

REGIONAL DISTRICT OF OKANAGAN SIMILKAMEEN

BOARD POLICY

POLICY: PARK LAND DEDICATION POLICY

PURPOSE: To establish conditions for the dedication of lands for park land set out in Section 510, of the *Local Government Act* for the subdivision process which will advance the orderly development of land in accordance with sound planning principles and in tandem with the provision and availability of local government services.

WHEREAS section 510 of the *Local Government Act (2015)* provides the legislated framework for local government to acquire park land from an owner of land being subdivided without compensation.

NOW THEREFORE, the Board of Directors for the Regional District of Okanagan Similkameen hereby establishes the following policy and procedures in respect to Park Land Dedication in the Regional District:

POLICY STATEMENT

1. It shall be the Policy of the Regional District of Okanagan Similkameen to exercise their right to require the full five percent (5%) of land proposed for subdivision for Park Land Dedication, or payment in lieu thereof, within the constraints of the enabling legislation.

DEFINITIONS

2. "Park Land Dedication" means that land, or payment in lieu of land, taken by the Regional District during subdivision of land in accordance with section 510 of the *Local Government Act (2015)*.
3. "Full Narrative Appraisal" means a report completed by an accredited appraiser and is an in depth report which typically consists of a letter of transmittal; summary of important conclusions, regional and neighborhood analysis; description of the site and any improvements; highest and best use analysis; zoning analysis; tax analysis; statement of ownership; property rights appraised; scope of the appraisal; cost approach; income approach; direct sales comparison approach utilizing comparable sales on the comparison grid; reconciliation; description of the appraisal process, definition of market value; certification; contingent & limiting conditions; photos of the subject property; photos of all comparable sales used; comparable sales location map; sketch of subject property showing layout; flood map if in print and qualifications of the appraiser and reviewer.

REFERENCES

4. [*Parkland Acquisition Best Practices Guide*](#), Spring 2006, Development Finance Review Committee, Ministry of Community Services

BACKGROUND

5. In the Regional District, subdivision approval is a responsibility of the Province of British Columbia, administered by the Ministry of Transportation and Infrastructure (MoTI). The Regional District of Okanagan Similkameen uses the subdivision approval process as an instrument for regulating the detailed land use requirements established by bylaw, and determining levels of infrastructure services standards for parcels proposed to be subdivided.
6. The Regional District serves as a referral agency to MoTI for subdivision applications within the RDOS. An important part of the subdivision process is the determination of the location and amount of land to be conveyed for park land purposes. Land dedication is typically reflective of the need for parks, recreation opportunities, service infrastructure, and protection of environmental features. The *Parkland Acquisition Best Practices Guide* speaks to principles of fairness and equity in the development of best practices. These principles speak to the need for consistency in how parkland acquisition is applied, for openness and transparency, and for predictability in actions. These principles are fundamental to the development of good relationships involving local governments, land owners and developers. The kind of development that benefits communities and helps them to achieve their economic, social and environmental goals.

EXEMPTIONS

7. This policy's Parkland Dedication requirements shall not apply to subdivision applications identified in section 510 (3) of the *Local Government Act* :
 - a) a subdivision by which fewer than 3 additional lots would be created unless the parcel proposed for subdivision was created within the previous five years;
 - b) a subdivision by which the smallest lot being created is larger than 2 hectares;
 - c) a consolidation of existing parcels.

PROCEDURE FOR PARK LAND DEDICATION

8. Each applicant proposing a subdivision of land for any use is required to dedicate five percent (5%) of the total land under subdivision, or cash in lieu of land, for park land purposes, without compensation. Any environmentally sensitive land that is considered non-useable (i.e. non-developable) or non-accessible to the public will be excluded from the calculation of the 5% land. The Regional District prefers that any

Park Land Dedication

December 19, 2019

non-useable environmentally sensitive land be donated to the Regional District, in addition to the 5% parkland dedication requirement, for the purposes of conservation.

9. The location and suitability of land within the proposed subdivision to be dedicated to park land is subject to RDOS approval (LGA S. 510 (1)(a)). In this regard, the land dedicated should be free from structures (unless agreed upon by RDOS), maintained in a safe and well-kept and/or in its natural state prior to dedication.
10. The *Local Government Act* section 510.1 provides that the owner of land being subdivided has the option to provide land or cash in lieu of land. However, despite S.510.1:
 - (a) if there is no park service in the Electoral Area where the subdivision is located then land dedication is the only option (LGA S. 510 (2)(a)).
 - (b) if the RDOS has policies and designations respecting the location and type of future parks contained in the Official Community Plan, the RDOS may determine whether the owner must provide land or an equivalent cash in lieu amount (LGA S. 510 (2)(b)).

