

**CITY OF HAMILTON
PARKLAND DEDICATION AND
CASH-IN-LIEU OF PARKLAND PROCEDURE**

1. PURPOSE

- a. The City of Hamilton requires as a condition of development or redevelopment, the conveyance of land for park or other public recreational purposes, or cash-in-lieu of such parkland or a combination of each. These requirements are pursuant to the *Planning Act* and Parkland Dedication By-law 18-____.
- b. This procedure establishes the framework for the City’s determination of the parkland dedication and cash-in-lieu of parkland requirements and the manner in which the City’s requirements are to be implemented.

2. DETERMINING PARKLAND REQUIREMENTS

- a. The Planning and Economic Development Department is responsible for reviewing all development proposals and determining, in consultation with other appropriate City Departments, the requirements for parkland within the respective area of the development proposal.
- b. Where parkland is required to be conveyed such land shall be developable tableland and shall be conveyed to the City without charge or encumbrance. The area of land utilized or to be conveyed for storm water management facilities, major utility corridors and easements, floodplain, valleylands, environmental buffer lands, woodlands, walkways and trails or any other non-parkland purpose are not eligible as a credit to satisfy parkland dedication requirements. For clarity, cash-in-lieu of parkland dedication is not collected on such lands.
- c. Where parkland is required to be conveyed, the Planning and Economic Development Department shall, as a condition of development approval:
 - i. Require a Phase 1 Record of Site Condition;
 - ii. Require the site to be fine graded, seeded or sodded, and fenced (where the park abuts privately owned lands), to City specifications;
 - iii. Require the provision of full municipal services to the property line;

- iv. Require that the park perimeter abuts a public road sufficient to ensure proper access, visibility, safety and functionality for its intended purpose;
- v. Require that land to be dedicated be square, rectangular, or of a similar shape, to the satisfaction of the City; and,
- vi. Ensure that the configuration and specific location of the park is appropriate and conforms with any applicable Neighbourhood or Secondary Plan.

3. EXEMPTIONS

- a. Council may provide for exemptions or reduced parkland dedication rates in the Parkland Dedication By-law for:
 - i. Certain classes of development;
 - ii. Defined geographic areas;
 - iii. Defined time periods; *or*,
 - iv. Any combination of the above.

4. PARKLAND CREDITS

- a. Future parkland over dedication identified on specific plans of subdivision, development or redevelopment applications may be credited/debited against future phases of the same plan of subdivision, development or redevelopment.
- b. Any remaining park credits after all phases of a subdivision have been registered shall be paid by the City at the time of registration of the final phase of the plan of subdivision, subject to approval of funding by the City.
- c. Existing Parkland Credits shall only be applied in strict accordance this procedure and the Parkland Dedication By-law.
- d. Notwithstanding sub-section b. and c. above, the Director of Planning has the authority to vary the application of the parkland credit procedure where it would be fair, reasonable and just to do so and may, where the development has been completed and parkland credits still exist, permit the use of the parkland credits to satisfy other parkland dedication requirements elsewhere in the City.
- e. Valuation of parkland credits shall be based on the market value of the land at the location of the over dedication, as if unserviced draft plan

approved subdivision land. If the credit is permitted to be applied to satisfy other parkland dedication requirements elsewhere in the City, an adjustment for location will be made to account for varying market values per acre throughout the City. For example, if a credit of 2 ha is to be applied to an area of the City where land values are 20% or 1.2 times higher, then the 2 ha land area where the credit originates is divided by 1.2 to estimate the land area with equivalent value at the other location, which in this example would be $2.0 \text{ ha} / 1.2 = 1.6667 \text{ ha}$.

5. ADMINISTRATIVE PROCEDURES

a. Subdivision Plans

- i. Subdivision Plans for which it is determined that cash-in-lieu of parkland is required to the value of lands otherwise to be conveyed, shall be processed as follows:
 - a. To provide that cash-in-lieu of parkland is valued at the day prior to the issuance of the first building permit, the conditions of draft approval shall not include conditions with respect to cash-in-lieu. Rather a separate recommendation should be approved by Council concurrent with Draft Approval. This recommendation should state that the payment of cash-in-lieu of parkland will be required pursuant to Section 42 of the *Planning Act* and paid prior to the issuance of the building permit for the lots and/or block(s) within the Plan.
 - b. Where a plan of subdivision includes more than one phase, cash-in-lieu of parkland dedication shall be calculated and paid prior to the first building permit within the respective phase.
- ii. Subdivision Plans for which it is determined that land is required or a partial dedication of land and cash-in-lieu is required to be paid, shall be processed as follows:
 - a. A condition of draft approval shall be included which provides for the conveyance of the required lands concurrently with the registration of the Plan for the dedication of the lands prior to registration; *and*,
 - b. Should a partial cash-in-lieu payment be required the cash amount shall be based on the market value of the lands on

the day prior to the day of draft approval and be paid prior to registration of the plan.

