



# The Corporation of the Town of Milton

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Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: April 15, 2024

Report No: DS-023-24

Subject: Update to the Land Conveyance for Park or Other Public Recreational Purposes By-law 055-2022

Recommendation: **THAT the updated Land Conveyance for Park or Other Public Recreational Purposes By-law attached in Appendix A be approved.**

## EXECUTIVE SUMMARY

This report presents an updated Land Conveyance for Park or Other Public Recreational Purposes By-law for Council consideration. The By-law updates include:

- Responding to the updated Planning Act provisions pertaining to land conveyance and payment in lieu of land conveyance that were introduced through Bill 23, the More Homes Built Faster Act, 2022;
- Providing a credit towards satisfying the applicable land conveyance and/or payment in lieu of land conveyance requirement for a development that provides a privately owned public space, specifically within the Downtown Milton GO Major Transit Station Area (Downtown MTSA) and such other area as may be defined in the By-law;
- Providing opportunity for off-site land conveyance within the Downtown MTSA; and
- Providing flexibility for the Town to consider and obtain a combination of land conveyance and payment in lieu of land conveyance.

## REPORT

### Background

The Ontario Planning Act permits a local municipal council to enact a by-law requiring that land be conveyed, or payment in lieu be made, to the municipality for park or other recreational purposes. Town of Milton By-law 055-2022, which came into effect September 18, 2022, establishes these requirements.

On November 28, 2022, the Province's Bill 23 received royal assent. Bill 23 amended and introduced a number of changes to the Planning Act regarding land conveyance for park or other public recreational purposes and the payment in lieu thereof. Some of the Bill 23

## Background

changes to the Planning Act have come into effect, while some others have not yet come into effect.

## Discussion

### Planning Act Conformity

The By-law attached as Appendix A updates the Town's Land Conveyance for Park or Other Public Recreational Purposes By-law 055-2022 to align with the updated Planning Act, including:

- Definitions for “additional dwelling unit” and “net dwelling unit”;
- Exempting additional dwelling units and non-profit housing development from land conveyance and/or payment in lieu of land conveyance requirements;
- Changing the residential alternative rate for land conveyance to 1 hectare for each 600 net dwelling units, with a cap of:
  - 10% of the land in the case of land proposed for development that is five (5) hectares or less in area; and
  - 15% of the land in the case of land proposed for development that is greater than five (5) hectares in area;
- Changing the residential alternative rate for payment in lieu of land conveyance to 1 hectare for each 1,000 net dwelling units, with a cap of:
  - 10% of the value of the land in the case of land for development that is five (5) hectares or less in area; and
  - 15% of the value of the land in the case of land for development that is greater than five (5) hectares in area.

The updates listed above reflect the Bill 23 changes to the Planning Act pertaining to land conveyance and payment in lieu that have come into effect. These changes significantly decrease the amount of land conveyance or payment in lieu the Town is now able to obtain. The amounts that previously could have been obtained through the residential alternative rates for land conveyance (was previously 1 hectare per 300 dwelling units) and for payment in lieu (was previously 1 hectare per 500 dwelling units) have been reduced by half through Bill 23. The caps on the percentage of land or value of land for the residential alternative rate further reduce the amount of land or payment the Town can obtain for higher density developments.

When planning new community areas, Staff are aware of the importance attached to parks as a critical component of complete communities. Through the secondary and tertiary planning processes for greenfield secondary plan areas, staff will continue to seek to identify

## Discussion

and secure a reasonable distribution of parkland with consideration for the needs outlined in the Town's Parkland Provision Standard, as presented through COMS-002-21.

### **Land Conveyance Credit for Privately Owned Public Spaces**

Staff is not recommending inclusion of the Bill 23 changes to the Planning Act that have not yet come into effect in this update to the By-law, with the exception of providing a land conveyance credit for privately owned public spaces proposed within the Downtown Milton GO Major Transit Station Area (Downtown MTSA).

Privately owned public spaces (POPS) are publically accessible open spaces that are privately owned and maintained. These spaces complement public parks and integrate into the overall parkland system, but are separate from the Town's core park types. An agreement with the owner and an easement registered on the title of the property will be required to ensure that the POPS will remain open and accessible for public use in perpetuity.

In February 2022, the Town adopted Official Plan and Zoning By-law amendments for the Downtown MTSA area to implement the recommendations of the Major Transit Station Area and Mobility Hub Study (May 2020) and enable the creation of a transit supportive and complete community. As a result of that work, there are currently a number of active development applications within the Downtown MTSA.

