



# CITY OF WEST KELOWNA

## COUNCIL POLICY MANUAL

Pages: 1 of 4

Approving Date: September 29, 2020

**SUBJECT: PARK LAND ACCEPTANCE POLICY**

### 1. **Purpose:**

- 1.1. To establish and consistently apply criteria for the acceptance of park land that may be acquired through the subdivision, zoning bylaw amendment (rezoning), or land donation processes.
- 1.2. To establish and consistently apply criteria to manage remnant land in ensuring these lands remain in private ownership.

### 2. **Legislative Authority:**

- 2.1. **Park Land Acceptance:** As per the *Local Government Act*, the City of West Kelowna has authority to obtain park land or cash-in-lieu of park land dedication through the subdivision process, where the amount and location are considered acceptable. Council may also acquire park land through the discretionary zoning amendment process. Additionally, a person may choose to donate land to the City.

### 3. **Definitions:**

- 3.1. **“Park Land”** means a parcel of land that may be designated or classified as park, as referenced in the City of West Kelowna Official Community Plan or the Parks Master Plan.
- 3.2. **“Remnant Land”** means land that has not been developed through the development process because it was identified as undevelopable, unusable, or undesirable due to the presence of certain topographic, geologic, geographic, or environmental features and associated liabilities. Remnant land may also include lands that abut Crown land, and/or land that is not accessible via a road right-of-way.

### 4. **Park Land Acceptance Criteria:**

- 4.1. The City will consider park land dedication in accordance with the *Local Government Act*.
- 4.2. The City may consider acceptance of park land subject to where the proposed park land can:

- (a) Meet the general intent, policies, and objectives of the Official Community Plan and Parks Master Plan, and any other bylaws or policies that are relevant, subject to the City's approval.
- (b) Meet the requirements as specified in the Official Community Plan and Parks Master Plan with respect to the park inventory requirements required to meet the needs of the community, and its location, size, type and potential use of the park.
- (c) Meet the local community or neighbourhood interest for potential park use or type.
- (d) Be free of any covenants or encumbrances that would restrict and prohibit development of the park.
- (e) Provide and enable the use and enjoyment of lands by most members of the public.
- (f) Provide vehicular access for use by the City or emergency responders.
- (g) Connect to existing or proposed parks, trails, or greenways in the area.
- (h) Connect to existing or proposed institutional or recreational facilities and services.
- (i) Be of low risk, hazard, and liability to the public and City, where hazards may include but are not limited to the following:
  - i. Natural hazards (wildfire, flooding, rock slides); and
  - ii. Safety hazards (rock slides, presence of cliffs, steep slopes, and general hazard lands).

## **5. Special Criteria for Park Land Acceptance:**

- 5.1. In certain circumstances the proposed park land may not meet the required acceptance criteria as listed in this policy, and therefore not be considered to satisfy the dedication requirements prescribed in the *Local Government Act*. However, the City may still consider acceptance of proposed park (in excess of the requirements of the *LGA*) where in the opinion of the City the proposed park land:
- (a) Provides social, recreational, cultural, historical, economic, geographic, topographic, visual, or environmental significance to the community.
  - (b) Is not recognized as park by the Official Community Plan or Parks Master Plan, but should be recognized as such.
  - (c) Contains a covenant or an encumbrance, but these are considered acceptable, because they still allow for the intended use, function, and type of the proposed park described in the Official Community Plan or Parks Master Plan.

## **6. Park Land Acceptance Criteria for Environmentally Sensitive Areas:**

- 6.1. In most cases, Environmentally Sensitive Areas (ESAs) are not accepted to satisfy the dedication requirements prescribed in the *Local Government Act*; however, there may be exceptions where the proposed park land may be considered over and above these requirements due to additional historical, cultural, economic, recreational, topographic, or

geographic significance to the community. In these cases, the City may consider the acceptance of the proposed park land where the following conditions apply:

- (a) The proposed park land area provides and enables public use and enjoyment of lands, which in the opinion of the City, would result in minimal disturbance to the ESA.
- (b) Vehicular access to the proposed park land will be provided for use by the City and emergency responders which in the opinion of the City, would result in minimal disturbance to the ESA.

## **7. Park Land Acceptance Criteria for Rights-of-Way, Greenways and Linear Parks:**

- 7.1. In most cases, park lands intended to establish pedestrian connectivity are not accepted to satisfy the dedication requirements prescribed in the *Local Government Act*, however, there may be exceptions where the proposed park land dedication includes lands that are linear in nature.
- 7.2. The City may consider cases where the linear corridor satisfies dedication requirements as it serves a greater linear park or greenway function and width, having considerable environmental, historical, cultural, economic, recreational, topographic, or geographic significance to the community (i.e. historic flume trail).
- 7.3. Any right-of-way to be used solely for public walkways or access is considered part of the pedestrian network as required through subdivision, and will not be considered to meet dedication requirements.
- 7.4. Any right-of-way to be used solely by the City for City purposes such as maintenance access or emergency access will not be considered to meet dedication requirements.

## **8. Remnant Land Management:**

- 8.1. The value and community benefit of remnant lands is recognized by the City; however, where remnant lands have limited opportunities for development, use, and access as intended in the Official Community Plan or Parks Master Plan, the value of the lands is reduced. Additionally, portions of these areas may be considered hazard lands, which pose risk to the public, and liability to the land owner. For these reasons, remnant lands will not typically be considered as park land for dedication purposes and cannot be used to satisfy the dedication requirements prescribed in the *Local Government Act*.
- 8.2. There may be extenuating circumstances whereby remnant lands are considered for dedication as park land to the City due to greater environmental, cultural, historical or social values or strong adherence to master planning objectives.
- 8.3. To manage the creation of remnant lands through the development process, and to ensure remnant lands are not unintentionally acquired through tax sale, the City shall require all remnant land:
  - (a) Be attached to, or remain part of an abutting parcel that is not defined as remnant land, whereby ensuring remnant lands remain privately held, and are connected to lands which maintain value for development.

**(b)** Be designated as lands unsuitable for future development:

- i. In the Official Community Plan - where the lands are well defined and unlikely to be refined at future stages of development; or,
- ii. Through the appropriate land use approval process (zoning, subdivision) - where refinements to the boundary are anticipated to be further delineated. This recognizes each process requires a varying degree of accuracy.

**(c)** Be protected and have restrictions, as determined by and to the satisfaction of the City, to limit future land use that is subject to the existing hazards.

**9. Risks and Hazard Lands:**

**9.1.** To understand potential risks and hazards to be used in the consideration of potential park land dedication, and to mitigate liability to the land owner and the City, it shall be the responsibility of the land owner:

- (a)** To complete a Wildfire Hazard Assessment as described in the City of West Kelowna Terms of Reference for Professional Reports and Technical Studies, as required and to the satisfaction of the City.
- (b)** To complete a Geotechnical Study as described in the City of West Kelowna Terms of Reference for Professional Reports and Technical Studies, as required and to the satisfaction of the City.
- (c)** To complete additional technical studies as necessary to assist in the evaluation and reduction of risk and liability, as required and to the satisfaction of the City.

**10. Reconsideration of a Staff Decision:**

**10.1.** An applicant may request Council reconsider a decision made by staff under this policy.

Previous Revision/s: None