

Appendix C: Section 510 of the LGA

**Requirement for provision of park land or payment for parks purposes**

**510** (1) Subject to this section and section 516 (3) (h) and (4) [*phased development agreement rules*], an owner of land being subdivided must, at the owner's option,

(a) provide, without compensation, park land of an amount and in a location acceptable to the local government, or

(b) pay to the municipality or regional district an amount that equals the market value of the land that may be required for park land purposes under this section as determined under subsection (6) of this section.

(2) Despite subsection (1),

(a) if a regional district does not provide a community parks service, the option under subsection (1) (b) does not apply and the owner must provide land in accordance with subsection (1) (a), and

(b) subject to paragraph (a), if an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land under subsection (1) (a) or money under subsection (1) (b).

(3) Subsection (1) does not apply to the following:

(a) subject to subsection (4), a subdivision by which fewer than 3 additional lots would be created;

(b) a subdivision by which the smallest lot being created is larger than 2 hectares;

(c) a consolidation of existing parcels.

(4) Subsection (1) does apply to a subdivision by which fewer than 3 additional lots would be created if the parcel proposed to be subdivided was itself created by subdivision within the past 5 years.

(5) The amount of land that may be required under subsection (1) (a) or used for establishing the amount that may be paid under subsection (1) (b) must not exceed 5% of the land being proposed for subdivision.

(6) If an owner is to pay money under subsection (1) (b), the value of the land is whichever of the following is applicable:

(a) if the local government and the owner agree on a value for the land, the value on which they have agreed;

(b) the average market value of all the land in the proposed subdivision calculated

(i) as that value would be on the date of preliminary approval of the subdivision or, if no preliminary approval is given, a date within 90 days before the final approval of the subdivision,

(ii) as though the land is zoned to permit the proposed use, and

(iii) as though any works and services necessary to the subdivision have not been installed.

- (7) If an owner and a local government do not agree on the average market value for the purpose of subsection (6), it must be determined in the manner prescribed in the regulations that the minister may make for this purpose.
- (8) If an area of land has been used to calculate the amount of land or money provided or paid under this section, that area must not be taken into account for a subsequent entitlement under subsection (1) in respect of any future subdivision of the land.
- (9) Subject to subsection (11), the land or payment required under subsection (1) must be provided or paid to a municipality or regional district as follows
- (a) subject to paragraph (b), before final approval of the subdivision is given;
  - (b) if the owner and the local government enter into an agreement that the land or payment be provided or paid by a date specified in the agreement, after final approval of the subdivision has been given.
- (10) Notice of an agreement under subsection (9) (b) must be filed with the registrar of land titles in the same manner as a notice of a permit may be filed and section 503 *notice of permit on land title* applies.
- (11) Despite subsection (9), the minister may, by regulation,
- (a) authorize the payment that may be required by this section to be made by instalments, and
  - (b) prescribe the conditions under which instalments may be paid.
- (12) If land is provided for park land under this section, the land must be shown as park on the plan of subdivision.
- (13) Section 107 *[deposit in land title office operates to dedicate and vest park land]* of the *Land Title Act* applies to park land referred to in subsection (12), except that,
- (a) in the case of land within a municipality, title vests in the municipality, and
  - (b) in the case of land outside a municipality, title vests in the regional district if it provides a community parks service.
- (14) If an owner pays money for park land under this section, the municipality or regional district must deposit this in a reserve fund established for the purpose of acquiring park lands.