare	All residential purposes, except for rural severances	<ul style="list-style-type: none"> • Conveyance of parkland: 5% of the gross land area; • Cash-in-lieu of parkland: 5% of the gross land area; or • Combination thereof
	Rural severance	<ul style="list-style-type: none"> • Cash-in-lieu of parkland: 400 square metres

2. For mixed-use development, the conveyance requirements shall be based on Table 1 herein and shall be calculated as follows:
 - a) Where land is developed for a mix of land uses that are located on discrete parts of the site, the cumulative sum for each use, as calculated using the applicable rate and based upon the portion of the site allocated to each use, including, but not limited to, required and provided parking spaces, amenity space, landscape buffers, driveways, and drive aisles;
 - b) Where land is developed for a mix of uses within a building, the required conveyance shall be the cumulative sum for each use, as calculated using the applicable rate prorated proportionally to the gross floor area allocated to each use;
 - c) Notwithstanding Sections 4(2)(a) and (b) herein, conveyance requirements for mixed-use development shall be at the discretion of the General Manager.

3. Conveyance requirements being determined at the time of draft plan of subdivision or provisional consent for land that is zoned to permit a range of densities will be based on the minimum conveyance requirement of the density

permitted with the final conveyance requirement being confirmed and required at the time of subdivision registration or building permit, as applicable.

Section 5 – Non-profit Residential Development

1. Conveyance for residential development undertaken by a non-profit organization shall be in the form of parkland and shall be based on the conveyance requirements detailed in Table 1 accordingly.
2. Despite Section 3 herein, for residential development undertaken by a non-profit organization, the General Manager has the discretion to waive all or a portion of the required parkland conveyance.

Section 6 – Special areas

1. Notwithstanding Section 4, the rates described in Table 1 do not apply to that area of Kanata shown on Schedule 1 of this by-law where there is an agreement between the developer and the City to provide forty percent (40%) of the total land area being developed as open space.
2. Notwithstanding Section 4, the rates described in Table 1 do not apply to land contained within the South Nepean Town Centre Secondary Plan shown on Schedule 2 of this by-law where parkland shall be dedicated for residential purposes at the rate of five percent (5%) of the gross land area.

Section 7 – Over-dedication

1. Where there is an approved community design plan for an area which plan contains provisions for the conveyance of new parkland based upon a planned population, the City is under no obligation to provide compensation for any over dedication of land due to failure to achieve design densities.
2. Where land being developed is not subject to a community design plan that contains provisions for the conveyance of new parkland and the ultimate development of the land is different than that which was anticipated and relied upon for the previous land conveyance or payment, the City will negotiate a mutually agreeable adjustment with the landowner to reflect the parkland requirements of the actual development.

Section 8 – Condition of land for conveyance

1. The General Manager retains the right not to accept the conveyance of land that is considered not suitable for use as parkland including, but not limited to:
 - a) hazardous or flood prone lands or lands with artesian wells or similar;

- b) wetlands and woodlots retained for conservation purposes;
 - c) steep or unstable slopes;
 - d) any land having unsuitable or unstable soil conditions for intended recreation facilities;
 - e) utility rights-of-way or easements; or
 - f) any land containing an easement, encumbrance, or right-of-use that limits or restricts the City's use of the land.
2. Any land that has been or is to be conveyed to the City for stormwater management facilities, overland flow routes, floodplain or conservation purposes, roadways, walkway blocks or any other non-parkland purpose, will not be credited against the required parkland conveyance or cash-in-lieu of parkland conveyance.
 3. Despite Section 8(2), in areas not subject to a community design plan that contains provisions for the conveyance of new parkland, the General Manager has the discretion to consider crediting pathways conveyed as part of a development proposal as satisfying all or part of the parkland required for development where no other suitable parkland can be conveyed.
 4. Where conveyance of land for park purposes is not feasible within the site being developed, the City:
 - a) may consider the conveyance of land outside of the site being developed if the City is satisfied that the land provides a benefit to the residents of the land being developed; and
 - b) The City will decide if the conveyance of land outside of the site being developed is appropriate at the time of development approval or the issuance of a building permit, as applicable.

