

### **Review of the City's Alternative Parkland Dedication Rate under Section 42 of the Planning Act**

Date: November 20, 2017

To: Executive Committee

From: Acting Chief Planner and Executive Director, City Planning Division and the General Manager, Parks, Forestry and Recreation

Wards: All

#### **SUMMARY**

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As enabled by Section 42 of the Planning Act, Toronto's planning tool for acquiring new parkland is through land dedications or cash-in-lieu of parkland as a condition of development or redevelopment. In Parkland Acquisition Priority Areas, the City requires land dedications or cash-in-lieu payments based on the Alternative Parkland Dedication Rate (alternative rate).

The alternative rate is over 10 years old and has not kept pace with development intensity. Since the rate was approved by the Ontario Municipal Board in 2005, city-wide average residential densities have increased by 205 percent by project and the average units per hectare by project have increased by 254 percent. This intensity generates increased parkland demand. Parkland need has also changed as over 83% of growth across Toronto is in vertical communities. An increasing number of parks users access parkland daily, as it serves as an extension of their outdoor living space, including the use of this space by employees, farmers' markets, cultural festivals, dog walkers and others. Growth is paying for a diminishing share of the cost to meet the need generated by higher density development. This report identifies the need to update the alternative rate.

The existing alternative rate includes a series of site caps that stipulate a maximum land dedication or payment of cash-in-lieu based on site size. Over 90 percent of development across the city's Centres is on sites which limits the parkland requirement maximum to 10 percent of the site or equivalent value.

Many of Toronto's high growth areas are characterized by a small parcel fabric less than 0.5ha (1.2 acres) reflective of infill development. On smaller sites, the City often accepts cash-in-lieu of parkland rather than a land dedication. The challenge that exists is that in the city's Centres and high growth areas cash-in-lieu contributions commonly hit the 10% value cap at densities that represent a fraction of what development is proposing, thus significantly reducing the City's ability to acquire land for parks. The

current cash-in-lieu rate also does not match parkland demand that is generated by development as it is calculated only on a percentage of the site value and not density.

A new alternative rate policy that increases cash-in-lieu payments on new growth to better reflect the intensity of development and increase in demand for parks can benefit all areas of the city. Funds secured through Section 42 are used to deliver local and city-wide parks and parks development, enabling the City to achieve its broader parks objectives.

This report, prepared in consultation with Parks, Forestry and Recreation sets out the analysis to support an update to the cash-in-lieu component of the alternative rate in order to be responsive to the realities of the land market and intensity of development in Toronto. Staff initiated a review of the alternative rate to assess the efficacy of the current rate and also to determine the thresholds for change when impacts on development feasibility and housing affordability are considered.

Staff recommend that the rate options presented in this report and its appendices inform the City-wide Parkland Strategy and form the basis for a review of the City's policies and alternative rate in the Official Plan. Furthermore, staff recommend this report inform area-specific alternative rates for the Parks Plans nearing completion in the Yonge-Eglinton Secondary Plan Area and in the TOcore Downtown Plan area. The Port Lands Planning framework has incorporated a version of one of the rate options which has been tailored to reflect the specific development profile of that area.

## **RECOMMENDATIONS**

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The Acting Chief Planner and Executive Director, City Planning Division and the General Manager, Parks, Forestry and Recreation recommend that the Executive Committee:

1. Direct the Acting Chief Planner and Executive Director, City Planning in consultation with the General Manager of Parks Forestry and Recreation to update the Alternative Parkland Dedication Rate for cash-in-lieu of parkland for Secondary Plan areas including, but not limited to the Yonge-Eglinton Secondary Plan Area and the TOcore Downtown Plan Area having consideration for the approaches for the cash-in-lieu of parkland rate options presented in this report.
2. Direct the General Manager of Parks Forestry and Recreation to include the Alternative Parkland Dedication Rate cash-in-lieu options presented in this report in the Phase 2 analysis and implementation plan of the City-wide Parkland Strategy.
3. Direct the Acting Chief Planner and Executive Director, City Planning to use the findings of the Review of the City's Alternative Parkland Dedication Rate under Section 42 of the Planning Act, in the review of the Official Plan's Parks and Open Space policies.

