

## **Planning, Property & Buildings Department Internal Policy**

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- Policy:** Automotive Service Station Policy
- Subject:** Expectation and procedure on development agreements for automotive service station remediation
- Covers:** Planning, Property & Buildings Department
- Effective:** August 1, 2017
- Purpose:** To provide direction to staff on the requirements for the decommissioning and remediation of an Automotive Service Station use by identifying:
- when a development agreement is required; and
  - the supplementary conditions required in the development agreement.
- Background:** City of Brandon Council amended the Zoning By-law (amendment by-law No. 6959) requiring all Automotive Service Stations to receive Conditional Use approval prior to the issuance of a development and/or building permit to construct or expand an Automotive Service Station use. The Conditional Use process allows the City of Brandon Planning Commission or City Council to require as a condition of approval that the owner or successor execute a development agreement with the City of Brandon to remediate a site to a standard which allows for a site to be redeveloped. The standard for remediation required in the development agreement may be more stringent than what is required by The Contaminated Sites Remediation Act; where the standard is primarily focused on the impact of contamination on adjoining properties and public safety rather than site redevelopment.

\*Where there is any conflict between the policies and procedures adopted by the City of Brandon and the policies and procedures set forth in a collect agreement adopted by the City of Brandon, or policies and procedures set forth in a statute of the Provincial or Federal Government, the collective agreement of the Provincial or Federal statute shall supersede such other policies or procedures.

**Definitions:**

**Automotive Service Station:** A use for the supply and storage of fuel, oil, and minor accessories, as well as making repairs to motor vehicles. Uses may also include, but not be limited to, convenience stores and car washes. (Zoning By-law)

**Conditional Use:** A use of land or a building that may be permitted under a zoning by-law. (The Planning Act)

**Storage Facility:** A building or portion thereof for the storage of fuel, oil, or other minor accessories to an Automotive Service Station.

**Policy:**

1. Any conditional use for an Automotive Service Station or Storage Facility with underground storage tanks, or above ground storage tanks of 5000L or greater will require the owner to enter into a development agreement with the City and any successor shall be bound by the terms of said development agreement.
2. At a minimum, the development agreement will include the following supplementary conditions:
  - a. The completion of a phase two environmental site assessment on the property by a qualified environmental professional within twelve (12) months of the Automotive Service Station being decommissioned.
  - b. The lands being remediated to a standard which allows for future development of the lands for uses permitted in the zoning by-law for the property. Remediation of the lands shall be completed on or before five (5) years from the date the Automotive Service Station is decommissioned and all costs shall be the responsibility of the owner or successor.
  - c. The site remediation plan must provide a landscape plan to the satisfaction to the General Manager of Development Services or Director of Planning, Property & Buildings. The lands shall be landscaped and maintained in accordance with the landscape plan until the lands are redeveloped.

**Procedures/Responsibilities:**

4. The Planning, Property & Buildings Department will:
  - a. Include a development agreement as a recommended condition of approval, when required under clause 1 of this policy, for consideration of the Planning Commission or City Council;
  - b. Draft the development agreement in accordance with City by-laws, Provincial legislation, and conditions set out by the Planning Commission or City Council;
  - c. Ensure the development agreement is properly executed by the owner and the City prior to issuance of a development or building permit; and
  - d. Administer and enforce the development agreement immediately upon an Automotive Service Station or Storage Facility use being decommissioned.
  
5. The Planning Commission or City Council will:
  - a. Require a development agreement as a condition of approval for an Automotive Service Station or Storage Facility use as per clause 2 of this policy.
  
6. The Owner or Successor of the subject lands will be required to:
  - a. Execute a development agreement with the City prior to the issuance of a development or building permit when established as a condition of approval by the Planning Commission or City Council; and
  - b. Comply with all conditions for remediation as set forth in the development agreement.

**Related Information:**

- City of Brandon Zoning By-law
- *The Planning Act, C.C.S.M. c.P80, 2005*
- *The Contaminated Sites Remediation Act, C.C.S.M. c.C205, 1996*

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