Section 9 – Payment of cash-in-lieu

1. In accordance with Section 3(3) herein, the General Manager has the discretion to require the payment of cash-in-lieu of accepting a conveyance of parkland in circumstances such as, but not limited to, the following:
 - a) where there is no land that is either usable or functional on the site for parkland or recreational purposes;
 - b) where the conveyance of parkland from the site would reduce the number of dwelling units or the floor space of the development or redevelopment to the extent that the development or redevelopment is unfeasible;

- c) where the City has identified land in a more appropriate or accessible location and that has been or is to be acquired by the City;
 - d) where the City has determined that the area being developed or redeveloped is already well served with parkland; or
 - e) for a severance.
2. Where more than one building permit is required for development or redevelopment, the payment of cash-in-lieu shall be made the day prior to the day of the issuance of the first building permit.

Section 10 – Valuation of cash-in-lieu

1. Where the payment of cash-in-lieu of parkland conveyance is required, the value of the land will be determined:
- a) in accordance with Section 51.1(4) of the Planning Act, as of the day before the approval of the draft plan of subdivision, part lot control or condominium;
 - b) in accordance with Section 53(13) of the Planning Act, as of the day before the provisional consent was given; or
 - c) in accordance with Section 42(6) of the Planning Act, as of the day before the day the building permit is issued in respect of the development or redevelopment or, where more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued.
2. The value of the land shall be determined by market appraisal approved by the City, and appraisals submitted to or obtained by the City for the purposes of this by-law shall be considered valid for a maximum period of one (1) year from the date the appraisal was completed, or such lesser time as may be specified in the appraisal.
3. Where cash-in-lieu is levied as a flat rate for rural severances as per Table 1, the General Manager shall use a current land evaluation, based upon the average vacant land value as determined by the Director, Corporate Real Estate Office, which shall be updated at no greater interval than every six months.

Section 11 – Exemptions

1. The conveyance of parkland or the payment of cash-in-lieu of parkland is not required for development or redevelopment where it is known, or can be demonstrated, that the required parkland conveyance or cash-in-lieu of parkland, or combination thereof, has been previously satisfied in accordance with the Planning Act, unless:

- a) there is a change in the proposed development or redevelopment that would increase the density providing a net dwelling unit gain;
 - b) the proposed development or redevelopment increases the gross floor area of a non-residential use; or
 - c) land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes that have a higher conveyance requirement pursuant to the rates described herein.
2. No conveyance of land or payment of cash-in-lieu under this by-law is required in the case of the development or redevelopment of:
- a) a building that was accidentally damaged or demolished and where:
 - i. the building is repaired or replaced and re-occupied before the expiry of two years;
 - ii. the building continues to be used for the same purpose after it is repaired, replaced or rebuilt; and
 - iii. there is no increase in number of dwelling units or gross floor area;
 - b) an addition or alteration to an existing residential building that does not result in an increase in dwelling units;
 - c) a place of worship, excluding any ancillary uses as defined by the Zoning By-law;
 - d) a cemetery;
 - e) residential development undertaken by a non-profit organization where the gross land area is less than 4,000 sq.m.;
 - f) a college or university or a school as defined by subsection 1(1) of the Education Act, where the school provides for the students' outdoor recreational needs on-site at the time of development and maintains sufficient outdoor recreational space on-site at the time of redevelopment, all to the satisfaction of the General Manager;
 - g) a municipal or other government use;
 - h) a home-based business as defined in the Zoning By-law;
 - i) an on-farm diversified use as defined in the Zoning By-law;
 - j) agricultural use and agricultural-related uses as defined in the Zoning By-law;

- k) a temporary use for which an approval has been granted under section 39 of the Planning Act; or
 - l) any development or redevelopment of a use undertaken in partnership with the City.
3. No conveyance of land or payment of cash-in-lieu under this by-law is required for:
- a) a change of use from residential to commercial or industrial or for the alteration of an existing building resulting from a change of use from residential to commercial or industrial; or
 - b) a change of use from commercial or industrial to another commercial or industrial use, or for the alteration of an existing building where there is no net increase in gross floor area resulting in a change of use from commercial or industrial to another commercial or industrial use.

