

Amendments to the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act

Date: June 29, 2026

To: Infrastructure and Environment Committee

From: Chief Engineer and Executive Director, Engineering and Construction Services

Wards: All

SUMMARY

The purpose of this report is to seek Council approval to amend the City Policy entitled "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act" (the Policy). This report has been prepared in consultation with Development Review, Transportation Services, Toronto Water, Parks and Recreation, City Planning, TTC, Corporate Real Estate Management, and Legal Services.

The amendments are captured in the updated Policy now titled "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of Approval of a Development Application". The amendments are summarized as follows:

- Revision of the Record of Site Condition requirements for Subdivision Applications to be consistent with Ontario Regulation 153/04 as amended.
- Renaming of the Policy to better reflect conveyance of land to the City in a land development context that may be authorized through legislation other than the Planning Act, such as through the City of Toronto Act, 2006, and the Condominium Act, 1998.
- Inclusion of the Ministry of the Environment, Conservation and Parks (MECP) Stratified Site Condition Standards (excluded from the 2015 Policy), to permit conveyance of lands where the quality of the surface soil (above 1.5 metre depth) standards are set to protect future intended uses, while less stringent standards are applied to the subsurface soil (below 1.5 m depth) while still being protective of the applicable receptors.
- Expansion of the Policy to include new below-grade easements for existing City infrastructure.
- Exemption for conveyance of lands subject to existing TTC transit related infrastructure.
- Clearer description of the Applicant's responsibilities.
- New language that clearly outlines the Peer Review Process.

- Detailed description of situations that are exempted from the Peer Review Process.

Adoption of the amended Policy will align City processes with recent Provincial regulatory changes, clarify the application and language of the Policy, and address feedback from internal and external stakeholders. The changes introduce additional flexibility for applicants to demonstrate that environmental conditions meet the City's intended use, further aligning the Policy with Provincial legislation and environmental quality standards. Additional refinements include new exemptions, as well as clearer descriptions of processes and responsibilities for all parties involved. Collectively, these improvements enable a more streamlined and efficient development approval process for the conveyance of potentially contaminated lands, while maintaining the City's existing level of environmental risk protection.

RECOMMENDATIONS

The Chief Engineer and Executive Director, Engineering and Construction Services recommends that:

1. City Council adopt the "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of Approval of a Development Application", May 2026 as described in Attachment 1 to the report.

FINANCIAL IMPACT

There are no additional financial impacts resulting from adopting the recommendations of this report. The Chief Financial Officer has reviewed this report and agrees with the financial impact statement.

DECISION HISTORY

At its meeting on February 10 and 11, 2015, Council adopted the "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act (January 2015)". A copy of the Council decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PW1.6>

At its meeting on May 5 and 6, 2021, Council referred the proposed Amendments to the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act to the Chief Engineer and Executive Director, Engineering and Construction Services for further consideration. A copy of the Council decision can be found at: <https://secure.toronto.ca/council/agenda-item.do?item=2021.IE21.3>

COMMENTS

Current Policy

In 2015, Council adopted the existing "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act". The Policy was developed to ensure that the City did not accept lands as a Condition of Approval of a Development Application that presented elevated risks to the environment, worker safety, or public health. In addition to requiring applicants to comply with Provincial laws and regulations, the Policy established additional environmental requirements and criteria and described the processes that protect the City from acquiring lands that have unacceptable liabilities associated with known or suspected environmental contamination.

The Policy uses a Peer Review Process to support and provide a mechanism for clear, consistent, and comprehensive review of environmental documentation prepared by the applicant to ensure lands meet the City's requirements prior to conveyance. The Peer Review Process is conducted by a City selected and competitively procured roster of third-party Qualified Persons (QPs) as defined under Ontario Regulation 153/04 of the Environmental Protection Act, entitled "Records of Site Condition – Part XV.1 of the Act" (O. Reg. 153/04). The City's Peer Reviewer confirms the lands meet the applicable environmental standards presented in O. Reg. 153/04, as well as all additional City requirements. The cost of the Peer Review Process is borne entirely by the applicant.