4. Direct the Acting Chief Planner and Executive Director, City Planning and the General Manager of Parks Forestry and Recreation to conduct consultation with the development industry and other relevant stakeholders on the proposed options and report back to Planning and Growth Management Committee on the recommended city-wide official plan amendment.

## **FINANCIAL IMPACT**

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There are no financial impacts resulting from the adoption of this report.

## **DECISION HISTORY**

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At its meeting of April 12, 13 and 14 2005, City Council adopted the recommendation of the Planning and Transportation Committee which set out the settlement of certain Ontario Municipal Board appeals of the new Official Plan, including the policies for the Alternative Parkland Dedication Rate.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050412/cofa.pdf>

On November 15, 2005, the Ontario Municipal Board panel approved this settlement and brought into effect a new city-wide Alternative Parkland Dedication Policy which now forms Policy 5 of Section 3.2.3 of the Official Plan.

At its meeting of December 11, 2007, City Council approved amendments to the Municipal Code, Chapter 415 Development of Land, to provide for the Official Plan alternative parkland dedication rate and identified the City's Parkland Acquisition Priority Areas (By-law 1420-2007).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2007.PE11.3>

At its meeting of June 8 and 9, 2010, City Council adopted principles that form the current City-wide Parkland Dedication By-law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX44.5>

At its meeting of May 7, 8 and 9, 2013, City Council adopted the Parks Plan which included direction to update the City's strategy for parkland acquisition.

<http://www.toronto.ca/legdocs/mmis/2013/pe/bqrd/backgroundfile-57180.pdf>

## **COMMENTS**

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### **The Province recognizes the role development has in delivering parkland**

The Provincial Policy Statement sets the expectation that municipalities will plan for parkland through efficient development patterns that promote a mix of housing, including affordable housing, employment, recreation, parks and open spaces, and transportation choices. Section 42 of the *Planning Act* sets out a standard rate for parkland dedication of a maximum of 2 percent of the land area for commercial or

industrial development and a maximum of 5 percent of the land area for residential development. The standard rates reflect the parkland needs of a typical low-density subdivision. The *Act* also permits municipalities to set their own Alternative Parkland Dedication Rates (within limits set by the *Planning Act*) to enable the City to require parkland dedication and cash-in-lieu as a condition of development and redevelopment. Table 1 presents the evolution of parkland provisions in the *Planning Act* and the City's parkland policies.

Table 1: evolution of alternative rate parkland provisions

Year	Planning Act's S. 42 Alternative Parkland Dedication Rate provisions	City Policy
1973	Up to maximum of 1 hectare per 120 dwelling units	Alternative rates ranging between 0.6ha/830 units to 1 ha/300 units  (former municipalities)
1980	Up to a maximum of 1 hectare per 300 dwelling units	
2008	--	<p>0.4 hectares per 300 dwelling units. Where a payment of cash-in-lieu is permitted, the value of cash-in-lieu cannot exceed:</p> <ul style="list-style-type: none"> <li>• 10 percent of the value of the development site, net of any conveyances for public road purposes, for sites less than one hectare in size.</li> <li>• 15 percent of the value of the development site, net of any conveyances for public road purposes, for sites less than one hectare to five hectares in size.</li> <li>• 20 percent of the value of the development site, net of any conveyances for public road purposes, for sites over five hectares in size.</li> </ul>
2015	Up to a maximum of 1 hectare per 300 dwelling units (land), up to a maximum of 1 hectare per 500 units (cash-in-lieu). Requirement for a Parks Plan prior to adoption of new alternative rate.	--

Year	Planning Act's S. 42 Alternative Parkland Dedication Rate provisions	City Policy
2017	--	Under review

