

**The Corporation of the Municipality of Brighton  
By-law Number \_\_\_\_ - 2023**

**Being a By-Law to Govern Parkland and Open Space Dedication in the  
Municipality of Brighton.**

**WHEREAS** sections 42, 51.1 and 53 of the Planning Act authorize local municipalities to require that land be conveyed, or Payment In Lieu thereof be made, to the local municipality for park, or other public recreational purposes as a condition of Development, or Redevelopment, or the subdivision of land;

**AND WHEREAS** section 1.1.4.3 (1)(xxi) of O.Reg. 332/12 of the Building Code Act, 1992, S.O. 1992, c. 23 provides for the payment of money or making arrangements satisfactory to the council of a municipality for the payment of money, where the payment is required under subsection 42 (6) of the Planning Act;

**AND WHEREAS** sections 42 and 51.1 of the Planning Act provide for the use of alternative requirements;

**AND WHEREAS** the Municipality of Brighton Official Plan, as amended, contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement;

**AND WHEREAS** the Municipality has prepared and made available to the public a Parks and Recreation Master Plan, including a Parks Development Manual, that examined the need for parkland in the Municipality;

**AND WHEREAS** Section 23.1 to 23.3 of the Municipal Act authorize the delegation of powers or duties of the municipality subject to restrictions;

**AND WHEREAS** Council for The Corporation of the Municipality of Brighton deems 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;

**NOW THEREFORE Council of the Corporation of the Municipality of Brighton hereby enacts as follows:**

**1. Definitions**

In this By-law, the following words have the following meanings:

- (a) "Affordable Residential units" means a residential unit that meets the following criteria:
- i. A residential unit intended for use as a rented residential premises shall be considered to be an affordable residential unit if it meets the following criteria:
    - The rent is no greater than 80 per cent of the average market rent, as determined in accordance with subsection 4.1(5) of the Development Charges Act, 1997, as amended.
    - The tenant is dealing at arm's length with the landlord.
  - ii. A residential unit not intended for use as a rented residential premises shall be considered to be an affordable residential unit if it meets the following criteria:
    - The price of the residential unit is no greater than 80 per cent of the average purchase price, as determined in accordance with subsection 4.1(6) of the Development Charges Act, 1997, as amended.
    - The residential unit is sold to a person who is dealing at arm's length with the seller.
- (b) "Attainable Residential units" means a residential unit that meets the following criteria:
- i. The residential unit is not an affordable residential unit.
  - ii. The residential unit is not intended for use as a rented residential premises.
  - iii. The residential unit was developed as part of a prescribed development or class of developments.

- iv. The residential unit is sold to a person who is dealing at arm's length with the seller.
- v. As may be prescribed under the Development Charges Act, 1997, as amended.
- (c) "Building Permit" means the first permit issued under the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, for a building or structure within the Development or Redevelopment;
- (d) "Commercial" means the use of land, buildings or structures for a use not otherwise defined herein, and which are used in connection with:
  - i. the selling of commodities to the general public;
  - ii. the supply of services to the general public;
  - iii. office or administrative facilities; or
  - iv. such similar uses as determined by the Municipality
- (e) "Consent" means the process referred to in Section 53 of the Act.
- (f) "Council" means the Council of the Municipality;
- (g) "Development" means the construction, erection or placing of one or more buildings or structures on land, or the making of an addition or alteration to a building or structure on land, or the establishment of a marina, or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot, or the extension of lapsing to a draft approved plan of subdivision under Section 51 of the Planning Act;
- (h) "Director of Public Works and Infrastructure" means the Director of Public Works and Infrastructure of the Municipality, or their designate;
- (i) "Director of Planning" means the Director of Planning and Development Services of the Municipality, or their designate;
- (j) "Dwelling Unit" Means a *suite* which functions as a housekeeping unit used or intended to be used as a domicile by one or more persons; containing cooking, eating, living, sleeping and sanitary facilities; and having a private entrance from outside the building or from a common hallway or stairway inside or outside the building., but does not include a housekeeping hotel suite or a housekeeping suite in a long-term care facility;
- (k) "Gross Floor Area" (or "GFA") means the total floor area, as defined herein, exclusive of:
  - i. any part of the building or structure below finished grade which is used for heating, the storage or parking of motor vehicles, locker storage, storage of goods and personal effects, laundry facilities, children's play areas and other accessory uses, or used as living quarters by the caretaker, watchman or other supervisor of the building or structure;
  - ii. in the case of an arena, any part of the building designed for use as an artificial ice surface; and
  - iii. in the case of a dwelling house, any private garage, carport, basement, walkout basement, cellar, porch or veranda, sunroom (unless such sunroom is habitable at all seasons of the year).
- (l) "Industrial" means the use of land, buildings or structures for a use not otherwise defined herein, and which are used in connection with:
  - i. Manufacturing, producing, or processing of goods;
  - ii. Warehousing or bulk storage of goods;
  - iii. A distribution center;
  - iv. A truck terminal;
  - v. Research or development in connection with manufacturing, producing or processing raw goods; or
  - vi. such similar uses as determined by the Municipality.
- (m) "Land Area" means:
  - i. The area of land subject to an application for Development or Redevelopment; or,
  - ii. The area of land that is to be conveyed under this By-law in fee simple to the Municipality and which conveyance can be registered in the Land Registry Office;
- (n) "Mixed Use" means the use of land, buildings or structures intended and designated to contain both residential and non-residential uses, or

