

The Corporation of the Municipality of Brockton



By-Law 2019-0XX

Being a By-Law to Provide for the Conveyance of Land for Park or Other Public Recreational Purposes as a Condition of the Development, Redevelopment, or the Subdivision of Land within the Municipality of Brockton.

Whereas the *Municipal Act S.O. 2001, c 25, Section 5(1)*, as amended, provides that the powers of a municipal corporation are to be exercised by its council;

And Whereas the *Municipal Act S.O. 2001, c 25, Section 5(3)*, as amended, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9; shall be exercised by By-Law;

And Whereas Sections 42(1), 51.1, and 53 of the *Planning Act, R.S.O. 1990, c P.13*, as amended provide that the Council of a local municipality may, by By-Law, require that the land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment of lands, or as a condition of the subdivision of lands;

And Whereas the Council for The Corporation of the Municipality of Brockton deems it necessary and expedient to enact a By-Law to provide for the provision of lands for park or other public recreational purposes and the use of alternative requirements therefore;

And Whereas the Municipality of Brockton has an Walkerton Community Official Plan in effect that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement authorized under Section 42(3) of the *Planning Act, R.S.O. 1990, c P.13* for all lands in the former Town of Walkerton;

And Whereas the County of Bruce has an Official Plan in effect for all areas of the Municipality of Brockton that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement authorized under Section 42(3) of the *Planning Act, R.S.O. 1990, c P.13*;

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

1.0 Definitions:

1.1 The following definitions apply in this By-law:

“Municipality” means the Corporation of the Municipality of Brockton.

“Environmental and Hazard Lands” includes any lands not to be developed for commercial, industrial, or residential purposes due to the presence of natural heritage features and functions or natural/human-made hazards as will be established in accordance with the Provincial Policy Statement, Walkerton Community Official Plan, and Municipality of Brockton Comprehensive Zoning By-law, all as in effect at the time of establishment of the conveyance requirement.

“Act” means the *Planning Act, R.S.O. 1990, c. P. 13* as amended from time to time.

2.0 Geographic Location

2.1 This By-Law shall apply to all lands within the Municipality of Brockton.

3.0 Development or Redevelopment

3.1 As a condition of development or redevelopment pursuant to Section 42 of the *Planning Act*, the owner is required to convey to the Municipality, land for park or other public recreational purposes as follows:

- a) In the case of lands proposed for commercial or industrial purposes, the dedication of land in the amount of two percent (2%) of the area to be developed or redeveloped; and
- b) In the case of lands proposed for residential purposes, the dedication of land calculated as five per cent (5%) of the area to be developed.

3.2 For lands proposed for development or redevelopment for mixed use development, the parkland calculation shall be based on a pro rata proportion of the residential and non-residential components.

3.3 The Municipality may, at its sole discretion, in lieu of accepting a conveyance, require the payment of money in lieu to the value of land otherwise required to be conveyed.

3.4 Where payment in lieu is required, the value of the land shall be determined as of the day before the day the first building permit is issued for the development or redevelopment.

3.5 Payment in lieu may, at the sole discretion of the Municipality, satisfy part or all of the dedication requirement.

3.6 If land has been conveyed or is required to be conveyed to a Municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the Municipality or is owing to it under Section 51.1 or 53 of the *Planning Act*, no additional conveyance or payment will be required by the Municipality in respect of subsequent development or redevelopment unless:

- a) there is a change in the proposed development or redevelopment which would increase the density of development; or
- b) land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes.

4.0 Subdivision of Lands

4.1 As a condition of subdivision or condominium plan approval pursuant to Section 51.1, or the giving of a provisional consent pursuant to Section 53 of the *Planning Act*, the owner is required to convey the following:

- a) In the case of lands proposed for commercial or industrial purposes, land calculated on the basis of two percent (2%) of the land to be subdivided; and
- b) In case of lands proposed for use for residential or purposes other than specified in Section 3 a) of this By-Law, five per cent (5%) of the land to be subdivided.

4.2 The Municipality may, in lieu of accepting conveyance, require the payment of money in lieu to the value of land otherwise required to be conveyed.

4.3 For a plan of subdivision or condominium, the value of the land shall be determined as of the day before the day of the approval of the draft plan.

- 4.4 For a consent, the value of the land shall be determined as of the day before the day the provisional consent was given.
- 4.5 Payment In lieu may, at the sole discretion of the Municipality, satisfy part, or all, of the dedication requirement.
- 4.6 The Municipality may establish a standard fee for parkland dedication through the current Fees and Charges By-law, however at the discretion of the Municipality the applicant may be required to have the lands appraised under Section 17, and the applicant may be required to pay the higher of 5% of the appraised value and the applicable fee.

5.0 Location of Parkland

- 5.1 The location and configuration of land required to be conveyed shall be at the sole discretion of the Municipality and free of all encumbrances.
- 5.2 Any conveyances or dedication of Environmental Lands as defined herein or storm water management facilities shall not be considered as in any way contributing to or satisfying the requirement for conveyance of lands for park or other recreational purposes pursuant to the requirements of Section 3 and 4 of this By-law. Environmental Lands shall also not be excluded from the total land area to be developed, redeveloped or subdivided in the calculation of the parkland requirement.

6.0 Payment in Lieu of Parkland Determination

- 6.1 Where deemed necessary by the Municipality to determine the value of the land with respect to a payment in lieu of lands, the Municipality will require an appraisal of the land to determine the land value. The appraisal shall be carried out in accordance with generally accepted appraisal principles and undertaken by a qualified appraiser at the cost of the applicant.

7.0 Exemptions

- 7.1 This by-law shall not apply to:
 - a) any building replaced and used for the same purpose within two years of its accidental destruction or damage leading to its demolition.
 - b) any addition or alteration to an existing residential building that does not result in an increase in dwelling units,
 - c) a place of worship,
 - d) a cemetery,
 - e) any development undertaken by a non-profit organisation providing a community service or subsidised residential development,
 - f) a college or university or school board use,
 - g) any municipal or other government use,
 - h) a secondary dwelling unit as defined in the Zoning By-law,
 - i) a home based business or home industry as defined in the Zoning By-law
 - j) an addition or alteration to an existing commercial or industrial building that does not require site plan control approval as per the *Planning Act* or the Municipality's Site Plan Control By-law,
 - k) a use for which a temporary permit has been issued, unless such use is made permanent,

- l) any development or redevelopment of a use undertaken in partnership with the Municipality of Brockton as a public/private partnership.
- m) a consent to separate a surplus dwelling from agricultural lands
- n) a technical consent or lot addition unless the effect of the consent would be to permit an additional buildable lot.

8.0 That this By-Law shall come into effect upon final passage.

9.0 This By-Law may be cited as the “Parkland Dedication By-Law”.

Read, Enacted, Signed and Sealed this 15th day of October, 2019.

Mayor – Chris Peabody

Clerk – Fiona Hamilton