

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ORR #	Title of ERO/ORR Post	Staff Comments	Recommendations to Proposed Legislative Changes
1	ERO 026-0312	Proposed Changes to Support Standardizing of Parkland Requirements Under the Planning Act	<p>Standardizing of Parkland Requirements – Staff are not supportive of requiring municipalities to accept encumbered lands and privately owned publicly accessible spaces (POPS) as part of parkland dedication. This could result in smaller, fragmented spaces that constrain the City’s ability to meet park programming and operational needs, particularly given the legislated caps of 10% or 15% that apply to parkland dedication.</p> <p>The changes may also further limit the City’s ability to collect cash-in-lieu (CIL) of parkland, reducing flexibility to secure funding for strategic, long-term parkland acquisition.</p>	
2			<p>Ineligible Lands – The proposed regulation would establish criteria for developer identified parkland to be conveyed to satisfy parkland dedication requirements under the <i>Planning Act</i>, to implement provisions in Bill 23, the <i>More Homes Build Faster Act, 2022</i> that are not yet in force.</p> <p>The proposed regulation would provide land suitability criteria, and list ineligible land that cannot be required to be conveyed for park or recreational purposes including:</p> <ul style="list-style-type: none"> • Contaminated lands; • Natural and human-made hazard lands; • Lands within and adjacent to natural heritage features and areas are eligible on the condition that a park would not interfere with or compromise the natural heritage features and areas; and 	<p>Recommendation: That the Province revise the list of ineligible lands to clarify that natural heritage features or areas required to be designated for ecological protection, including their associated vegetation protection zones, be included without criteria.</p>

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ORR #	Title of ERO/ORR Post	Staff Comments	Recommendations to Proposed Legislative Changes
			<ul style="list-style-type: none"> • Lands in the Natural Heritage System of the Greenbelt Plan or in the Natural Core or Natural Linkage Areas of the Oak Ridges Moraine Conservation Plan or unless in accordance with policies of the Niagara Escarpment Plan. <p>The inclusion of lands within and adjacent to natural heritage features and areas as eligible for conveyance for parkland dedication is not supported as currently drafted. The proposed qualification, “on the condition that a park would not interfere with or compromise the natural heritage features and areas,” is unclear and could be interpreted as compelling municipalities to accept protected natural heritage features and areas as parkland. The list of ineligible lands should be revised to clarify that any natural heritage feature or area required to be designated for ecological protection, including their associated vegetation protection zones, be included without conditional criteria. These lands are not suitable or available for active parkland programming, as permitted uses within protected features are typically limited to conservation and nature-based recreation. The dedication of protected natural heritage features or areas as parkland should remain at the municipality’s discretion. Lands proposed for parkland dedication and conveyance should be free of limitations or constraints that would preclude their development for park purposes.</p>	
3			<p>Ineligible Lands – To determine whether lands are suitable for park use—specifically, whether they can accommodate required fill and soil depths for structural footings in accordance with the Ontario Building Code and support tree planting. Staff suggest that a</p>	

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ORR #	Title of ERO/ORR Post	Staff Comments	Recommendations to Proposed Legislative Changes
			Geotechnical Investigation Report based on the proposed park design be required, along with sign-off from a structural engineer. In addition, confirmation of adequate soil depth and a soil fertility testing report must be provided to establish the land's suitability for park use.	
4			Ineligible Lands – All legal and administrative costs associated with determining whether lands are ineligible due to financial encumbrances will be borne by the landowner. This review will be undertaken within a defined and expedited timeline for decision-making.	Recommendation: That the Province establish requirements providing that all legal and administrative costs associated with determining whether lands are ineligible for park or public recreational use due to financial encumbrances be borne by the landowner.
5			Ineligible Lands – Staff further recommends that a mandatory pre-consultation process be required to allow sufficient time to review proposed parkland supporting materials, negotiate any necessary agreements, and resolve outstanding matters prior to formal decision-making and acceptance of the parkland.	Recommendation: That the Province require a pre-consultation process to provide municipalities with sufficient time to review proposed parkland supporting materials, negotiate necessary agreements, and resolve outstanding matters prior to formal development review process and acceptance of parkland.
6			Land Accessibility – Urban Parks Strategy should address both accessibility and user comfort within park spaces. While the Official Plan can establish clear target standards, the implementing zoning framework should retain enough flexibility to respond to varying site conditions and contexts. The Urban Park Strategy is currently on hold pending the release of Provincial regulations related to 'developer-identified lands'. This pause ensures the strategy can be appropriately aligned with the evolving legislative framework and avoids potential rework.	
7			Supporting Implementation Matters - An attestation from the landowner or an authorized representative	Recommendation: That as part of these changes, the Province require the