Section 12 – Administration

1. This by-law is to be jointly administered by the General Manager and the Treasurer of the City.
2. The payment of cash-in-lieu of parkland imposed by this by-law shall be paid into City accounts and used based on the following distribution:
 - a) forty percent (40%) of all monies paid will be directed to the City-wide cash-in-lieu account and will be used for the acquisition of new parkland or the improvement of existing city-wide parks and recreational facilities; and
 - b) sixty percent (60%) of all monies paid within a ward identified in By-law No. 2005-302, entitled “A by-law of the City of Ottawa establishing ward boundaries”, as amended, will be directed to the appropriate ward cash-in-lieu account and will be used only within the ward in which it is collected for the acquisition of new parkland or the improvement of existing local or district parks or recreational facilities.
3. Notwithstanding Section 12(2) herein, Council may approve the establishment of special administrative areas, identified on an Annex attached to this by-law, where one hundred per cent (100%) of the cash-in-lieu of the conveyance of the required parkland will be directed to an account specific to the appropriate special administrative area. Funds in this account will be used for the acquisition of new parkland, or the improvement of existing local or district parks and recreation facilities within the special administrative area in which it is collected.

4. Despite Section 12(2) herein, funds from one ward cash-in-lieu account may be transferred to another ward cash-in-lieu account or to more than one ward cash-in-lieu accounts to support park acquisition or development of recreational facilities in two or more wards, with the concurrence of the affected Ward Councillors of the City.
5. The City may add additional funds to one or more of the cash-in-lieu accounts and any person or organization may pay any sum into one or more of the cash-in-lieu accounts for the acquisition of parkland or for recreational purposes permitted by the Planning Act.
6. The General Manager and the Treasurer shall report on the status of parkland conveyance of land and cash-in-lieu of parkland to Council on an annual basis.

Section 13 – Disputes

1. Where there is a disagreement with the land value used to establish the payment of cash-in-lieu of parkland conveyance, the owner may request a review of the valuation by an independent appraisal.
2. The appraisal referred to in Section 13(1) herein shall be undertaken at the owner's expense and reviewed by the City to determine its acceptability.
3. If there is no agreement between the City and the owner as to the amount of land required to be conveyed or the amount of cash-in-lieu of parkland that must be paid, either party may apply to the Ontario Land Tribunal, or its successor, to have the matter determined pursuant to the applicable sections of the Planning Act.

Section 14 – Transition

1. Notwithstanding any other provisions to the contrary, this by-law does not negate any previous written undertaking within an agreement between the City and a landowner or landowner's group, or within a Secondary Plan that is in full force and effect as of the day of passing of this by-law, regarding the conveyance of parkland, payment of cash-in-lieu of parkland, or combination thereof, that may be contrary to this by-law.
2. An application for Plan of Subdivision, Part Lot Control, or Plan of Condominium that has received draft approval shall be required to comply with the provisions of this by-law if an extension is sought.

Section 15 – Repeal

1. By-law No. 2009-95, entitled the “Parkland Dedication By-law”, as amended, is repealed on the day this by-law comes into force and effect.

Section 16 – In Force

1. This By-law shall come into force and take effect on September 1, 2022, or on the day it is passed by Council, whichever is later

Section 17 – Short title

This by-law may be referred to as the “Parkland Dedication By-law”.

Section 18 – Annexes and Schedules

Annex 1 Preston-Carling District Special Administrative Area Boundaries

Schedule 1 Kanata Land Subject to the 40% Agreement

Schedule 2 South Nepean Town Centre Secondary Plan