### ***Updated Planning Act provisions***

In 2015, the Province amended the Planning Act to include new provisions related to a municipalities' ability to establish Alternative Parkland Dedication Rates. One change was the establishment of differential maximums under the alternative rate for land dedications and cash-in-lieu payments for parkland not to exceed a rate of land dedication of 1 hectare per 300 dwelling units, or 1 hectare per 500 dwelling units for cash-in-lieu of conveyance. The second was the requirement that prior to establishing a new alternative rate, municipalities must create and make publically available a Parks Plan that examines the need for parkland in the municipality.

The analysis included in this report and its appendices constitutes one of the background studies and reports that are part of Phase 1 of the Five Year Review of the Official Plan's Parks and Open Space policies. In addition to this review, related background studies include the Facilities Master Plan (2017), the Ravine Strategy (2017) and the City-wide Parkland Strategy (currently under development). This background work will inform issues to be addressed in a review of the Official Plan's Parks and Open Space policies. A future report to Planning and Growth Management Committee will summarize the initial findings of the phase one background research and will identify issues and a draft work plan, including stakeholder consultation, when phase two commences.

### **It is time to update Toronto's Alternative Parkland Dedication Rate**

As the current alternative rate is 10 years old it presents a number of challenges in today's environment including:

- A significant increase in development intensity and parkland demand in the period since the original alternative rate was introduced;
- The purchasing power of cash-in-lieu is limited in the current land markets in high-growth areas;
- Other City policies and practices limit the ability of the City to act competitively to acquire land; and
- Responding to an increased reliance on parks to support the social functions of the city, including farmers' markets and unique cultural events, particularly in the city's growing vertical communities.

Updating the City's alternative rate is one component of a comprehensive response to addressing these challenges. Other components include the City's cash-in-lieu allocation policy (By-law No. 1020-2010) and the City's approach to acquisition. Examining these issues will form part of Phase 2 of the City-wide Parkland Strategy.

***The current rate has not kept pace with development intensity in Toronto***

The current rate with a sliding scale of caps based on site size was developed in the early 2000s as part of the new Official Plan. In the past 12 years, the intensity of development has increased significantly while the Alternative Rate has remained unchanged. To that end, the development industry has experienced a relative decrease in the requirement to contribute to parkland as a portion of overall development costs, while there has been an increasing demand for parks based on the intensity of development and the number of new units constructed.

Tables 2-5 demonstrate the increase in development intensity city-wide by presenting a comparison of development across three years based on projects submitted in that year:

- 2005 - the year the current rate was approved;
- 2008 - the year the rate came into effect; and
- 2016 - the most recent complete year of the development pipeline.

Table 2: Change in development intensity city-wide

<b>Year</b>	<b>Average Units/hectare by Project</b>	<b>Average Floor Space Index (density)/Project</b>
2005	269	2.98
2008	354	3.39
2016	682	6.1
<b>% change</b>	<b>+254%</b>	<b>+205%</b>

Table 3: Change in development intensity - Downtown and the Central Waterfront

<b>Year</b>	<b>Average Units/hectare by Project</b>	<b>Average Floor Space Index (density)/Project</b>
2005	911	9.53
2008	1073	9.43
2016	1630	13.75
<b>% change</b>	<b>+178%</b>	<b>+144%</b>

Table 4: Change in Development Intensity - All Centres excluding Downtown and the Central Waterfront

Year	Average Units/hectare by Project	Average Floor Space Index (density)/Project
2005	507	4.64
2008	673	8.17
2016	713	5.93
<b>% change</b>	<b>+140%</b>	<b>+127%</b>

Table 5: Change in Development Intensity - The Avenues

Year	Average Units/hectare by Project	Average Floor Space Index (density)/Project
2005	246	2.7
2008	533	4.98
2016	427	3.98
<b>% change</b>	<b>+173%</b>	<b>+148%</b>