LANDS THE REGIONAL DISTRICT MAY REQUIRE TO BE INCLUDED

11. The Regional District may require that the following lands be included in the five percent land dedication:
 - (a) Any part of land being subdivided as deemed appropriate by the Board of Directors.
 - (b) The Regional District will consider all relevant policies within an Official Community Plan specific to Parks and Parkland Dedication, and any other relating park bylaws or Park Master plans, prior to the acceptance of an identified land parcel.
 - (c) Where land adjacent to surface water or any other body of water is to be subdivided for purposes other than public recreational uses, the following dedication of park land may be required:
 - i. A parcel of land, of such width as may be determined by the Regional District, lying between the bank of the land containing water and the land to be retained by the owner, for the preservation of the bank and the protection of the land retained by the owner against flooding and to provide public access to the water, unless the land being proposed for subdivision is intended for public recreational uses.
 - ii. In recognition that these lands requested by the Regional District for park purposes may be of higher appraised value than the average value of all land associated with a proposed subdivision, the amount of land taken in this regard shall be based on the principle of it being equal in value to that required for cash-in-lieu purposes.

ADDITIONAL LANDS THAT MAY BE TAKEN

12. The Provincial Approving Officer (PAO) has legislated authority to attain additional land for various reasons: roads, access to bodies of water and land not suitable for public use or access. Park land dedication is excluded for the PAO's authority but both authorities may work cooperatively for a mutual public park benefit.

CASH IN LIEU OF LAND DEDICATION

13. Section 510 of the *Local Government Act* provides the option to the owner of property proposed for subdivision to provide cash-in-lieu of land dedication. All monies received in lieu of land dedication will be deposited into park reserve and expended only for the acquisition of lands for Park purposes (LGA S. 510.14) within the Electoral Area or the established park service area of which the subdivision is proposed.
14. When cash is determined to be provided in lieu of land, it is to be provided in either of following manners (LGA S. 510.6):
 - (a) if the Board and the owner agree on a value for the land, the value on which they have agreed, or
 - (b) the average fair market value of all the land in the proposed subdivision identified for the purpose of calculating the parkland dedication requirement.
15. The average fair market value of a parcel of land shall be determined on the basis of a "Full Narrative Appraisal" completed by an accredited appraiser provided by the developer.
16. The Regional District retains the right to hire its own accredited appraiser in the event that the average fair market value determined by the developers' appraiser is perceived to be insufficient. In the event of a discrepancy in the developer's appraisal and the Regional District's appraisal, the following process of mediation shall occur:
 - (a) If the developer's appraisal falls within 10% of the Regional District's appraisal, the two parties agree to split the difference;
 - (b) If the values vary by more than 10%, the two parties agree to obtain a third appraisal, cost-shared by both parties, and the third appraisal will be binding on both parties.
17. In cases where the identified dedication of land for park purposes do not total 5% of the subdivision land area, the remaining percentage difference shall be required in a cash-in-lieu payment to the Regional District. The cash-in-lieu payment shall be determined in a manner similar to section 14 of this policy for the percentage difference remaining.
18. Cash-in-lieu payments shall be deposited in a reserve account for the specific Electoral Area in which the subdivision occurred and shall be used only for purchase or development of park land. Further, if a subdivision occurs within a specific park service area, the cash-in-lieu monies collected from that subdivision should only be used for

Park Land Dedication

December 19, 2019

purchase or development of park land within that specific park service area.

DISPOSAL OF PARK LAND

19. Local governments have the authority to acquire and dispose of real property. However, due to the significance of parks to community values, there are two limitations on local governments' ability to dispose of park land:
 - (a) Disposal of park land dedicated on subdivision: Elector approval is required for disposal of these parklands. All proceeds from sale must be placed in a park land acquisition reserve fund.
 - (b) Removing park land dedicated by bylaw: Elector approval is required to remove the dedication. Once a dedication is removed, the local government can dispose of the property under regular land disposal rules.

REPLACEMENT OF PREVIOUS POLICY

20. This Policy Statement shall replace the previous "Park Land Dedication Policy" adopted by Board of Directors on July 8, 2010 by Resolution No. B319/10.