- commercial/industrial uses and other non-residential uses, within the same building or on discrete portions of the same site;
- (o) “Municipality” means The Corporation of the Municipality of Brighton, or where the context requires, the geographical jurisdiction of The Corporation of the Municipality of Brighton;
  - (p) “Natural Hazard Lands” means Land that could be unsafe for Development or Redevelopment because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock;
  - (q) “Natural Heritage Lands” shall refer to a system of lands made up of natural heritage features and areas, hydrologically sensitive features and linkages intended to provide connectivity (at the regional or site level) and support natural processes which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species, and ecosystems. These systems can include natural heritage features and areas, hydrologically sensitive features, federal and provincial parks and conservation reserves, other natural heritage features, lands that have been restored or have the potential to be restored to a natural state, areas that support hydrologic functions, and working landscapes that enable ecological functions to continue;
  - (r) “Net Dwelling Units” means the number of Dwelling Units determined by subtracting the number of Dwelling Units on the land immediately before the proposed Development or Redevelopment from the number of Dwelling Units that will be on the land after the proposed Development or Redevelopment;
  - (s) “Official Plan” means the Official Plan for the Municipality of Brighton, as amended from time to time.
  - (t) “Other Constrained Lands” or “Open Space Lands”– means lands that are not constrained by flood or erosion hazards, but that contain significant natural heritage features, functions, or offer a buffer function from such lands or as may be identified for protection adjacent to Natural Heritage or Natural Hazard lands through regulation or an environmental impact study, accepted by the Municipality.
  - (u) “Owner” – means the registered owner of land as listed on the provincial land registry within the Ontario Land Registry Office;
  - (v) “Parkland” means lands to be used for public park or other public recreational purposes, as provided for under the Planning Act.
  - (w) “Payment in lieu” (or “PIL”) means a payment of money in lieu of land conveyance otherwise required under Section 42, 51.1 and 53 of the Planning Act.
  - (x) “Privately Owned Public Spaces (POPS)” means physical space that is privately owned but appears and functions as public space; are secured through an easement in favour of the Municipality; are designed and maintained to the standards established by the Municipality; and remain open and accessible to the public or on a schedule established by agreement with the Municipality;
  - (y) “Planning Act”, or the “Act”, means the Planning Act, R.S.O. 1990, c. P.13, as amended, or successor legislation;
  - (z) “Redevelopment” means the removal of buildings or structures from land and further Development of the land, or the substantial renovation of a building or structure and a change in the character or intensity (density) of use in connection therewith;
  - (aa) “Residential Purposes” means lands, buildings, or structures, or portions thereof, used, or designed or intended for use as a home or residence of one or more individuals, and the residential portion of a mixed-use building or structure, and in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the unit;
  - (bb) “Strata Park” means publicly owned parkland or a publicly accessible privately owned open space located on top of buildings or structures. The strata component of this definition refers to the horizontal delineation of ownership, as it is described in the Condominium Act, 1998, S.O. 1998, c. 19;
  - (cc) “Tableland” – means those lands that do not contain Hazard, open space or other Constrained Land features that would prohibit Development.
  - (dd) “Treasurer” means the Director of Finance and Administration of the Municipality, or their designate.

## 2. Lands Affected

- (a) This By-law applies to all lands within the corporate limits of the Municipality.