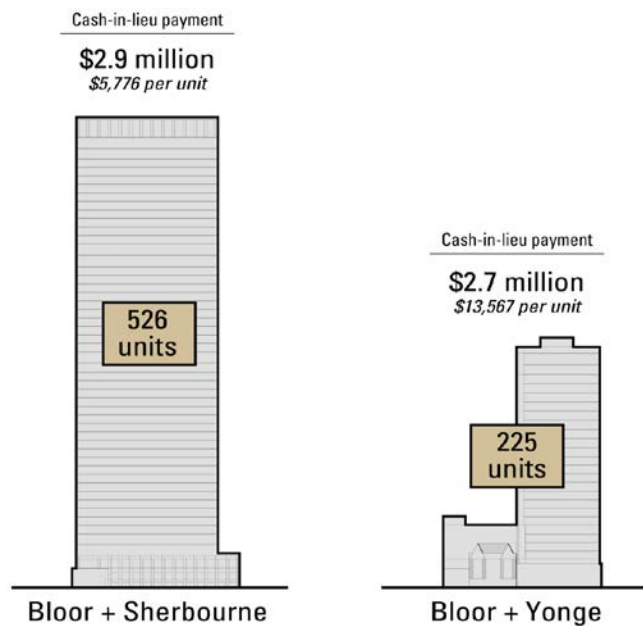
***A cash-in-lieu of parkland rate based on site size does not reflect the density or nature of residential developments in Toronto today***

As intensity of development increases, so do assessed land values. The City's current cash-in-lieu policy is based on a site value cap that does not scale with the density being generated on the site. The result is a growing gap between parkland needed to serve residents in high-density developments and the amount of cash-in-lieu received by the City to acquire parkland.

Where cash-in-lieu is paid, growth is paying only a fraction of the cost of park acquisition, indicating that the current caps do not address the parkland demands created by growth.

Figure 1 illustrates how the current system of caps does not reflect actual growth-driven parkland demand. Both developments are on sites less than 0.5 hectare and subject to the 10% site value cap, however, one development has 301 additional units. Once the 10% cap is reached, a development's additional density does not contribute cash-in-lieu of parkland while the demand and need for parks increases.

**Figure 1: Comparison of cash-in-lieu payments across different project sizes**



The City's current rate (0.4 hectares per 300 dwelling units) is lower than the amount identified in the *Planning Act*. This points to the opportunity for changes which could be explored through adjustments to the existing policy, either through increases to site value caps or adjustments to the current unit per hectare rate.

***Predominance of small development sites in high-growth areas affect the opportunity for parkland dedication and acquisition***

In Toronto's high growth areas, infill development is occurring on smaller development sites. Of the 401 active development projects in the city's Downtown and Centres, more than 90 percent of sites are less than a hectare and 73 percent of parcels are less than half a hectare. When development sites are this small, cash-in-lieu is frequently recommended by City staff as the only reasonable option as providing a land dedication would significantly reduce the potential for a site to be redeveloped. Even if the City were to require parkland dedication to be provided, this may result in a small park of limited functionality.

The Official Plan's park policies permit off-site parkland dedication which could enable a development to provide its entire dedication within the vicinity of the site. Likewise, in areas where a developer has multiple projects or holdings, there is also the opportunity to consolidate various developments' parkland requirements to one off-site location. These different solutions that the Official Plan currently enables to address parkland requirements need to be further explored by the City and development industry, particularly in the city's high growth, small parcel environment. At present there may be little incentive for developers to explore creating off-site solutions with the current alternative rate's cash-in-lieu and cap structure.



The City can also take different approaches to an alternative rate policy to reflect the varying parcel fabric, existing parkland provision and development intensity in Toronto. This would enable the City to calibrate an alternative rate to specific areas to address parkland demand generated by growth.

