



**Lake Simcoe Region**  
conservation authority

# **Phosphorus Offsetting Policy**

**May 2023**

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**Acknowledgements**

This policy could not have been developed without the participation of and collaboration with:

- Ministry of the Environment and Climate Change (MOECC)
- Chippewas of Georgina Island First Nation
- City of Barrie
- City of Kawartha Lakes
- Regional Municipality of Durham
- Township of Brock
- Township of Scugog
- Township of Uxbridge
- Town of Bradford West Gwillimbury
- Town of Innisfil
- Town of New Tecumseth
- Township of Oro-Medonte
- Township of Ramara
- Regional Municipality of York
- Town of Aurora
- Town of East Gwillimbury
- Town of Georgina
- Township of King
- Town of Newmarket
- Town of Whitchurch-Stouffville
- Building Industry and Land Development Association (BILD)
- Ontario Federation of Agriculture (Simcoe Chapter)

The Lake Simcoe Region Conservation Authority would especially like to acknowledge the support of the Minister of Environment, Conservation and Parks, the Hon. David Piccini.

### **Conservation Authority Resolution**

The LSRCA Board of Directors on September 22, 2017, adopted the Phosphorus Offsetting Policy by resolution as follows:

Moved by: S. Macpherson

Seconded by: P. Ferragine

BOD-131-17 **Resolved that** Staff Report No. 38-17-BOD regarding the Lake Simcoe Phosphorus Offsetting Program be received; and

**Further that** the Phosphorus Offsetting policy be approved to take effect January 1, 2018; and

**Further that** LSRCA's member municipalities and the Building Industry and Land Development Association be notified accordingly. CARRIED

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### Revisions Registry

Identification	Date	Description of revision
Draft Policy	September 2017	Presented to Board for approval
Housekeeping Policy Update	May 2019	Minor housekeeping updates approved by Board
Housekeeping Policy Update	May 2023	Minor housekeeping updates to align with provincial legislative changes, approved by Board

## 1.0 Introduction

The Lake Simcoe Region Conservation Authority (LSRCA) Strategic Plan, Transformation 2022-2024 reaffirms the LSRCA's vision of watershed health and the mission we aspire to achieve.

Strategic Direction One of the Strategic Plan is to champion watershed health and climate resilience. This update to the Lake Simcoe Phosphorus Offsetting Policy (LSPOP) is in alignment with the Lake Simcoe Protection Plan. Minimizing phosphorus loading will ultimately protect and improve the water quality in Lake Simcoe and its tributaries and support watershed health.

The LSPOP is the product of more than 4 years of work in collaboration with the First Nations, Chippewas of Georgina, the Ministry of the Environment, Conservation and Parks (MECP), our municipal partners, the Building Industry and Land Development Association (BILD) and the watershed community. Extensive consultation was held during the study and to develop policy to operationalize the program. This policy outlines the steps needed to facilitate an offset with the development industry and is intended to aid in operationalizing the program. The updated version of this policy will become effective on May 26, 2023, and is intended to bring this policy into alignment with the current provincial legislative framework.

It is noted that the Lake Simcoe Phosphorus Offsetting Program will result in many other environmental, social and economic benefits including:

- Reduced peak flows, frequency and severity of flooding, risk to life, property, and social disruption,
- Increased resilience of communities to climate change,
- Enhanced groundwater recharge to maintain ground-water drinking supplies and ecological services,
- Creation of green industry - jobs in construction, operation, and maintenance,
- Facilities that are aesthetically attractive and provide opportunities for carbon offsetting and climate change mitigation.

## 2.0 Context

The LSPOP requires that all new Major development, as defined by the Lake Simcoe Protection Plan control the phosphorus from leaving their property in accordance with Section 4.8-DP of the Lake Simcoe Protection Plan. This is referred to as the Export Target, a key component of the LSPOP that ensures new development or redevelopment activities do not continue to contribute to phosphorus loading to Lake Simcoe. Under this Policy, as new urban growth occurs phosphorus loads will be controlled to the maximum extent possible onsite using the best available control technology within the development itself in compliance with the MECP Stormwater Guidelines and the LSRCA Watershed Development Guidelines, whichever is most

stringent. Any remaining stormwater phosphorus load that cannot be controlled to meet pre-development phosphorus loading levels would trigger the need for an offset to achieve pre-development phosphorus loading levels. An offset ratio of 2.5:1 would be applied meaning that 2.5 kg of phosphorus per year would be removed for every 1 kg required to be offset. The offset measures would consist of phosphorus load reduction through the use of Low Impact Development (LID) techniques and the retrofit of existing stormwater discharges elsewhere in a subwatershed or in adjacent subwatersheds.