**3. Applicability of Sections 42, 51.1 and 53 of the Planning Act, and Section 1.4.1.3. (xviii) of O. Reg. 332/12 under the Building Code Act (applicable Law)**

- (a) A conveyance of land or a Payment In Lieu of the conveyance of land shall be made to the Municipality, subject to Sections 42, 51.1 and 53 of the Planning Act and the requirements of this By-law.
- (b) A conveyance of land or a Payment In Lieu of the conveyance of land shall be made to the Municipality in accordance with this by-law as applicable law at the time of issuance of a building permit, subject to Section 1.4.1.3. (xviii) of O. Reg. 332/12 under the Building Code Act.
- (c) The Municipality shall determine when Payment In Lieu of a land conveyance is acceptable versus where a land conveyance will be required.
- (d) The Municipality may consider off-site land dedication of comparable value.
- (e) For development lands located adjacent to a park or other recreational areas, the Municipality may acquire additional lands to extend or connect or otherwise functionally support the existing park or other recreational areas.

**4. Calculation of Conveyance and/or Payment In Lieu- Standard Rate or Alternate Rate**

- (a) **Standard Rate - Required Parkland Conveyance and/or Equivalent Payment in Lieu**

Where determined at the sole discretion of the Municipality, that a conveyance of land is required as a condition of Development or Redevelopment, the amount of land to be conveyed by the Owner to the Municipality will be calculated in accordance with the following provisions:

- i. Commercial Purposes and Industrial Purposes: Where any form of Development or Redevelopment is proposed for commercial purposes or industrial purposes, the Municipality shall require parkland dedication and/or an equivalent Payment In Lieu in the amount equal to 2 percent of the Land Area.
- ii. All Other Non-Residential Purposes: Where any form of Development or Redevelopment is proposed for other non-residential purposes, the Municipality shall require parkland dedication and/or an equivalent Payment In Lieu in the amount equal to 5 percent of the Land Area.
- iii. Mixed Land Uses: Where land is proposed for Development or Redevelopment for a mix of land uses, the parkland dedication will be calculated based upon the proportion of the site devoted to each use at the rates identified above, and where a mix of uses is proposed within a building, the Parkland requirement for each use will be determined proportionally to the Gross Floor Area allocated to each use.
- iv. Outdoor Uses: Where land is proposed for Development or Redevelopment for a mix of land uses that involve buildings and outdoor non-residential uses, the parkland dedication will be calculated based on the relative proportions of building floor area and lot coverage area of the outdoor use.

- (b) **Alternative Rate for Residential Development - Required Parkland Conveyance and/or Equivalent Payment In Lieu**

As a condition of Development or Redevelopment of land for Residential purposes, the Municipality shall require the conveyance of land and/or an equivalent Payment In Lieu to the Municipality for parks and other public recreational purposes at an alternative rate to Section 4 (a) above, as follows:

- i. The Municipality shall require a parkland dedication rate of 5% of the Land Area, or 1 hectare per 600 Net Dwelling Units, whichever generates the greater parkland dedication to the Municipality. As an alternative, the Municipality may require a Payment In Lieu of a land dedication at a rate of

5% of the Land Area, or 1 hectare per 1,000 Net Dwelling Units, whichever is greater.

- ii. Upon proclamation by the Lieutenant Governor General of provisions under the Planning Act, RSO 1990, c P.13, land proposed for Development or Redevelopment that will include affordable residential units or attainable residential units, as defined in subsection 4.1 (1) of the Development Charges Act, 1997, the amount of land required to be conveyed under subsection 4(c) i. shall not exceed 5 per cent of the land in proportion to the number of affordable housing units.

**(c) Maximum Conveyance or Payment In Lieu**

Notwithstanding subsection 4 (b), the maximum required conveyance or Payment In Lieu to be paid is:

- i. in the case of land proposed for Development or Redevelopment that is five hectares or less in area, 10 percent of the Land Area or the value of the Land Area, as the case may be; and
- ii. in the case of land proposed for Development or Redevelopment that is greater than five hectares in area, 15 percent of the Land Area or the value of the Land Area, as the case may be.

**5. Strata Parks and POPS**

The Municipality, in its sole discretion, may accept the following lands toward satisfying the parkland dedication requirements to the satisfaction of the Municipality:

- i. Lands that are subject to Strata Park arrangements will be accepted at a pro-rated rate based on percentage of use and ownership to a maximum 50% parkland dedication credit, subject to legal agreements being entered into with the Municipality and registered on title to the lands, which addresses matters including but not limited to, maintenance, programming, and operations, to the satisfaction of the Municipality;
- ii. Subject to terms of this By-law, lands that are Privately Owned Public Spaces will be accepted at a rate of 100% parkland dedication credit toward parkland dedication, subject to legal agreements being entered into with the Municipality and registered on title to the lands, which addresses matters including but not limited to, maintenance and operations, recreational programming, and convenient public access.