Due to land constraints that are typical when an area transitions into a high density community, the MTSA and Mobility Hub Study noted that the majority of open spaces within the Downtown MTSA will be POPS. These POPS will provide safe, attractive and lively public spaces for residents and visitors within the Downtown MTSA, and will complement Town owned public parks such as Lions Sports Park.

Some applicants within the Downtown MTSA currently undergoing the development review process, in collaboration with Town Staff, have identified potential POPS. To incentivize and account for the contribution of these POPS to the provision of parks and open space within the Downtown MTSA where there is limited opportunity for new parkland, Staff is recommending a credit be provided towards satisfying the applicable land conveyance or, in most cases within the Downtown MTSA, payment in lieu of land conveyance requirement for a development.

In consideration that the Town will not own nor have full control over the land and that the land has minimal programmable potential, it is recommended that a credit of up to 100% of the value of the POPS to a maximum of 25% of the overall land conveyance requirement be provided. The development providing the POPS will still be required to provide at least 75% of the payment in lieu of land conveyance required, which will be used to support investment in park or other public recreational initiatives both within and external to the Downtown MTSA.

To be eligible for the credit, the landowner shall be required to enter into an agreement with the Town providing that the POPS:

## Discussion

- a) is a minimum size of 400 square metres;
- b) is designed, developed and maintained to standards established by the Town;
- c) is adjacent to a municipal right-of-way;
- d) is open and accessible to the public at all times in perpetuity; and
- e) meets any further applicable criteria referred to in the Town's Official Plan or as stipulated through the development approval process.

One of the changes introduced through Bill 23 that is not yet in effect is regarding the ability and process for development applicants to identify encumbered lands (i.e., POPS, Strata parks, etc.) to satisfy the requirements for land conveyance and/or payment in lieu under the Planning Act. Should these provisions come into effect, Staff will review and update By-law 055-2022 to align with the Planning Act and provincial guidance. In the interim, Staff is recommending a land conveyance credit for POPS as noted above.

### **Additional Provisions for Flexibility**

In addition to the updates to By-law 055-2022 described above, Staff is also recommending the following additional provisions to allow flexibility for the Town to consider and obtain parkland if an opportunity arises for:

- Off-site land conveyance within the Downtown MTSA, where both the proposed development and the proposed off-site land conveyance must be located within the Downtown MTSA; and
- A combination of land conveyance and payment in lieu of land conveyance.

The first provision would allow the flexibility for landowners to propose land conveyance on a different property from the one being developed if they own multiple properties within the Downtown MTSA. The second provision would apply Town-wide and allow the Town to consider taking a combination of land conveyance and payment in lieu where appropriate.



**Financial Impact**

The changes enacted to the Planning Act through Bill 23 are anticipated to have a significant impact on the Town’s ability to secure land for parks and other public recreation facilities needed to adequately service the growing community. As noted above, the alternative rates for both land conveyance and payment in lieu of land conveyance have been cut in half from their previous 1ha/300 units for conveyance and 1ha/500 units for payment in lieu to 1ha/600 units and 1ha/1,000 units, respectively. Land conveyance rates for higher density developments have been further reduced through the introduction of caps that equate to 10% of the land for smaller developments of five hectares or less and 15% for developments greater than five hectares.

The long-term financial impact of the legislative changes to land conveyance requirements is currently unknown as the calculations are heavily dependent upon individual developments (and their associated densities and land values), as well as the future secondary/tertiary planning processes. The greatest impact of the changes will be experienced in the higher density development areas, such as the Downtown MTSA where it is expected that most developments will benefit from the legislated cap. To provide some perspective on the magnitude of the changes, the following table illustrates the land conveyance or payment in lieu requirements for a sample high density development in the Downtown MTSA. The development consists of roughly 1,000 residential units on approximately 1.63 hectares with an estimated value per hectare of \$2.43 million (for illustration purposes only).

	Planning Act Before Bill 23	Planning Act after Bill 23		Parkland Provision Standard Need
		Without Cap	With Cap	
<b>Land Conveyance</b>				
Hectares	3.363	1.682	0.163	2.80
Dollar Equivalent	\$ 8,184,756	\$ 4,092,378	\$ 396,000	\$ 6,824,054
<b>Payment in Lieu</b>				
Hectare Equivalent	2.018	1.009	0.163	2.80
Dollars	\$ 4,910,854	\$ 2,455,427	\$ 396,000	\$ 6,824,054



### Financial Impact

Under Bill 23 with the legislated cap, the land conveyance/payment in lieu of land conveyance are reduced by 92-95% of the previous Planning Act permissions and will result in a shortfall of roughly 94% to the parkland provision standard of 1.75 hectares/1,000 population.