### ***Land economics and the real purchasing power of cash-in-lieu***

Cash-in-lieu of parkland is calculated based on an appraisal of the development, and is reflective of the value of land where the development is located. Cash-in-lieu of parkland is meant to enable the City to purchase parkland within that same market. Given the cost of land, particularly in Toronto's high-growth areas, the City is challenged to acquire sites.

In today's land market, increases in land values are outpacing the ability of the City to make effective use of the money it receives through cash-in-lieu. The City's current practice is to purchase parkland parcels outright, using cash-in-lieu payments for funding, rather than a financing tool. This distinguishes the City from other players in the market, such as members of the development industry, for whom it is common to finance land purchases. Waiting to collect the payment for the full value of land parcels places the City at a disadvantage with respect to strategic land purchases and also because the relative value of cash-in-lieu accounts decreases as land values increase. For example, in one of the Toronto's fastest growing areas, Downtown East (roughly centred at the intersection of Dundas Street East and Jarvis Street East), land values increased approximately 50 percent between Q1 2014 and Q2 2016.

In addition, using cash-in-lieu is the City's most expensive option for acquiring and developing parkland as the City bears the full cost of developing parkland when using cash-in-lieu accounts whereas land dedications typically require the dedication of clean land, provided at base park condition. The City assumes the risk and must cover the acquisition, real estate, demolition, remediation, design and construction costs of the park.

### **Review of potential changes to the City's Alternative Parkland Dedication Rate**

Staff, working with a consultant team, developed potential models for an update to the alternative rate that centred on assessing the market impacts of a change. The review also included a jurisdictional scan of other Ontario municipalities to understand their approach to applying the alternate rate.

The review focussed on how growth can pay for an increased share of the cost to acquire and develop parkland. The pro forma analysis assessed how the gap that has grown in the past 10 years between the cash-in-lieu caps and the intensity of development can be closed without having an unjustifiable impact on development feasibility. The review assessed land markets across the city, including the Downtown, and the Centres (North York, Etobicoke, Scarborough and Yonge-Eglinton). Further, the report reviewed how changes to the current rate could improve the ability of other areas of the city, with different development profiles, to acquire and develop parkland.

Three new alternative rate options were tested. These options were:

- Changing the current rate of 0.4 hectares/300 units to a needs-based rate, with no site value caps;
- Maintaining the current rate of 0.4 hectares/300 units, with a site value cap of 30 percent to be applied to all developments paying cash-in-lieu of parkland; and
- Maintaining the current rate of 0.4 hectares/300 units, and applying a graduated cap to development sites based on intervals of density bands.

Attachment 1 to this report summarizes the options that were tested and provides an analysis of how each option would support Official Plan policy and emerging planning frameworks. The assessment of the impact of each of these rate options was based upon eight representative developments from across Toronto.

The review also evaluated the opportunity to create incentives for 'land first' policies to encourage more on-site and off-site parkland dedications.

### ***The development industry supports the current alternative rate***

In its submission to the Province, the Ontario Home Builders' Association (ONHBA) supported the lowered cash-in-lieu maximum from 300 to 500 dwelling units per hectare set out under Bill 73. The ONHBA cited Toronto's Alternative Rate and site value caps as a desirable approach to cash-in-lieu.

In April 2017, staff presented to a meeting of the Building Industry and Land Development Association (BILD) on the initial stages of this review of the alternative rate and other parkland acquisition policies. Staff invited BILD to offer ideas that would advance creative solutions to parkland acquisition. In May 2017 BILD, submitted a letter to the City (Attachment 3 to this report) stating its position that the current alternative rate has effectively met, and will continue to meet the future parkland needs of Toronto. BILD requested no substantive changes to the current policies as set out in the Official Plan. BILD requested the City not increase the cash-in-lieu component of the alternative rate or the percentage value of the development site that derive the parkland monies collected through the development process. This report recommends ongoing consultation with BILD and other stakeholders as the City-wide Parkland Strategy advances, and potential changes to the Alternative Rate are proposed.