**6. Suitability of Land or Area**

- (a) In considering the conveyance of lands for park or recreational purposes to the Municipality for parks and other public recreational purposes:
- i. Adherence shall generally be given to the Municipality's Parks Development Manual through appropriate provisions in a development agreement.
  - ii. The parcel to be conveyed for park or recreational purposes shall be appropriate in size, location, grade, offer an orderly configuration or shape, and make available convenient public access to pedestrians and vehicles, including parking;
  - iii. The land shall be free and clear of all legal encumbrances to the satisfaction of the Municipality;
  - iv. The parcel to be conveyed for park or recreational purposes shall be graded, serviced, and seeded, and fenced in accordance with any applicable Municipal Standards and to the Municipality's satisfaction;
  - v. The Municipality will not accept lands that restrict a full range of public park or recreational programming on the lands, including the following restrictions:
    - a. exclude stormwater management facilities, highways, roadways, walkway Blocks, or any non-parkland purpose;
    - b. not be subject to underground infrastructure or above ground utilities that would limit the development or redevelopment of the parklands with a variety of recreational buildings.

- c. not subject to receiving significant drainage discharges from off-site developments.
  - d. free from Natural Heritage, Natural Hazard, unstable bedrock or soil conditions, lands subject to human hazards, such as contaminated lands, lands having a high water table, or open space lands forming buffers thereto;
  - e. utility rights of way or easements, including but not limited to hydro, gas, cable, and telecommunications.
  - f. where lands described above are proposed for parkland dedication to the Municipality for purposes of this By-law, a recreational capacity study or park improvement and programming plan prepared on behalf of the Owner by a qualified professional shall be submitted to the satisfaction of the Municipality. In considering acceptance of encumbered or otherwise constrained lands, a reduced rate of land area or Payment In Lieu, as the case may be, shall apply commensurate with the reduced recreational capacity or programming opportunities of the lands;
- vi. Notwithstanding (a) v. a.-f. above, buffer areas to environmentally protected lands may be considered for acceptance as parkland dedication where the location is key to supporting planned trail networks serving wide areas of the community. This By-law accepts priority trail lands at a constrained rate ratio of
- vii. The Municipality may require the delivery of a Record of Site Condition that satisfies, at a minimum, a Phase 1 Environmental Site Assessment that meets the requirements of Ontario Regulation 153/04 pursuant to the Environmental Protection Act, R.S.O. 1990, c. E.19, for the use of the land as a park or other public recreational purposes. Prior to accepting lands for park or other public recreational purposes, the Municipality reserves the right to require a Phase 2 Environmental Site Assessment be undertaken following the Phase 1 Environmental Site Assessment.
- (b) Lands defined and determined to be environmental protection, hazard, or open space (e.g. environmental buffer areas) through a staff approved ecological or environmental report will not be included within the calculations for parkland dedication provided the lands are dedicated, in some form, to the Municipality.
- (c) In cases where the Municipality determines that the proposed land for parkland dedication is unsuitable or not desired for parks or public recreation purposes, the Municipality shall require a payment in lieu of the land conveyance, in the amounts set out in this By-law.

## 7. Exemptions

- (a) The following types of Development or Redevelopment are exempt from this By-law:
- (i) Development or Redevelopment undertaken by the Province of Ontario;
  - (ii) A building that was accidentally damaged or was demolished under permit by the Municipality and where the building is reconstructed and used for the same purpose with the same occupancy level;
  - (iii) Non-Profit Housing development defined herein;
  - (iv) Affordable Housing as defined herein;
  - (v) Attainable housing as defined herein;
  - (vi) Additional Residential Dwelling Units as follows:
    - 1) second residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;
    - 2) a third residential unit in a detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units;
    - 3) one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban

- residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; and,
- 4) where the Additional Residential Dwelling Unit(s) on a lot are less than 300 square metres of total gross floor area.
- (vii) Development or Redevelopment of a building or structure licensed as a long-term care home within the meaning of subsection 2 (1) of the *Fixing Long-Term Care Act, 2021*, S.O. 2021, c. 39, Sched 1;
  - (viii) An Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched 20;
  - (ix) Public hospitals or a hospice;
  - (x) Register Charities;
  - (xi) Correctional institutions and associated facilities;
  - (xii) Municipal facilities;
  - (xiii) Military and cultural buildings;
  - (xiv) Elementary and secondary schools, colleges, universities;
  - (xv) Industrial building having less than a gross floor area 1000 square metres; expansions over 1000 square metres will provide a PIL for only the expanded area.
  - (xvi) Projects approved by the Municipality for an exemption through a Community Improvement Plan established through Section 28 of the *Planning Act*;
  - (xvii) Temporary sales structures;
  - (xviii) Places of worship; and
  - (xix) Development or Redevelopment that is not a significant increase or improvement in useability.