Through the secondary and tertiary planning processes, the Town will endeavor to secure appropriate land for parks in an effort to plan for and deliver complete communities. The full financial implications of the legislated changes to the Planning Act will be further evaluated through those ongoing planning processes as well as future fiscal impact analyses and the regular budgeting processes.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact: Wendy Chen

Phone: Ext. 2296

### Attachments

Appendix A: Updated Land Conveyance for Park or Other Public Recreational Purposes By-law (By-law XXX-2024)

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

### Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW XXX-2024

BEING A BY-LAW TO AMEND BY-LAW 055-2022 FOR THE CONVEYANCE OF LAND TO THE TOWN FOR PARK AND OTHER PUBLIC RECREATIONAL PURPOSES, OR THE PAYMENT IN LIEU THEREOF.

**WHEREAS** pursuant to the provisions of Section 42 of the *Planning Act, R.S.O., 1990, c.P. 13*, as amended, the Council of a local municipality, as a condition of development or redevelopment of land, may, by by-law, require that land be conveyed to the municipality for park or other public recreational purposes;

**AND WHEREAS** Section 42 of the *Planning Act* further provides that a municipality may require a payment in lieu, of the land otherwise required to be conveyed;

**AND WHEREAS** the Town of Milton's Official Plan, as amended, provides for land conveyance requirements, as referred to in Section 42 of the *Planning Act*,

**NOW THEREFORE THE COUNCIL FOR THE CORPORATION OF THE TOWN OF MILTON ENACTS AS FOLLOWS:**

**1. DEFINITIONS**

1.1 In this By-law:

- a) **"additional dwelling unit"** means a self-contained and subordinate dwelling unit that is located in, or on the same lot as, a detached dwelling, semi-detached dwelling, semi-link dwelling, or townhouse dwelling.
- b) **"accessory"** means a use, building, or structure where the use, building, or structure is customarily incidental, subordinate in purpose or floor area or both, and exclusively devoted to a principal use, building or structure and located on the same lot therewith.
- c) **"agriculture or farm"** means a bona fide farming operation, including greenhouses used in connection with a bona fide farming operation which are not connected to Regional water services or wastewater services, sod farms and farms for the breeding and/or boarding of horses, and includes, but is not limited to, barns, silos and other accessory buildings to such agricultural development, but excludes in all circumstances any residential or commercial or retail component thereof.
- d) **"building"** means a structure consisting of any combination of walls, roof and floor, or a structural system serving the function thereof, including all associated works, fixtures and service systems.

- e) **"commercial development"** means development which is intended to be used for a non-residential use that is permitted within any commercial zone category contained within the Town's Zoning By-laws, as amended.
- f) **"Council"** means the Council of the Corporation of the Town of Milton.
- g) **"development"**, which includes redevelopment, means:
  - i. the construction, erection or placing of one or more buildings or structures on land; or
  - ii. the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof; or
  - iii. the laying out or establishment of sites for the location of three or more trailers as defined in subsection 164 (4) of the Municipal Act; or
  - iv. the laying out or establishment of sites used for the location of three or more mobile homes as defined in subsection 46(1) of the *Planning Act*; or
  - v. the laying out or establishment of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46(1) of the *Planning Act*.
- h) **"dwelling"** means a building containing one or more dwelling units.
- i) **"dwelling unit"** means either (1) any part of a building or structure used, designed, or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use, or (2) in the case of a special care/special need dwelling, a room or suite of rooms used, or designed or intended for use, by one person with or without exclusive sanitary and/or culinary facilities, or more than one person if sanitary facilities are directly connected and exclusively accessible to more than one room or suite of rooms.
- j) **"industrial development"** means development which is intended to be used for a non-residential use that is permitted within any of the employment zone categories contained within the Town's Zoning By-laws, as amended.
- k) **"local board"** means a local board as defined in section 1 of the Municipal Act.
- l) **"mobile home"** means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for



one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.

- m) **“net dwelling unit”** means the number of dwellings units on the land immediately before the proposed development subtracted from the number of residential units that will be on the land after the proposed development.
- n) **“privately owned public space”** means open space that is privately owned and maintained but is publicly accessible, complementing public parks and/or offering other public programming purposes, and is secured by an easement in favour of the Town.
- o) **“Region”** means the Regional Municipality of Halton.
- p) **“Town”** means The Corporation of the Town of Milton.

