

**5.3.iv Policy and Procedures****SCHOOL SITES ACQUISITION STATUTES AMENDMENT ACT**

Trust Council: March 9, 1996

**A. PURPOSE:**

The purpose of this policy is to provide guidance on the use of the *School Sites Acquisition Amendment Act* (Section 942 of the *Municipal Act*). This legislation enables Local Trust Committees to acquire land or a cash equivalent for a new school site from an applicant at the time of subdivision, including strata subdivisions under the *Condominium Act*. In association with the operation of this provision, it may be possible to acquire an amount of park land or obtain payment in lieu of park land that is greater than the restriction of 5% established in Section 941(4) of the *Municipal Act*. Operation of Section 942 of the *Municipal Act* is dependent upon an agreement with the relevant School Board.

**B. POLICIES:**

- There are three preconditions to the application of Section 942:
  - 1) subdivision of land into three or more lots of which the smallest lot is two hectares or less.
  - 2) the existence of an agreement between the Local Trust Committee and the School Board respecting the provision of land or payments for school sites (subsections (1) and (2)).
  - 3) indication by the School Board in its current five-year School District Capital Plan, (based on 10 year enrolment forecast), as approved by the Minister of Education under the *School Act*, that it has a school site requirement (subsection (3)).
- The amount of land that is required to be provided or that is used to calculate the amount of money to be paid in lieu of land may exceed five percent for park purposes and five percent for school site purposes provided:
  - total land taken does not exceed 10% of land being subdivided;
  - amount or portion of land being set aside for schools and parks is set out in a joint agreement.
- The Local Trust Committee, through joint agreement with the School Board, determines whether the applicant shall provide land, money, or a combination of both.

- Section 942 does not grant the Local Trust Committee the authority to request that 10% of the area of land being subdivided be provided as park land, in the absence of an agreement with the School Board under Section 942(4).

### C. PROCEDURE:

1. An agreement between a Local Trust Committee and a School Board should include:
  - a) conditions on which and procedure by which the Local Trust Committee and the School Board will determine whether an applicant for land being subdivided shall provide land or money or both;
  - b) if land is to be provided, how the location and amount of land is to be determined, and if money is to be paid, the amount required to be paid;
  - c) the proportion of land to be used for park purposes and the proportion to be used for school purposes, where land is required to be dedicated under both sections 941 and 942;
  - d) the process for determining and agreeing to the value of land by the Local Trust Committee, School Board and applicant;
  - e) terms and procedures for transferring land and payments made by the applicant to the School Board; and
  - f) expected response times.
2. Once an agreement has been entered into, an applicant for land being subdivided must provide to the Local Trust Committee with one of the following, as required by the Local Trust Committee:
  - a) land for a school site, the amount and location of which is to be determined in accordance with the agreement;
  - b) a combination of land and money, as agreed to by the Local Trust Committee and the School Board pursuant to the agreement value of the land as established.
  - c) An applicant is required to pay either:
    - average market value of all land in the proposed subdivision, calculated at the date of preliminary subdivision approval; or
    - average market value of all land in the proposed subdivision calculated 90 days prior to final subdivision approval; and
    - value agreed on by the Local Trust Committee, School Board and the applicant.
3. Subject to agreement with the School Board, a Local Trust Committee could require a dedication of park land under Section 941 in an amount greater than 5% (e.g. 6%); then under Section 942, the Local Trust Committee could require the provision of land for a school site in an amount less than 5% (e.g. 4%). The converse is also true. The Local Trust Committee may also use these figures to establish the amount of money to be paid.

4. The Approving Officer shall not give final subdivision approval unless:
- a registerable undertaking between the Local Trust Committee, the owner of the land and the School Board is endorsed by the subdivision approving officer, if land is to be provided;
  - payment is made, if cash-in-lieu is provided; and
  - the applicant has provided a security, in a form acceptable to the Local Trust Committee, for the land and/or payment

The Minister of Municipal Affairs may authorize instalment payments from the applicant.

5. The Local Trust Committee may assign zoning to the land acquired for school purposes for public school or park purposes.
6. If money is paid by the applicant, the Local Trust Committee must turn the money over to the School Board. Similarly, where land is provided for a school site, the Local Trust Committee must immediately transfer title to the land to the School Board.
- a) The School Board must deposit money transferred from the Local Trust Committee for the acquisition of school sites into a "land capital reserve trust account";
  - b) The School Board may spend funds only on the acquisition of land for school site purposes subject to:
    - the school site to be acquired being identified in the Board's Five Year Capital Plan, and
    - the Minister of Education's approval;
  - c) Proceeds from the sale of land acquired through land reservation will be deposited in the trust account;
  - d) No monies from the trust account may be used for administrative or operating purposes.
  - e) Lands acquired by the School Board through this process shall only be sold for the purpose for which they were acquired.