- c. If the number of residential units is unknown for certain Blocks within the plan, minimum densities will be assumed. If the final number of residential units exceeds the assumed densities, cash-in-lieu of parkland dedication for the additional units will be required at building permit stage. If the final number of residential units is less than those assumed, any over dedication shall be paid by the City.

b. Site Plan Applications

- i. Site plan applications for which it is determined cash-in-lieu of parkland is to be paid shall provide in the site plan agreement/approval that the cash-in-lieu payment be made prior to the issuance of the building permit, or first building permit where more than one is required. The cash-in-lieu of parkland amount shall be based upon an estimate prepared by the City’s real estate appraisal staff of the market value of the site undertaken in accordance with the City’s requirements. This estimate shall be determined when the first building permit in respect of the development is submitted to the City. The first building permit for the purposes of valuation and payment of cash-in-lieu shall include the foundation permit.
- ii. Site plan applications for which it is determined parkland dedication is required are to require in the site plan approval the conveyance prior to the issuance of the building permit, or first building permit where more than one is required. The site plan approval shall define the amount and location of the lands to be conveyed.

c. Consents to Sever

- i. Notice of Provisional Consent shall include a “NOTE” stating that cash-in-lieu of parkland shall be paid prior to the issuance of a building permit. The cash-in-lieu amount shall be based upon an estimate prepared by the City’s real estate appraisal staff of the market value of the site undertaken in accordance with the City’s requirements.

d. Offsetting Procedure

- i. Further to clause 3(2)(c) of the Parkland Dedication By-law, the following are examples of offsetting where land was not previously dedicated or cash-in-lieu paid:

1. parkland dedication attributed to existing commercial floor space that is being converted to a new commercial use (i.e. retail to office) will offset the parkland dedication for the new redevelopment for the same floor area;
 2. an existing single detached dwelling is being converted to a triplex. The parkland dedication attributable to the existing dwelling offsets the parkland dedication for one of the three new dwelling units;
 3. parkland dedication attributed to existing commercial floor space that is being converted to residential space does not offset the parkland dedication required for the new residential units, and vice versa.
- ii. In contrast to Section d.i. above, the following is an example of offsetting where land has been previously dedicated or cash-in-lieu paid:
1. if residential space in the urban area was to be converted to commercial use, regardless of building size, no land needs to be dedicated as the residential rate of 5% or more offsets the commercial rate of 2%. However, there would be no credit given to the owner/developer for the remaining 3%. In the reverse situation, there would be a 2% offset and the developer would be required to dedicate 3% or more land.

e. Appraisal Process

When cash-in-lieu of parkland is required to be paid in accordance with the Parkland Dedication By-Law, the Real Estate section of the Planning and Economic Development Department shall set the amount to be paid. The Real Estate Section shall monitor and analyze market land sales prices for certain standard types of land to provide a basis for estimates of market value used to determine the required cash-in-lieu of parkland payment.

Should the developer disagree with the City's value, then:

- i. The developer may retain an appraiser at his/her expense to undertake the appraisal of land value. The terms of reference and assumptions made with respect to the appraisal shall be consistent with this Parkland Dedication and Cash-in-lieu of Parkland Procedure and the Parkland Dedication By-law.

- ii. If a developer retains an appraiser the City retains the right to undertake a Peer Review of the appraisal at the developer's expense.
- iii. All appraisals of land value shall be completed by a designated member of the Appraisal Institute of Canada (AIC) in accordance with the Canadian Uniform Standards of Professional Appraisal Practice and shall be submitted to the City within three months from payment date.
- iv. In addition to the process described above, in the event of a dispute between the City and an owner of land on the value of land determined, either party may apply to the Local Planning Appeal Tribunal to have the value determined.

f. Cash-in-Lieu Estimates

- i. "Development" and "Redevelopment" terms apply to: 1) the entire Net Land Area of the phase being registered for development proposed within an approved plan of subdivision; and, 2) to the entire Net Land Area of a Site Plan application for development proposed as part of an approved Site Plan.
- ii. For the purpose of valuation of land as at the day before the day of building permit issuance, it shall be assumed that the site is serviced and physically suitable for the development proposed, interpreted to mean that site remediation, major re-grading and drainage works have been satisfactorily completed.

6. ALLOCATION OF FUNDS

- a. Cash-in-lieu of parkland funds shall be kept in a special account - Parkland Reserve Fund and spent only for the acquisition of land to be used for park or other public recreational purposes; *and*,
- b. All monies which have been collected from January 1st, 2000 will be consolidated without distinguishing monies collected by the former municipalities.
- c. The activities and status of the Parkland Reserve Fund shall be reported on annually. In accordance with section 42 of the *Planning Act*, the treasurer of the municipality shall each year, on or before the date specified by the council, give the council a financial statement relating to

the special account. The council shall ensure that the statement is made available to the public.

Procedure Dated:
