

Policy Title: Payment- In-Lieu (PIL) of Parking Program

Policy Number: 07-09-01

Section:	Community Development	Subsection:	Parking
Effective Date:	April 13, 2016	Last Review Date:	December, 2015
Approved by:	Council	Owner Division/Contact:	Planning and Building Department

Policy Statement

The Payment-In-Lieu (PIL) of Parking Program permits a building owner or tenant to make an application to the City to provide payment-in-lieu of parking, exempting the owner or tenant from providing or maintaining parking facilities in accordance with the applicable Zoning By-law.

Purpose

Monies accepted through the PIL program will be placed in the respective PIL reserve accounts and will be used for the acquisition, establishment and/or maintenance of municipal parking facilities in the area from which funds were collected.

This policy outlines the application and approval process, identifies the formulas used to calculate the required payment and establishes payment requirements.

Legislative Authority

The *Planning Act, R.S.O.*, 1990, c.P. 13, as amended, Section 40, provides that a municipality and an owner or tenant of a building may enter into an agreement exempting the owner or tenant from providing or maintaining parking facilities in accordance with the applicable Zoning By-law, provided such agreement includes the payment of money for the exemption and sets out the basis for the payment calculation.

Scope

The PIL program is applicable in all areas of the City where municipal parking is provided, either in off street lots and/or on street. The municipal parking should be available during the hours of operation for the proposed use(s). In areas where municipal parking is not available but is being planned, PIL may also be considered based on the criteria in Part B of the Evaluation section of this policy.

The PIL program will allow "grandfathering" existing parking deficiencies of current legal non-conforming uses. "Grand-fathering" under this policy is solely for the purpose of establishing a

PIL contribution and in no way affects how the number of parking spaces required by the Zoning By-law is calculated. The required number of parking spaces identified by the Zoning By-law must be provided either on-site and/or through a minor variance (reduced requirement or off-site lease agreement) and/or through a PIL contribution.

Application

The developer/proponent submits the application for PIL to the Planning and Building Department, along with the required application fee. (Refer to the Planning Act Processing Fees and Charges By-law for current fees.) If the PIL application is made by a tenant of the property, such application will be required to be accompanied by a written authorization signed by the owner, dated and witnessed.

In conjunction with or as part of the application, the developer/ proponent should provide justification for a parking shortfall.

Approval Process

The Commissioner of Planning and Building or his/her designate is responsible for the processing of all PIL applications.

Evaluation – Part A

Proposals for PIL will be evaluated based on the following:

- Consistency with and/or advancement of environmental, design, transportation or economic development objectives and policies of Mississauga Official Plan
- Consistency with the objectives of a City Council endorsed parking strategy relevant to the subject location
- Whether the existing public parking supply in the surrounding area can accommodate the on-site parking deficiency. (The parking supply should be within a maximum 10 minute walk, not more than 500 m (1,640 ft.) And can be on or off street)
- What site constraints prevent the provision of the required number of parking spaces; and
- The proposed use of the property and whether there is any issue as to overdevelopment of the site

Evaluation – Part B

The City may request PIL in situations where limited or no municipal parking facilities are available. In these situations the City will have regard for the following:

- An identified municipal interest in providing public parking facilities in the area
- The timing for the delivery of the municipal parking facilities
- The adequacy of alternatives to on-site parking until the municipal parking facilities are delivered

- Whether the on-site parking deficiency would affect the viability of the site or result in significant impact on the surrounding area, and
- The number of spaces proposed to be considered for PIL as it relates to the number of spaces the municipality is interested in providing

The Planning and Building Department evaluates the PIL application in accordance with Mississauga Official Plan policies, including relevant Local Area Policies and the evaluation criteria of this policy. The application is circulated to relevant departments and agencies for comments.

Conditions of Approval

If the PIL application meets the above noted criteria, the Planning and Building Department prepares the terms and conditions of PIL approval, which shall include, among other general terms:

- The number of parking spaces to be considered for a PIL of parking agreement
- The type of parking to be considered for PIL (surface, above grade or below grade)
- The estimated cost of each parking space (refer to the Planning Act Processing Fees and Charges By-law), and
- The developer/proponent contribution or payment

If payment by instalment is requested, this will also be addressed in the terms and conditions of PIL approval. Payment by instalment will be considered only if the total payment amount exceeds \$15,000.00. The instalment period should be restricted to a maximum of three years, to include one up-front payment with a minimum amount of \$15,000.00 and a maximum of three instalments for principal and interest, which is based on the prime rate plus 1.5% per annum. The first payment is to be made up-front. A Letter of Credit in the amount outstanding will be required to accompany the executed PIL agreement.

Any letters of credit submitted to the City must meet the requirements outlined in Corporate Policy and Procedure - Finance - Letters of Credit.

The PIL conditions will also include a provision that the developer/proponent contribution as calculated by the City is valid for only 12 months from the date of determining the terms and conditions of PIL approval. If the proposed PIL agreement is not executed by both parties within the stated 12 month period, a new application along with the application fee will be required.

Notwithstanding the above, additional or alternative conditions of approval may be applicable if the City enters into joint venture development agreements with other partners to provide public parking.

Agreement

If the developer/proponent and the City agree that an agreement is appropriate, the developer/proponent shall deliver a standard form agreement (for review by the City Solicitor, Legal Services, City Manager's Department) and return three signed copies of the agreement, as reviewed, to the Planning and Building Department.

If the PIL agreement is to include a term authorizing instalment payment by a tenant or owner, the agreement will be required to be registered in the Land Registry Office against the lands to which it applies. If for this or any other reason, the agreement is to be registered on title, the owner will be required to be a party to the agreement and to execute same regardless of whether a tenant alone is the applicant.

In instances where the applicant is a tenant, a save harmless and indemnity clause may be included in the agreement for the benefit of the owner. The tenant under such a clause would be required to save harmless and indemnify the owner for any costs or damages to the owner arising out of actions the City is required to take or takes under subsection 40(4) of the *Planning Act*. The cost of registering the PIL agreement shall be borne by the developer/ proponent.

For payment by instalment, the PIL agreement will include specific end dates (i.e. anniversary date of the commencement of the PIL agreement) when the monies are to be paid and an index for increased costs (including a fixed rate of interest based on the prime rate plus 1.5% per annum). The PIL agreement submitted must include one up-front payment and a Letter of Credit for the amount outstanding, prior to execution by the City, to ensure payment will be received by the City on the specified dates.

For applications that require PIL for 10 parking spaces or less authority to execute the PIL agreement is delegated to the Commissioner of Planning and Building. Once the agreement is finalized, the applicable planner will forward an application briefing note and copies of the agreement to the Commissioner of Planning and Building for review and execution.

For applications that require PIL for more than 10 parking spaces, Council is to consider the application and pass an enacting by-law to authorize the Commissioner of Planning and Building to execute the agreement. A report from the Commissioner of Planning and Building on the proposed PIL application will be prepared for consideration by the Planning and Development Committee and Council. Approvals typically contain a sunset clause stipulating that the PIL agreement and payment must be finalized within 90 days of approval of the PIL application by Council. If the proposed PIL agreement is not executed by both parties within the stated 90-day period, the approval will lapse and a new PIL application, along with the application fee, will be required.

For applications that are not supported by the department, a report from the Commissioner of Planning and Building recommending refusal is prepared for consideration by the Planning and Development Committee and Council. This applies to applications that seek PIL for any number of parking spaces.

Tracking PIL Contributions

PIL contributions will be tracked by property by adding a note in the City's Mississauga Approvals Express (MAX) system.

Payment

The PIL payment, except where instalment payments are appropriate, shall be in one lump sum and be received prior to the execution of the signed PIL agreement. Requests for instalment payments will be considered only when the total payment required exceeds \$15,000.00. The instalment period should be restricted to a maximum of three years, to include one up-front payment with a minimum amount of \$15,000.00 and a maximum of three instalments. A Letter of Credit will be considered as a payment and drawn each annual anniversary date.

The required full payment or up-front payment and a Letter of Credit for the amount outstanding, must be received by the Planning and Building Department with the signed PIL agreement:

- For a PIL application associated with a rezoning application, payment must be made and the PIL agreement executed prior to the enactment of the amending Zoning By-law.
- For a PIL application without an associated rezoning application, payment must be made and the PIL agreement executed prior to the issuance of a building permit or a Zoning Certificate of Occupancy.

PIL payments are not refundable. The number of parking spaces where a PIL agreement has been executed will be credited to the property.

Notwithstanding the above, payment options may vary if the City enters into joint venture development agreements with other partners to provide public parking facilities.

Allocation of Funds

Funds collected are placed in the respective PIL reserve accounts for use in the areas from which they were collected. The Planning and Building Department is responsible for sending the cheque, a Letter of Credit (if payment is to be made by instalments) and a letter signed by the Commissioner of Planning and Building or his/her designate specifying the dates and amounts of any future draws, to the Finance Division of the Corporate Services Department for deposit to the appropriate PIL reserve account. In situations involving unpaid accounts, the Finance Division will be responsible for advising the City Solicitor so that appropriate legal action can be taken by the City to recover monies due.

Developer/Proponent Contribution

Parking Formula

The developer/proponent contribution of the PIL of parking for (A) and (B) below is based on the Surface Parking Formula and Structured Parking Formula outlined in Appendix A.

