

(amended B/L 12951, May 20/97)
(amended B/L 315-1999, Oct.25/99)
(amended B/L 407-2001, Nov.5/2001)
(amended B/L 429-2001, Nov.26/2001)
(amended B/L 33-2016, Mar.07/2016)
(amended B/L 126-2022, Sept 6/2022)

B I L L
No. 03
1997

B Y - L A W N U M B E R 12780

A BY-LAW TO PROVIDE FOR THE
CONVEYANCE OF LAND OR THE PAYMENT
OF MONEY IN LIEU OF LAND TO THE
MUNICIPALITY FOR PARKS OR OTHER
PUBLIC RECREATIONAL PURPOSES

Passed the 6th day of January, 1997.

WHEREAS Section 42 of The Planning Act Chapter 13 R.S.O. 1990 as amended provides that Council may by by-law applicable to the whole municipality or to any defined area or areas thereof require land conveyances or the payment of money for park or other public recreational purposes as a condition of development or redevelopment of land;

AND WHEREAS the Official Plan for the City of Windsor contains specific policies dealing with the provision of land for park or other public recreational purposes and also provides for an alternative requirement for the conveyance of lands as set out in Section 42(4) of the said Act;

AND WHEREAS the Official Plan of the City of Windsor contains policies dealing with the payment of money to the value of land otherwise required to be conveyed and Section 42 (6) of the said Act provides for the payment of money;

AND WHEREAS it is deemed expedient to implement the provisions of the Official Plan for the City of Windsor;

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

1. In this by-law,
 - (a) “Corporation” means the Corporation of Windsor;
 - (b) “Council” means the Council of the Corporation;
 - (c) “development” means the construction, erection or placing of one or more buildings on land 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 which produces a net increase in the number of dwelling units therein;
 - (d) “frontage” means the distance measured on a horizontal plane between the side lot lines, such distance being measured at a right angle to the line joining the middle of the front lot line with either the middle of the rear lot line or the apex of the triangle formed by the side lot lines, and at a point thereon 20 feet distance from the front lot line.
 - (e) **Deleted by B/L 126-2022, Sept.6/22.**
 - (f) “land area” means the total area of all lands proposed for development or redevelopment, including lands subject to easements or rights-of-way, or lands dedicated or conveyed for public purposes;

- (g) “owner” means the owner of the land proposed for development or redevelopment;
- (h) “redevelopment” means the removal of buildings or structures from land and the construction, erection or placing of other buildings or structures thereon.
- (i) "Manager of Real Estates Services" means the Manager of Real Estates Services for the Corporation from time to time. **(amended B/L 126-2022, Sept.6/22)**

2. As a condition of development or redevelopment of land for residential purposes, the owner shall:

- (a) Convey to the Corporation for park or other public recreational purposes an amount of land not exceeding five percent (5%) of the land proposed for development or redevelopment; or **(Deleted and Replaced B/L 126-2022, Sept.6/22)**
- (b) **Deleted by B/L 126-2022, Sept.6/22.**
- (c) Where the use of the lands is a lodging house, residential care facility or group home, convey to the Corporation for park or other public recreational purposes an amount of land not exceeding five percent (5%) of the land proposed for development or redevelopment; **(added B/L 315-1999, Oct.25/99)**
- (d) Convey in part, land to the Corporation and a sum of money equal to the balance of the lands otherwise required to be paid under this by-law and the value of the balance of the lands shall be determined as set out in Section 3. **(added B/L 126-2022, Sept.6/22)**

2.1 As a condition of development or redevelopment of land for commercial or industrial purposes, the owner shall convey to the Corporation for park or other public recreational purposes an amount of land not exceeding two percent (2%) of the land proposed for development or redevelopment. **(added B/L 429-2001, Nov.26/2001)**

2.2 In the event that the land is to be developed or redeveloped for more than one purpose, then the provisions of this by-law shall apply to each such purpose in the same proportion as the purpose for which the lands are to be developed or redeveloped. **(added B/L 429-2001, Nov.26/2001)**