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ORR #	Title of ERO/ORR Post	Staff Comments	Recommendations to Proposed Legislative Changes
			<p>confirming that the land or proposed POPS arrangement is eligible is not sufficient on its own. Such confirmation must be supported by appropriate technical documentation, including geotechnical investigation reports, soil testing results, and sign-off from a structural engineer on the detailed park design. Accordingly, a parkland agreement, together with a finalized park design, is a prerequisite for determining parkland eligibility. These materials should be prepared in advance, in consultation with the City, and submitted by the applicant as part of the site plan application.</p>	<p>submission of a Geotechnical Investigation Report based on the proposed park design to demonstrate that the lands can accommodate required fill and soil depths for structural footings in accordance with the Ontario Building Code, together with sign-off from a qualified structural engineer.</p>
8			<p>Environmental Impact – The changes could lead to more parkland being conveyed in intensification and infill areas under Section 42 of the <i>Planning Act</i>, because the 70% credit may encourage developers to provide land instead of cash. It may also result in municipalities receiving land that they may not have previously accepted. However, some high-quality fee simple land that might have been provided under the current rules may no longer be conveyed. The proposed rules include criteria to help ensure only suitable land is taken, and the Ministry will monitor the changes to maintain access to good quality parks for residents. This could result in smaller, fragmented spaces based on total development area, constraining the City’s ability to meet park programming and operational needs, particularly given the legislated caps of 10% or 15% on parkland dedication.</p> <p>The changes may also further limit the City’s ability to collect cash-in-lieu (CIL) of parkland, reducing flexibility to secure funding for strategic, long-term parkland acquisition. They may also discourage landowners</p>	<p>Recommendation: That the Province require the developer to submit a facility fit/concept plan prepared by a Registered Landscape Architect, full member of OALA to demonstrate that the developer identified land is of a size and shape that is capable of serving park or public recreational purposes.</p>

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ORR #	Title of ERO/ORR Post	Staff Comments	Recommendations to Proposed Legislative Changes
9			<p>from entering into master parkland agreements within intensification areas.</p>	
			<p>Regulatory Impacts – From the City's perspective, the proposed regulatory changes are expected to increase both administrative and financial pressures on municipalities implementing parkland dedication under section 42 of the Planning Act. Staff will require time and resources to understand and implement the new framework, resulting in training and transition-related costs.</p> <p>Municipalities are also expected to face increased legal and administrative costs associated with negotiating, drafting, and enforcing agreements for encumbered lands and privately owned publicly accessible spaces (POPS). This is particularly significant where developers may seek to satisfy full parkland dedication requirements through such arrangements, requiring more complex agreements to secure public access, define maintenance responsibilities, and ensure long-term functionality.</p> <p>While these changes may provide greater regulatory clarity and potentially reduce uncertainty at the Ontario Land Tribunal (OLT), they are also likely to increase compliance costs and staff workload in the short to medium term.</p> <p>If a municipality intends to accept the conveyance of an interest in land, it may require the landowner to enter into an agreement with the municipality providing for the land to be used for park or other public recreational purposes.</p>	<p>Recommendation: That the Province provide clarification on the implications of the proposed legislative changes, including the City's ability to require payments in accordance with the City's Alternative Infrastructure Policy (2016) when accepting strata parks or similar arrangements, and that staff report back to Council on the findings.</p> <p>Recommendation: That the Province provide clarification on cost responsibilities, including explicit recognition that increased legal and administrative burden will fall on municipalities, and seek consideration of cost-recovery mechanisms or implementation support.</p>

City of Markham Comments on Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

Item #	ERO/ARR #	Title of ERO/ARR Post	Staff Comments	Recommendations to Proposed Legislative Changes
			<p>The proposed amendment expands the scope of this provision. Previously, it applied only to an interest in land identified by the developer. The revised wording now also includes additional circumstances, allowing municipalities to require agreements not only for conveyed interests in land but also for arrangements such as easements and encumbered lands.</p> <p>While staff are generally not supportive, in principle, of accepting encumbered lands, easements, or partial interests in land, they are supportive of the requirement for an agreement that would enable the municipality to enter into arrangements for other land types identified in the legislation, such as strata parks located above private underground infrastructure or provincial public transit underground infrastructure (e.g., parking garages, GO transit). However, it is unclear whether the City would be able to continue to require payment in accordance with the Alternative Infrastructure Policy (2016) for the acceptance of a strata park.</p> <p>The amendment provides that certain lands or interests in land conveyed in accordance with municipal requirements may be credited toward parkland dedication requirements. Where applicable, the area of such lands would be counted at a reduced rate—specifically, multiplied by a factor of 0.7 or a higher factor as determined by the municipality. The Parkland Conveyance By-law will need to be updated to identify the maximum parkland credit applicable to encumbered lands, ensuring that parkland credits are applied consistently based on City-determined standards rather than on a case-by-case basis.</p>	