LSPOP is based on the following provincial, regional, and watershed documents in the Lake Simcoe watershed:

- Lake Simcoe Protection Act and Plan (2009)
- Conservation Authorities Act (2023)
- Lake Simcoe Environmental Management Strategy (1990 – 2007)
- Assimilative Capacity Study (2006)
- Lake Simcoe Phosphorus Offsetting Program (2014)
- Provincial Policy Statement (2020)
- Growth Plan for the Greater Golden Horseshoe (2020)
- Subwatershed Plans (2009 – 2017)

For example, Chapter 4 of the Lake Simcoe Protection Plan identifies that phosphorus loadings should be reduced to achieve a target for dissolved oxygen of 7mg/L in Lake Simcoe, which equates to a long-term goal of 44 tonnes per year. Phosphorus offsetting is a means to help achieve this long-term goal and target.

### 3.0 Principles

LSPOP is based on the following principles:

**Accountable:** Mechanisms will be in place to demonstrate that actual phosphorus reductions will result from the offsets and that program implementation and decisions will be transparent.

**Beneficial:** Offsetting will result in net water quality benefits to Lake Simcoe.

**Defensible:** Offsetting parameters, such as credits and ratios, will be based on reliable scientific evidence and methods.

**Economical:** Reductions in phosphorus loadings to Lake Simcoe that result from offsetting should be at an overall lower cost than traditional approaches to water quality improvement.

**Enforceable:** Offsetting procedures will be simple, consistent and implementable.

**Equitable:** Offsetting will avoid bias in terms of participation, location of trades, and value of credits.

**Adaptable:** Information about program operation and water quality improvements will be reviewed from time to time and will be used to adapt offsetting to changing knowledge and technology.



**Figure 0-1 – Examples of stormwater control**

## **4.0 Policy Approach**

### **4.1 Goals**

- To maintain and/or improve the water quality of Lake Simcoe and its tributaries by addressing stormwater, which is defined as wastewater and should not be discharged to a receiving water body that is at or as a result of the discharge, would exceed its assimilative capacity,
- To assist in achieving the Lake Simcoe Protection Plan target for dissolved oxygen of 7mg/L in Lake Simcoe with an annual phosphorus load of 44 tonnes per year.

### **4.2 Objectives**

- To reduce stormwater runoff to pre-development conditions as close to the source as possible,
- To ensure that development within the watershed contributes to the protection or enhancement of water quality and quantity through the implementation of LID techniques such as enhanced swales, rain-gardens, and permeable surfaces,
- To prevent increases in phosphorus loads to Lake Simcoe and its tributaries by utilizing LID principles,
- To recognize stormwater retrofit projects on public lands as a means to achieving the overall phosphorus water quality target.

### 4.3 Definition

Phosphorus offsetting will be applied to:

- Development Applications meeting the definition of “Major development” as per the Lake Simcoe Protection Plan,
- Applications under the *Conservation Authorities Act* where applicable,
- Consolidated Linear Infrastructure Environmental Compliance Approvals for a municipality when specified by the MECP as a condition or a stormwater management criteria,
- Any other provincial and/or municipal requirement(s) as specified by the province or municipality.

4.3.1. Exceptions: applications made under the *Planning Act* that facilitate permitted agricultural uses or the construction of an accessory structure (e.g., garage or barn and non-commercial structures) or a single detached dwelling on an existing lot of record will not be subject to the Phosphorous Offsetting Policy requirements.