Stakeholder Consultation

The proposed amendments to the Policy were circulated for review to internal and external stakeholders in February and March 2026.

Internal stakeholders included staff from Engineering and Construction Services, Development Review, Legal Services, Parks and Recreation, Transportation Services, TTC, Toronto Water, City Planning, and the current Third-Party Peer Reviewers contracted by the City. External stakeholders included the Ontario Ministry of the Environment, Conservation and Parks, Building Industry and Land Development Association (BILD), Ontario Environment Industry Association, Canadian Brownfields Network and Waterfront Toronto. The above organizations represent legislators, builders, developers, and development industry service professionals such as engineers, geoscientists, planners, and lawyers.

Written comments were received from internal and external stakeholders that were consulted and are detailed in "Summary of Stakeholder Consultation March 2026" (Attachment 2). Comments received were typically related to the scope of the Policy, definition of terms, risk assessment requirements, procedures, and general conditions of the Policy. A range of technical clarifications and process improvements were incorporated into the revised Policy based on this feedback. Stakeholder requests related to increasing discretion, reducing requirements, or expanding acceptance of risk management measures, were not incorporated where they were assessed to increase the City's long-term environmental or operational risk. In some cases, further discussions were held with the stakeholder to discuss and resolve the comments.

Overall, stakeholders supported the amended Policy as more aligned with Provincial regulations and based on sound science and the application of professional judgment.

Proposed Policy Amendments

The proposed amendments will ensure the Policy is compliant with the existing Provincial regulations and provide additional detail for the Peer Review Process including the clarification of exemptions. Together, these changes will simplify and expedite the development approval process for conveyance of potentially contaminated lands.

The amended Policy will:

- 1) provide more certainty and clarity to City staff and the development industry about the City's expectations and requirements for accepting potentially contaminated lands;
- 2) assist with expediting the City's Peer Review Process;
- 3) minimize the City's liabilities related to accepting land, or an interest in land, in the development context; and
- 4) continue to safeguard public health and the environment.

The overarching objectives of the Policy and the Peer Review Process remain unchanged in the amended Policy, as presented in Attachment 1. The proposed amendments, organized below by Section of the Policy, improve processes and align with Provincial regulations without increasing the City's exposure to environmental liability, while maintaining the City's current risk management framework.

New Policy Title

The title of the amended Policy is proposed to be changed from "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act" to "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of Approval of a Development Application". This change is proposed to highlight that conveyance of land to the City in a land development context may be authorized through legislation other than the Planning Act, such as through the City of Toronto Act, 2006, and the Condominium Act, 1998.

Expansion of Scope to Include New Easements for Existing Infrastructure (Section 3.3)

The Scope of the Policy is proposed to be expanded to include new below-grade easements for existing City infrastructure. This will provide the City with additional environmental information for the soil and groundwater around existing infrastructure where no easements currently exist or existing easements need to be modified.

Exclusion of Stratified Fee Simple or Easement Conveyance for Existing Transit Related Infrastructure (Section 3.3)

The Scope of the Policy is proposed to exclude the conveyance of stratified fee simple or easement interest in land to the City as a condition of development approval where

Amendments to the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act

those lands are subject to existing TTC transportation infrastructure, including tunnels and related infrastructure used for the purpose of operation of the TTC subway and TTC light transit.

Clarification of Terminology and Addition of New Definitions (Section 4)

Council originally adopted the current Policy in 2015. Over the 11 years that the Policy has been in effect, questions have been raised related to the interpretation and application of the terms of the Policy. To mitigate the need for ongoing clarification, the language in the Policy has been thoroughly reviewed and minor amendments have been made throughout to clarify terminology and requirements related to the Peer Review Process.