## 2.0 EXEMPTIONS

2.1 Unless otherwise specified, this By-law shall apply to all lands within the corporate limits of the Town.

2.2 Notwithstanding any other provisions of this By-law, no conveyance of land or payment in lieu thereof, shall be required under this By-law where the development is for the purposes of:

- a) additions to any existing commercial or industrial building that are less than 50% in gross floor area of the original building. If the gross floor area of an existing building is enlarged by greater than 50% of the original building, the amount of land required in respect of the enlargement is the amount of land that would otherwise be required multiplied by the portion of the addition that exceeds 50% of the original building;
- b) replacement of an existing commercial or industrial building on a lot or part of a lot, provided that the new building is no greater in gross floor area or volume than 150% of the original building and provided that the land use does not change;
- c) non-residential/residential interior/exterior alterations provided there is no increase to the gross floor area of the building;
- d) replacement dwellings provided there is no density increase and it is a one to one dwelling unit replacement;
- e) additional dwelling units;
- f) an enlargement to an existing dwelling unit;

- g) any land for which there is an in-force agreement in place that provides for the conveyance of land for park or other public recreational purposes or payment in lieu thereof, unless:
  - i. there is a change in the proposed residential development which would increase the density of the development from that contemplated in the agreement; or
  - ii. the lands or a portion thereof in the agreement originally proposed for development for an exempted use or commercial or industrial purposes are now proposed for development for other purposes; or
  - iii. the lands or a portion thereof in the agreement which were considered undevelopable or not proposed for development under the agreement become developable;
- h) any property to be developed by or on behalf of the Town, Region, Provincial government, Federal government, Milton Hydro, a publicly funded Board of Education, local board, or a public hospital receiving aid under the Public Hospitals Act;
- i) land vested in or leased to a post-secondary institution that receives regular and ongoing operating funds from the government for the purposes of post-secondary education and is exempt from development charges imposed under the Development Charges Act, 1997 or the Town's Development Charge By-Law, as amended;
- j) a non-profit housing development as defined in subsection 4.2 (1) of the Development Charges Act, 1997;
- k) any land, buildings, or structures used or to be used for the purposes of a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the Assessment Act;
- l) temporary uses of land, buildings or structures, as permitted through the Town's Zoning By-laws and/or pursuant to section 39 of the *Planning Act*;
- m) development creating or adding an accessory use, building or structure;
- n) any land on which non-residential, agriculture or farm buildings used or to be used for an active bona fide agriculture or farm purpose.

### 3.0 LAND CONVEYANCE

- 3.1 Prior to the issuance of a building permit, permitting the development of any land within the corporate limits of the Town, the owner shall convey land to the

Town, free of any encumbrances, for park or other public recreational purposes as follows:

- a) In the case of development for commercial or industrial purposes, 2% of the land proposed for development; and
- b) in the case of development for any other type of land use, 5% of the land proposed for development;
- c) Notwithstanding section 3.1 b) above, any residential development for which land conveyance at a rate of one (1) hectare for each 600 proposed net dwelling units would exceed the rate calculated in 3.1 b) above, shall provide land conveyance at the rate of one (1) hectare for each 600 net dwelling units proposed.
- d) Notwithstanding section 3.1 c) above, any residential development to provide land conveyance at the rate of one (1) hectare for each 600 proposed net dwelling units shall not be required to convey greater than:
  - i. in the case of land proposed for development that is five (5) hectares or less in area, 10% of the land; and
  - ii. in the case of land proposed for development that is greater than five (5) hectares in area, 15% of the land.

3.2 The location and the configuration of land required to be conveyed pursuant to this By-law shall be at the discretion of the Town.

3.3 The Town may consider off-site land conveyance, subject to a determination of appropriate value, where both the development and the proposed off-site land conveyance are located within the area identified on Schedule A.

3.4 All survey, environmental audit or testing, and legal costs associated with the conveyance of lands pursuant to this By-law, and all costs of developing the lands to be conveyed to a base standard as required in the Town's Engineering and Parks Standards Manual, as amended, shall be at the expense of the owner.

3.5 Where an owner proposes that land be developed for any combination of commercial, industrial, residential, or other purposes, the respective rate for determining the amount of land to be conveyed shall be determined based on the proportion of the development to be used for commercial, industrial, residential and/or other purposes.