### 4.4 Phosphorus Offsetting Policies

4.4.1. An application as identified in Section 4.3 shall be accompanied by a Preliminary Phosphorus Budget as part of an overall Functional Servicing Report or Preliminary Stormwater Management Report. This evaluation shall be prepared by a qualified professional to the satisfaction of the municipality and local conservation authority prior to any draft plan of subdivision, site plan approval or granting of provisional consent. A Detailed Phosphorus Budget, based on the approved Preliminary Report, will be required as a condition of draft plan of subdivision/condominium or site plan approval or granting of provisional consent.

4.4.2. The Phosphorus Budget identified in Section 4.4.1 must demonstrate that the phosphorus load from the development on the property will not exceed pre-development phosphorus loadings. The Phosphorus Budget shall be prepared in accordance with the following:

- i. Municipality’s Comprehensive Stormwater Management Master Plan prepared under 4.5-SA of the Lake Simcoe Protection Plan (2009)
- ii. Subwatershed Evaluations under 8.3-SA of the Lake Simcoe Protection Plan
- iii. Designated Policy 4.8 of the Lake Simcoe Protection Plan
- iv. Section 2.2 of the Provincial Policy Statement (2020)
- v. LSRCA’s Technical Guidelines for Stormwater Management Submissions
- vi. Policy 3.2.7 of the Growth Plan for the Greater Golden Horseshoe (2020)



4.4.3. In situations where the phosphorus load cannot be met or demonstrated in a post-development scenario to achieve the pre-development phosphorus loadings, the developer or proponent shall be required to provide phosphorus offsetting to the LSRCA.

The Phosphorus Offsetting Fee will be calculated as follows:

- Offset Ratio = 2.5:1
- Offset Value = \$35,770/kg/year<sup>1</sup>
- Offset Calculation = (ratio (2.5) x P load difference between post-development and pre-development in kg x \$35,770)

And Administration Fee (15%) will be added to the Phosphorus Offsetting Fee for Lake Simcoe Conservation Authority Program Costs. Offsetting fees need to be adjusted annually to account for the increased cost of the offsetting work. Values are reviewed annually and may be subject to adjustment to account for inflation or fluctuations in service and/or material costs. Adjustments for inflation are based on the annual consumer price index, updated in March, as provided by Statistics Canada:

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000413>

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<sup>1</sup> Values are adapted from LSRCA restoration project costs and TRCA, NGO and private consulting estimates. Values are reviewed annually and may be subject to adjustment to account for inflation or fluctuations in service and/or material costs. Adjustments for inflation are based on the annual consumer price index, updated in March, as provided by Statistics Canada:

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000413>

- 4.4.4. The revenue generated through phosphorus offsetting will be used to reduce the phosphorus load in other parts of the subwatershed by funding the construction of; stormwater pond retrofits, Low Impact Development best management practices. The offset shall generally occur in the same catchment as the subject lands, subwatershed, or watershed in order of priority. See Appendix B for details on Implementation of Cash in Lieu revenue.
- 4.4.5. The phosphorus offset will be established in municipal development agreements to ensure the offset is addressed and will be maintained in perpetuity. Clauses in agreements or legal instruments, where appropriate, will be required though conditions of approval for any draft plan of subdivision or condominium, site plan or consent application, purchase and sale agreements, and covenants as per the *Conservation Land Act* registered under the *Land Titles Act*.
- 4.4.6. Council may enact by-laws under the *Municipal Act* to help implement the approved phosphorus offset. Existing fill or site alteration by-laws may be amended or updated to include the offset requirements.
- 4.4.7. Applications under the *Planning Act* that facilitate permitted agricultural uses or the construction of an accessory structure (e.g., garage) or a single-detached dwelling on an existing lot of record will not be subject to this Phosphorus Offsetting Policy. In addition, proposals requiring approval under Ontario Regulation 179/06 via the *Conservation Authorities Act* will not be subject to the requirements of this Policy.