#### **8. Timing of Conveyance or Determination of Value of PIL**

The amount of land or the Payment In Lieu required to be provided under this By-law is the amount of land or the Payment In Lieu as may apply shall be determined as follows:

- (a) for Development or Redevelopment, the Parkland dedication requirements will be determined by the Municipality at the time of development application pre-consultation review;
- (b) valuation of PIL shall be the appraised rate of land the day a complete application for an approval of development in a site plan control area is received by the Municipality in respect of the development or redevelopment; or
- (c) if clause (b) does not apply, the day a complete application for a Zoning By-law Amendment to a by-law passed under section 34 is received by the Municipality in respect of the development or redevelopment; or
- (d) if neither clause (b) nor clause (c) applies, the day a building permit is issued, including a change of use to higher occupancy, in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, the day the first permit was issued; or,
- (e) in the case that all applications above are made, the latest of the three types of applications.
- (f) notwithstanding (b) through (e) above, if two years have lapsed since an application to develop or redevelop has been submitted, the conveyance or PIL shall be calculated at time of a building permit.
- (g) specifically pertaining to the subdivision of land, valuation of PIL shall be the appraised rate of land:
  - a. the day before the day of the approval of the draft plan of subdivision pursuant to Section 51 of the Act;
  - b. the day before the day of the approval of a description under Section 50 or an exemption under Section 9 of the *Condominium Act, RSO. 1990, Chapter c.76*;
  - c. the day before the day of a Certificate of Consent, pursuant to Section 53 of the Act;
  - d. the day before the day of a request for an extension to draft plan approval.

- (h) items 6. (b) through (f) above do not apply in the case of an application made before November 28, 2022, in which case, conveyance or PIL will be made at time of Municipal discretion.
- (i) title for the land to be conveyed for the development or redevelopment shall be received by the Municipality the day before the building permit for the foundation of the building is issued or as stipulated in conditions of approval.

#### **9. Delayed Development or Lapsing of Draft Approval**

If works approved through a Site Plan Control agreement has not been substantively completed within two years, an adjustment in PIL payment will be made based on a current appraisal. For draft approvals under Section 51 (subdivisions), a PIL adjustment will be at the time of a request for extension of a lapsing provision and made subject to the lands remaining for development.

#### **10. Valuation and Appraisal**

- (a) The value of the land for which payment is being made in lieu of a conveyance shall be established by way of an appraisal of the fair market value of the land to the satisfaction of the Municipality. The appraisal shall be undertaken by a certified professional appraiser of real estate, who is designated as an Accredited Appraiser by the Appraisal Institute of Canada with experience appraising all types of real property. At the discretion of the Municipality, the opinion of a qualified appraiser may be accepted in place of a full appraisal report.
  - i. Methods of appraisal shall be undertaken to the satisfaction of the Municipality. Typically, the accepted methodology will involve one of the following approaches:
    - a. the direct comparison approach applied to residential and vacant land; or,
    - b. the income approach applied to multi-residential and commercial properties; or
    - c. the cost approach applied to general-purpose industrial properties, warehousing, large or special purposes properties, commercial/industrial parking lots, airfields, and open space uses (e.g., golf courses); or,
    - d. a combination of the above for mixed use properties.
  - ii. All appraisal opinions or reports prepared on behalf of an Applicant shall state the criteria and methodology used to determine the value of the land.
  - iii. An appraisal will generally be accepted as current for a maximum period of two years from the date of the appraisal.
  - iv. In circumstances where the value of the land is expected to be less than \$10,000, the Municipality may consent to an alternative method of appraisal.