## **Implementing and monitoring a new Alternative Parkland Dedication Rate**

### ***A change in the alternative rate should include a transition period***

There are benefits to providing a transition period between the approval of a new rate and implementation. Depending on the extent of the change to the alternative rate, bringing new rates into effect without a transition period could dampen development activity in the short term, reduce supply and place upward pressure on housing prices. The review concludes that any changes to the alternative rate should follow a lead up period similar to how updates to Development Charges are brought in over a prescribed period of time. Providing a transition period would enable projects to advance to the permit stage under the current regime and provide applicants with projects in earlier

stages the opportunity to account for new rates in negotiating land purchases or establishing pre-construction pricing of residential units.

### ***Upcoming Parks Plans have a resource to inform changes to the Alternative Parkland Dedication Rate***

The analysis completed to date represents the current thresholds for a potential update to Toronto's Alternative Parkland Dedication Rate. The percentage caps included in the testing represent an illustrative example of the mechanics of the options. As Parks Plans are advanced by City Planning and Parks Forestry and Recreation, the options for city-wide or local alternative parkland dedication rates should be reviewed within the context of parkland need, development intensity, parcel fabric and land values with updates to the rates or caps, set accordingly.

### **Moving Forward: Effective Alternative Parkland Dedication Rates can support growth and enhance livability**

Growth is placing significant pressure on Toronto's park system. As a municipality, Toronto is able to require parkland dedication in land or through cash-in-lieu as a condition of development or redevelopment. The degree to which the City's parks system can keep pace with residential growth can be improved by establishing an Alternative Parkland Dedication Rate that is reflective of how development intensity drives parkland need.

Since 2005, on a city-wide basis, average units per hectare per project have increased by 254 percent, and residential development density has increased by 205 percent. As a result, parkland dedication has represented a decreasing portion of development costs, while resulting population demand on parks has continued to grow.

The analysis shows that over time, the City's current policy has placed Toronto at a disadvantage in acquiring new parkland. The City has options for updating the alternative rate, specifically the land value caps for cash-in-lieu payments. A new alternative rate can better align Section 42 permissions with development intensity in Toronto so parkland demand driven by growth is supported by new development. This will enable the City to advance its goals of expanding the parks system across Toronto.

Further work will consider the effect of a potential change to the alternative rate in the context of the other fees when assessed against an impact on housing affordability and the strength of the development pipeline.

This review of the alternative rate provides a resource for Council directed studies and their Parks Plans, including the City-wide Parkland Strategy, Yonge-Eglinton Secondary Plan, TOcore and the Rail Deck Park Implementation Plan. Each initiative presents an opportunity to establish an updated alternative rate that would enable the City to achieve its parkland goals. As Parks Plans are brought forward, the City can implement appropriate alternative rates and establish a schedule for regular review.

## CONTACT

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Kerri A. Voumvakis, Director, Strategic Initiatives, Policy & Analysis, City Planning Division, Tel. No: 416-392-8148, Fax No: 416-392-3821, Email: [kerri.voumvakis@toronto.ca](mailto:kerri.voumvakis@toronto.ca)

Ann-Marie Nasr, Manager, Strategic Initiatives, Policy & Analysis, City Planning Division, Tel. No: 416-392-3078, Fax No: 416-392-3821, Email: [ann-marie.nasr@toronto.ca](mailto:ann-marie.nasr@toronto.ca)

## SIGNATURE

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Gregg Lintern, MCIP, RPP  
Acting Chief Planner and Executive Director  
City Planning Division

Janie Romoff  
General Manager  
Parks, Forestry and Recreation

## ATTACHMENTS

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Attachment 1: Summary of Options for potential changes to the Alternative Parkland Dedication Rate for Cash-in-Lieu of Parkland

Attachment 2: Letter from Building Industry and Land Development Association re: Parkland Dedication, Alternative Parkland Rate Dedication Policy Review - Section 42 of the *Planning Act*