## 4.5 Transition

**Table 0-1 – Transition Policy**

Application Type	Phosphorus Offsetting Applicability	Commentary
All applications under the <i>Planning Act</i>	yes	Applies to all applications submitted after January 1, 2018, that constitute major development as per the Lake Simcoe Protection Plan.
Draft plan of subdivision applications submitted prior to January 1, 2018	yes	Provided draft approval was <u>not</u> granted before January 1, 2018
Draft approved plans of subdivision prior to January 1, 2018	no	Provided an extension to draft approval is not required



Application Type	Phosphorus Offsetting Applicability	Commentary
Red-Line revision to plan of subdivision that was draft approved prior to January 1, 2018	yes	Only if there is a substantive change to the approved storm water management scheme. It is the responsibility of the applicant to show how the proposed changes are consistent with the original scheme.
Extension to draft approval	yes	Provided the extension is granted after January 1, 2018
Site Plan Approval for a Block on a Registered Plan	no	Provided there is no substantive change to the approved storm water management scheme. It is the responsibility of the applicant to show how the proposed changes are consistent with the original scheme.
Site Plan Approval for a Block on a Plan of Subdivision that was draft approved prior to January 1, 2018	no	Provided there is no substantive change to the approved storm water management scheme. It is the responsibility of the applicant to show how the proposed changes are consistent with the original scheme.
Site Plan Amendment	no	Provided there is no substantive change to the approved storm water management scheme. It is the responsibility of the applicant to show how the proposed changes are consistent with the original scheme.

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## Appendix A – Phosphorous Offsetting Cost

Phosphorus Offsetting Fee:	\$35,770 per kg
Administrative Fee:	15%
Approved Date:	Board Approved May 26, 2023

## **Appendix B – Implementation Guidelines for Recharge Offsetting – Cash - in – Lieu**

### **Phosphorus Offsetting Committee**

The following sections outline the implementation guidelines for LSRCA's Cash-in-Lieu

Offsetting: Implementation Committee, Project Selection Criteria, Project Funding, Project Execution, Interest on Cash-in-lieu Funds and Project Reporting.

### **Implementation Committee**

An Implementation Committee (Committee) will be established to assist in implementation through informed decision making. The members will be responsible for:

- Reviewing potential Stormwater Restoration projects for funding utilizing the Phosphorus Offsetting revenue.
- Ensuring that the projects meet Phosphorus Offsetting Implementation Criteria and either approving or denying projects.
- Reviewing and recommending which approved projects need to be monitored for water quality/quantity efficacy.
- Reviewing the annual reports and ensuring that desired outcomes are being achieved.
- Providing advice and direction on ways to improve the program. The Implementation Committee will establish and follow a Terms of Reference and will be comprised of members from the following service areas: Corporate Services, Planning & Development, and Watershed Restoration Services.

### **Project Funding**

Phosphorus funding will be used to fund the project costs approved by the review committee. A review of the project funds, including the administration fee, will be completed annually to ensure the amount is appropriate.

## **Project Execution**

Projects will be executed by LSRCA. Exceptions may be made at the discretion of the Committee and a grant agreement and/or MOU must be signed by the executing party.

LSRCA's Board of Directors have provided governance for the internal review committee to procure consultants and contractors and to issue grants to agencies, partners and participants in accordance with the current LSRCA Purchasing Policy.

## **Financial Controls**

Offsetting funds will be tracked within a subwatershed grouping account. Once a project has been approved the budget will be transferred to the project account. Internal monthly reporting on project budget versus actual will be prepared and reviewed at each Committee meeting.

## **Interest on Phosphorus Offsetting Policy Revenue**

Due to timing difference between phosphorus offsetting revenue and project expenditures, LSRCA staff will segregate the idle phosphorus offsetting money and invest under the strict provisions of the LSRCA Investment Policy. Interest revenue earned will be allocated with 15% going to Program and Operational costs and 85% to Project costs. All interest attributed to Project Costs will be returned to the General Pool.

## **Reconciliation of Projects (Project close out)**

At the conclusion of the project, any remaining funds from the project would be returned to a General Pool of phosphorus funding for redeployment towards other projects at the general discretion of the Committee and approved by the Board as necessary.

## **Reporting**

Project reporting will be done internally monthly and be reported as part of the quarterly reporting (typically only done at the end of quarter 2,3 and 4).

Available subwatershed grouping balances, revenue received less committed expenditures, will be available for each Committee meeting.

Annual audited balances (by subwatershed or aggregate) will be available at year end or (unaudited) will be available upon request of the Committee or Board.