#### **4.0 PAYMENT IN LIEU OF LAND CONVEYANCE**

4.1 Where the Town requires the conveyance of land in accordance with the provisions of this By-law, the Town may, in lieu of accepting such conveyance,

require a payment by the owner to the value of the land otherwise required to be conveyed under this By-law as follows:

- a) In the case of development for commercial or industrial purposes, 2% of the value of the land proposed for development; and
  - b) in the case of development for any other type of land use, 5% of the value of the land proposed for development;
  - c) Notwithstanding section 4.1 b) above, any residential development for which payment in lieu at a rate of one (1) hectare for each 1,000 proposed net dwelling units would exceed the rate calculated in 4.1 b) above, shall provide a payment equal to the value of one (1) hectare of land for each 1,000 net dwelling units proposed.
  - d) Notwithstanding section 4.1 c) above, any residential development to provide payment in lieu at the rate of one (1) hectare for each 1,000 proposed net dwelling units shall not be required to pay greater than:
    - i. in the case of land proposed for development that is five (5) hectares or less in area, 10% of the value of the land; and
    - ii. in the case of land proposed for development that is greater than five (5) hectares in area, 15% of the value of the land.
- 4.2 Any required payment to be made to the Town under this By-law shall be made prior to the issuance of the first building permit in respect of the lands proposed to be developed. The first building permit would be the first above-grade building permit associated with the construction of the building(s), inclusive of conditional or partial permits.
- 4.3 For the purpose of determining the amount of any payment required under section 4.0 of this By-law, the value of the land shall be determined as of the day before the day the building permit is issued in respect of the development. Where more than one building permit is required for the development, the value of the land shall be determined as of the day before the day the first building permit is issued.
- 4.4 Where appropriate, a combination of land conveyance and payment in lieu of land conveyance may be considered at the Town's discretion. When a combination of land conveyance and payment in lieu of land conveyance is required and the alternative rate is applicable, the land conveyance requirement will be calculated first, followed by the payment in lieu of land conveyance.
- 4.5 Funds received by the Town under this By-law may be used by the Town for the acquisition of land to be used for park or other public recreational purposes in accordance with the requirements of the *Planning Act*.

4.6 Where an owner proposes that land be developed for any combination of commercial, industrial, residential or other purposes, the respective rate for determining the amount to be paid in lieu of conveyance of land shall be determined based on the proportion of the development to be used for commercial, industrial, residential and/or other purposes.

4.7 Payment in lieu of land conveyance shall be made by cash, debit, bank draft or certified cheque, or as otherwise approved at the sole discretion of the Town Treasurer.

## 5.0 LAND CONVEYANCE CREDIT

5.1 Within the area identified on Schedule A, the Town may choose to accept a privately owned public space proposed through the development approval process towards satisfying the applicable land conveyance and/or payment in lieu of land conveyance requirement for a development. Consideration and provision of any land conveyance credit for a privately owned public space shall require the owner to enter into an agreement with the Town providing that the privately owned public space:

- a) is a minimum size of 400 square metres;
- b) is designed, developed and maintained to standards established by the Town;
- c) is adjacent to a municipal right-of-way;
- d) is open and accessible to the public at all times in perpetuity; and
- e) meets any further applicable criteria referred to in the Town's Official Plan or as stipulated through the development approval process.

5.2 Credit for a privately owned public space will be calculated at 100% of the value of the privately owned public space to a maximum of 25% of the overall land conveyance requirement for the development.

## 6.0 PRIOR CONVEYANCE OR PAYMENTS IN LIEU

6.1 Where land has been previously conveyed or payment made to the Town in accordance with the provisions of Sections 42, 51.1 or 53 of the *Planning Act*, no further payment shall be required, unless:

- a) there is a change in the proposed development which would increase the density of the development; or
- b) land originally proposed for development for commercial or industrial purposes is now proposed for development for other purposes.

## 7.0 SEVERABILITY

7.1 If, for any reason, any provision, section, subsection or paragraph of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

**8.0 HEADINGS FOR REFERENCE ONLY**

8.1 The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

**9.0 EFFECTIVE DATE**

9.1 This By-law shall come into force and effect on XX, 2024.

PASSED IN OPEN COUNCIL ON .....2024.

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Gordon A. Krantz (Mayor)

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Meaghen Reid (Clerk)

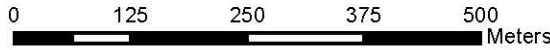


Town of Milton  
By-law 0XX-2024

Land Conveyance for Park or Other Public Recreational Purposes

Date: 3/8/2024

# SCHEDULE A



 Downtown Milton GO MTSA