3. Notwithstanding Section 2, the Council may require the payment of money equal to the value of the land otherwise required to be conveyed under this by-law and, for the purpose of determining the amount of such payment, the value of the land shall be determined as of the day before the day of the issuance of a building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development or redevelopment, as of the day before the issuance of the first permit;

3.1 Notwithstanding Section 2.1 the Council may require the payment of money equal to the value of the land otherwise required to be conveyed under this by-law and, for the purpose of determining the amount of such payment, the value of the land shall be determined as of the day before the day of the issuance of a building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development or redevelopment, as of the day before the issuance of the first permit. **(added B/L 429-2001, Nov.26/2001)**

4. As an alternative to determining the money equal to the value of the land required to be paid under Section 3. or Section 5.(d), the money equal to the value of the land required to be paid shall be as set out in the Fees and Charges By-law 392-2002, as amended from time to time; **(deleted and replaced B/L 126-2022, Sept.6/22)**

- 4.1 Where an owner disputes the money equal to the land referred to in Section 3, 3.1, or 4.2, the following shall apply: **(amended B/L 126-2022, Sept.6/22)**
- (a) Where the land has been the subject of an arms-length transaction of purchase and sale within the preceding twelve months, that sale price shall be deemed to be the value of the land; or **(amended B/L 126-2022, Sept.6/22)**
 - (b) An owner may provide an appraisal of the land, satisfactory to the Manager of Real Estate Services, that has been prepared by an appraiser accredited with the Appraisal Institute of Canada; or **(amended B/L 126-2022, Sept.6/22)**
 - (c) The owner may apply to the Ontario Land Tribunal for a determination of the value of the land
(added B/L 315-1999, Oct.25/99) (added B/L 12951, May 20/97) (added B/L 429-2001, Nov.26/2001) (amended B/L 126-2022, Sept.6/22) (amended B/L 126-2022, Sept.6/22)
- 4.2 Where money equal to the value of the land is required to be paid under this by-law, it shall be determined by the Manager of Real Estate Services. **(deleted and replaced, B/L 126-2022, Sept.6/22)**
5. Notwithstanding Sections 2, 3, 4 and 4.1, as a condition of development or redevelopment of land for residential purposes within the area bounded on the north by Riverside Drive East, on the west by McDougall Avenue, on the south by University Avenue and on the east by Hall Avenue, the owner shall:
- (a) Convey to the Corporation for park or other public recreational purposes an amount of land not exceeding 5 percent of the land proposed for development or redevelopment; or **(deleted and replaced, B/L 126-2022, Sept.6/22)**
 - (b) **Deleted by B/L 126-2022, Sept.6/22.**
 - (c) Where the use of the lands is a lodging house, residential care facility or group home, convey to the Corporation for park or other public recreational purposes an amount of land not exceeding five percent (5%) of the land proposed for development or redevelopment; or **(amended B/L 315-1999, Oct.25/99)**
 - (d) Notwithstanding paragraphs (a), or (c), the Council may require the payment of a sum of money equal to the value of the land otherwise required to be conveyed under this Section, and, for the purpose of determining the amount of such payment, the value of the land shall be determined as of the day before the day of the issuance of a building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development or redevelopment, as of the day before the issuance of the first permit; or **(amended B/L 12951, May 20/97; amended B/L 315-1999, Oct.25/99) (amended B/L 126-2022, Sept.6/22)**
 - (e) Convey in part, land to the Corporation and a sum of money equal to the balance of the lands otherwise required to be paid under paragraphs (a) or (c) and the value of the balance of the lands shall be determined as set out in paragraph (d). **(amended B/L 315-1999, Oct.25/99) (amended B/L 126-2022, Sept.6/22)**
6. By-law 7871 is repealed.

7. This by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - January 6, 1997
Second Reading - January 6, 1997
Third Reading - January 6, 1997

SCHEDULE "A" TO BY-LAW 12780

(deleted by B/L 126-2022, Sept.6/22)