The current (2015) Policy includes definitions for fifteen (15) terms. These definitions, presented in Section 4 "Definitions", were reviewed and updated to ensure accuracy and provide clarity. Fourteen (14) of the original definitions have been retained. For completeness, an additional 29 new definitions have been added. Thirteen (13) of these new definitions relate to Provincial regulations and sixteen (16) relate to terms used within the amended Policy.

Environmental Site Assessment (Section 5.7)

Use of Stratified Site Condition Standards

Under Ontario Regulation 153/04, the Stratified Site Condition Standards (Tables 4 and 5) refer to standards where the soil below a depth of 1.5 metre (subsurface soil) is subject to MECP approved environmental standards that are less stringent, but still protective of human health and the environment, than those for the top layer of 1.5 metre depth (surface soil). To align with the Provincial legislation, the use of these Stratified Site Condition Standards is proposed to be added under the amended Policy.

Risk Assessment (Sections 5.8 through 5.17)

For properties where it is not physically or economically feasible to remove all the contamination on site, the Ministry of the Environment, Conservation and Parks has an approved Risk Assessment Process whereby the property can be risk assessed and site-specific soil and groundwater standards can be developed that ensure the safety of the intended users. Any lands that have been risk assessed and that are being conveyed to the City, require a top layer of soil, referred to as a soil cap, with a minimum depth of 1.5 metres. The soil cap is to be constructed of clean fill material that provides a barrier to underlying contaminated soils to protect future users of the lands.

All new or replaced utilities constructed below the 1.5 metres soil cap must be placed within a clean corridor (trench) of un-impacted material. The width and depth of the trench must provide acceptable access distances around the utility to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services.

Where a Risk Assessment has been completed for the conveyance of lands to be used for Right of Way, the soil cap thickness will be required to include a minimum of 1.5 m of

clean fill material below a hard cap and granular fill layer of 0.5 m as per City Standards T985.100, T985.200, and T985.300.

However, in certain circumstances, where lands to be conveyed to the City contain existing large trees or underground structures, it may not be possible to construct the clean fill surface cap to the full 1.5 metres depth, or conditions may preclude the ability to provide a clean fill cap. Section 5.15. of the amended Policy proposes relief for these extenuating situations on a case-by-case basis, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and in consultation with all appropriate Operating Divisions.

Peer Review Process (Section 6)

A new Section dedicated to the Peer Review Process has been added which strengthens the City's requirements of the Applicant, the Applicant's Qualified Person, and the documentation to be provided as it pertains to the conveyance of lands to the City.

Further, under the amended Policy (Section 6.4.), the Applicant will be required to notify in writing, the Chief Engineer and Executive Director, Engineering and Construction Services, for conveyances where it is likely that contamination from the Development Site has migrated onto adjacent City Lands and poses a possible adverse effect to the environment or human health. This aligns with requirements under existing environmental law, where the MECP must be notified when a contaminant has migrated off-site onto an adjacent property and the contaminant has the potential to cause an adverse environmental effect.

This new formal notification of migration of contamination onto City owned lands will enable the City to develop suitable safety precautions, remediation plans, and undertake additional due diligence testing or other actions as may be warranted up to, and including, any legal action as deemed appropriate in consultation with Legal Services and the Operating Division.

Small Parcel Exemption from Peer Review Process (Section 7)

The existing Policy established exemption criteria to the Peer Review Process for small parcels of land where the intended use is not changing to a more sensitive use as defined in O.Reg. 153/04.