The developer/proponent contribution of the PIL of parking will be calculated based on the following:

- (A) A Change in Land Use or the Conversion of an Existing Building and/or Structure or part thereof:

Note: "Conversion" means the change of a use in an existing building or structure or part thereof, to a different use.

Category 1:

Where the gross floor area equals or is less than 50m² (538 sq. ft.), 12.5% of the estimated cost of parking spaces, based on the established surface or structured parking formula, whichever is applicable. The selection of the formula is based on the criteria established under Applicability of Surface and Structured Parking Formula.

Category 2:

Where the gross floor area exceeds 50 m² (538 sq. ft.) but equals or is less than 200 m² (2,152 sq. ft.), 25% of the estimated cost of parking spaces, based on the established surface or structured parking formula, whichever is applicable. The selection of the formula is based on the criteria established under Applicability of Surface and Structured Parking Formula.

Category 3:

Where the gross floor area exceeds 200 m² (2,152 sq. ft.), 50% of the estimated cost of parking spaces, based on the established surface or structured parking formula, whichever is applicable. The selection of the formula is based on the criteria established under Applicability of Surface and Structured Parking Formula.

- (B) New Development, Redevelopment and Addition to Existing Building and/or Structure:

Note: "Development" means the construction of a new building and/or structure on a lot.

"Redevelopment" means the demolition of an existing building and/or structure and the construction of a new building and/or structure on the same lot.

- 50% of the estimated cost of parking spaces, based on the established surface or structured parking formula, whichever is applicable. The selection of the formula is based on the criteria established under Applicability of Surface and Structured Parking Formula.

Applicability of Surface and Structured Parking Formulas for the Downtown Core

The surface parking formula will be used when the conversion, development, redevelopment or addition provides surface parking. The structured parking formula (for above grade and below grade parking) will be used when the conversion, development, redevelopment or addition provides structured parking. In instances where the subject property/proposal provides a mix of surface and structured parking (above and/or below grade), PIL contributions will be prorated based on the mix of parking types.

Note: The ground level of any structure will be considered to be above grade parking.

If the conversion, development, redevelopment or addition does not provide any parking, the surface rate shall apply. In instances where the PIL is being made due to a loss in off-site parking, the contribution will be based on the off-site parking type.

Notwithstanding the above, other criteria may be applicable in determining payment requirements if the City enters into joint venture development agreements with other partners to provide parking.

Applicability of Surface and Structured Parking Formulas Outside of the Downtown Core

The surface parking formula will be used for areas outside of the Downtown Core.

Revision History

Reference	Description
PDC-0150-2000 – 2000 10 25	
PDC-0040-2008 – 2008 06 04	Scope extended to include visitor parking required for residential development
PDC-0014-2009 – 2009 02 11	Addition of recommendations from the Parking Strategy for Mississauga City Centre
November 13, 2012	Admin revision to Applicability of Surface and Structured Parking Formulas – instance of PIL being made due to a loss in off-site parking
December 03, 2012	Revision to Applicability of Surface and Structured Parking Formulas – clarification that structured parking formulas only apply to the City Centre District
December 07, 2015	Simplification of name of Policy; clarification

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	of Scope; administrative revisions to align language with the new Official Plan
PDC-0003-2016 – 2016 02 10	Resolution 0018-2016 – delegation of responsibility for PIL applications for 10 or fewer spaces to the Commissioner of Planning and Building

Appendix A Parking Formula

Parking formulas for (A) and (B) above:

Surface Parking Formula: Contribution = $[S1 + (L \times P1)] \times R \times Q$

Structured Parking Formula: Contribution = $[S2 + (\frac{L}{F} \times P2)] \times R \times Q$

where:

S1 = Construction cost of a surface parking space

S2 = Construction cost of a parking space in an above grade or below grade parking structure, where applicable

P1 = Size of a surface parking space including provisions for driveways and aisles [estimated at 23 m² or 248 sq. Ft. (based on the size of a parking space, 5.2 m x 2.6 m or 17.1 ft. X 8.5 ft., plus half of the aisle, 3.5 m x 2.6 m or 11.5 ft. X 8.5 ft.)]

P2 = Size of a parking space in a structure including provisions for driveways, aisles, columns and ramps [estimated at 26.7 m² or 287 sq. Ft. (based on the size of a parking space, 5.2 m x 2.6 m or 17.1 ft. X 8.5 ft., half of the aisle, 3.5 m x 2.6 m or 11.5 ft. X 8.5 ft., plus estimated area occupied by columns and ramps (about 16% of P1 - surface parking space)]

L = Estimated land value within the subject area

R = Number of parking spaces for which PIL is sought by the developer/proponent

F = Number of floors in a parking structure (the standard assumption is 4 used for the Fees and Charges By-law)

Q = Factor of 50%, 25% or 12.5%, whichever is applicable, to be applied to the estimated cost of parking spaces