#### **11. Limits of the Land to be Developed or Redeveloped**

- (a) For the purposes of calculating the land conveyance or PIL requirements, the following shall be used as the area of the land being developed or redeveloped:
  - i. For development or redevelopment of land which occurs pursuant to Section 41 of the Act, the net area of the lands denoted within the plan or drawings;
  - ii. For development or redevelopment of land which occurs pursuant to Section 34 of the Act, where only part of the lands is subject to the zoning by-law amendment, the net area of the lands denoted within the approved zoning by-law description or land use schedule shall be used for calculating conveyance or PIL.
  - iii. For development or redevelopment of land which occurs pursuant to Section 51 of the Act, where only part of the lands is subject to the approved draft subdivision, the net area of the lands denoted within the approved draft plan of subdivision shall be used for calculating conveyance or PIL.
  - iv. For development or redevelopment of land which occurs pursuant to Section 53 of the Act, and for which the Municipality has required the conveyance of land or a PIL, the net area of the lands to be severed for a new lot pursuant to the consent.

**12. Parkland Dedication Credits****(a) Lands Previously Conveyed**

Where land has previously been conveyed, or a Payment In Lieu of such conveyance has been previously received by the Municipality, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by the Municipality in respect of subsequent Development or Redevelopment applications, unless:

- i. a change in the Development or Redevelopment is proposed which would increase the number of residential Dwelling Units of the current use or currently approved use; or,
- ii. lands originally identified for Development or Redevelopment for commercial and industrial purposes are instead proposed for Development or Redevelopment for Residential Purposes or any other non-residential land use that necessitates a higher parkland dedication through this By-law.
- iii. Where an increase in the number of Dwelling Units is proposed, or where a land use conversion is proposed from a non-residential land use to a Residential Purpose, or from commercial or industrial purposes to any other land use, the conveyance or equivalent Payment In Lieu of conveyance, as the case may be, the valuation will be determined the day before the day that the first Building Permit is issued.

**(b) Credits Considered**

Parkland dedication credits may be considered by the Municipality where an applicant has over-provided a parkland dedication for a Development or Redevelopment. Within two years of the over-provided parkland dedication conveyance or payment by the applicant, and at the sole discretion of the Municipality, the Municipality may require a lesser parkland dedication on another Development or Redevelopment by the same applicant, at an appropriate value as determined by the Municipality and subject to the applicant and the Municipality entering into an agreement, if required.

**13. Transition**

- (a) The provisions of this By-law shall apply to all development and redevelopment applications pursuant to the Act, as amended, where a decision by the Municipality is still pending. However, where an application has been provisionally approved or given draft plan approval in accordance with the Act at the time that this By-law is passed, this By-law shall not apply to the approval.
- (b) For consents provisionally approved prior to the passing of this By-law, and where a condition has been imposed requiring the dedication of parkland or PIL of parkland, such dedication or payment shall be collected by the Municipality in accordance with the imposed condition, including the area or value of the required dedication or payment, respectively.
- (c) Notwithstanding (a) or (b) above, applications that are given by the Municipality an extension of lapsing approval shall be subject to this By-law to the extent of the lands or phases remaining for development.

**14. Administration****(a) Delegation to Staff**

The Director of Planning and Development in consultation with the Municipal Development Review Team is delegated to the administration of this By-Law, including the authority to:

- (i) negotiate parkland dedication and/or payment of an equivalent Payment In Lieu for each Development or Redevelopment, and execution of parkland dedication agreements or amendments thereto as may be necessary, in accordance with the provisions of this By-Law;

- (ii) establish the location and configuration of land required to be conveyed; and,
- (iii) establish the value of land for the purpose of calculating any required payment;
- (iv) notwithstanding the foregoing, Council retains the authority to make or reconsider, at any time and without notice, revoke or restrict any delegated power that has been delegated pursuant to this By-law.

**(b) Agreements Apply**

- (i) Agreements shall be entered into with the Municipality for any exemptions permitted through this By-law with the effect that the objective for the exemptions are adhered; failing which the exemptions shall be surrendered and a conveyance or PIL as otherwise applicable by the By-law shall be made, together with accrued interest as determined by the Municipality.
- (ii) At the sole discretion of the Municipality, landowners of development or redevelopment lands may enter into an agreement with the Municipality for the future payment of required funds subject to an interest rate as determined by the Municipality.

**(c) Severability**

In the event that any section of this By-Law is determined by a Court or Tribunal, to be invalid, that specific portion of this By-law shall be severed from the balance of this By-law, which will continue to operate in full force and effect.

**15. Effective Date**

Upon enactment by Council, this By-law shall come into effect on the 11<sup>th</sup> day of November, 2023.

**16. Short Title**

This By-law may be cited as the "Parkland Dedication By-law."

**Enacted by Municipality of Brighton Council this \_\_th day of \_\_\_\_\_, 2023.**