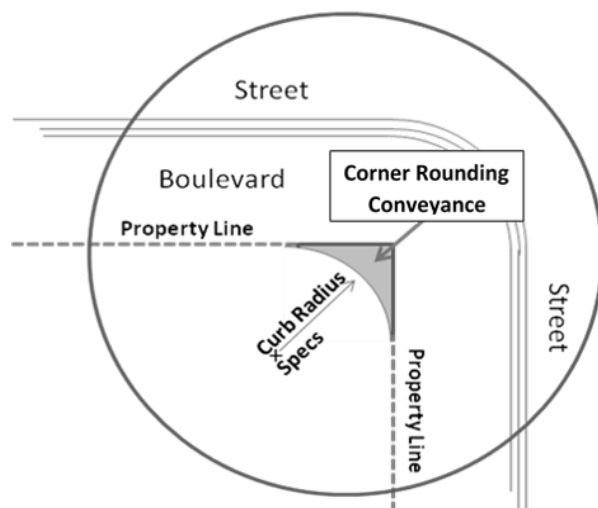
To apply for these exemptions, the Applicant's Qualified Person must provide rationale describing how the conveyance lands meet the exemption criteria.

There are no proposed changes to the small parcel exemption. Section 7 provides details of the exemption process and clarifies the established exemption criteria and process. It is anticipated that this clarification will streamline the exemption process thereby expediting approvals.

Exemption for Corner Roundings/Daylight Triangles (Section 7.2.3)

For situations where a development property is adjacent to municipal Right-of-Way on two sides, and the property boundaries are squared off, it is in the City's interest to round off the property to provide adequate safe sight lines for pedestrian and vehicle safety. Typically, the conveyance land is triangular with one curved side parallel to the curve of the curb line at the intersection as shown in Figure 1. Conveyance of small corner rounding areas have proven problematic in the past, as their irregular shape has made it difficult to determine whether any of the exemptions in the current Policy apply. The existing exemption relies on calculating the average width of a land parcel to be conveyed, a task that is difficult with an irregular shape such as a corner rounding.

Figure 1 - Corner Rounding Conveyance Lands



Therefore, a new exemption from the Peer Review Process is proposed for lands being conveyed for the purposes of Right-of-Way Corner Roundings/Daylight Triangles that are less than or equal to 12.5 square metres in total area.

Staff recommend exempting small Corner Roundings/Daylight Triangles as the soil conditions of lands to be conveyed will be similar to the adjacent Right-of-Way property already in City ownership and the potential for additional environmental liability is expected to be insignificant.

The small parcel and Corner Roundings/Daylight Triangles exemptions from the Peer Review process do not apply to lands to be conveyed to the City that are subject to a Certificate of Property Use.

Amendments to Policy Table 2 - Application Requirements

The current Table 1, Application Requirements in the 2015 Policy, provided information related to what types of development applications were covered by the Policy and whether a Record of Site Condition, and/or Peer Review were required.

For greater clarity, two new tables have been created in the Policy (Attachment 1). Table 2 summarizes the criteria and conditions for which the new Policy applies; and Table 3 summarizes the conditions for which the Peer Review Process and/or a Record of Site Condition is required.

The proposed amendments will further align the Policy with Provincial legislation and environmental quality standards while providing applicants with additional options to demonstrate that environmental conditions meet the City's intended use. The amendments introduce new exemptions, including for existing TTC infrastructure and for conveyances related to right-of-way corner roundings and daylight triangles. The amendments also provide clearer descriptions of processes and responsibilities for all parties. Overall, adoption of the amended Policy will streamline and expedite the development approval process for the conveyance of potentially contaminated lands, while safeguarding the City's environmental risk level.

CONTACT

Avi Bachar, P.Eng. Director, Engineering Support Services, Engineering and Construction Services, Telephone: 416-397-4401, Email: Avi.Bachar@toronto.ca

Rick Gibson, P.Geo. Manager, Soil and Groundwater Quality, Engineering Support Services, Engineering and Construction Services, Telephone: (416) 338-2824, Email: Rick.Gibson@toronto.ca

SIGNATURE

Jennifer Graham Harkness P.Eng., Chief Engineer and Executive Director, Engineering and Construction Services

ATTACHMENTS

Attachment 1 - Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of Approval of a Development Application, May 2026.

Attachment 2 - Summary of Stakeholder Consultation - March 2026.