

AN ORDINANCE AMENDING THE PARK DONATION ORDINANCE
OF THE VILLAGE OF HOMER GLEN

WHEREAS, at its December 4, 2001 regular Village Board meeting, the Village of Homer Glen adopted a Park Donation Ordinance as Ordinance Number 01-085; and

WHEREAS, one of the primary means to perpetuate, protect and promote the unique core values, rural character and quality of the natural environment found throughout the Village of Homer Glen and to enhance the quality of life of the residents of the Village of Homer Glen is through the creation of parks; and

WHEREAS, the unique core values, rural character and quality of the natural environment found throughout the Village of Homer Glen necessitates the adoption of requirements and standards to ensure the perpetuation, protection and promotion thereof; and

WHEREAS, it is in the best interest of the Village of Homer Glen to amend the current Park Donation Ordinance in accordance with the provisions hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF HOMER GLEN, WILL COUNTY, ILLINOIS, THAT:

Section 1: Recitals – The foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein.

Section 2: Amendment – The Park Donation Ordinance heretofore adopted by the Village of Homer Glen pursuant to Ordinance No. 01-085 is hereby amended in its entirety by this Ordinance No. 06-017.

Section 3: Dedication of Park Lands or for Payment of Cash in Lieu Thereof – As a condition of approval of a final plat of a residential subdivision or development or of a final plat or plan for planned unit development, each subdivider, owner or developer of the land in question will be required to dedicate land for park and recreational purposes to serve the immediate and future needs of the residents of the development or subdivision in question, or a cash contribution in lieu of actual land dedication, or a combination of both, at the option of the Village of Homer Glen, in accordance with the following requirements:

A. Criteria for Requiring Park and Recreational Land Dedication.

1. Amount of Land Required.

The ultimate population density to be generated by a subdivision or development shall bear directly on the amount of land required to be dedicated for park and recreation sites. The acreage of land dedication requirement shall be determined by obtaining the total population of the development times the number of required acres per 1,000 population.

The total requirement shall be eleven (11) acres of park or recreational land, or cash in lieu of land, per 1,000 of ultimate population. Table 1

shall be a guideline for park and recreational land distribution of the lands donated hereunder reflecting the types and sizes of parks and recreational facilities anticipated to be required or desired.

TABLE I

| <u>Type of Park/Recreation Area</u> | <u>Minimum Size</u> |
|---|---------------------|
| a. School-Park (Neighborhood Playground) | 5 acres |
| b. Neighborhood Park | 3.5 acres |
| c. District-wide Park | 4 acres |
| d. Community-wide recreation | 12 acres |

Table II specifies the number of persons reasonably estimated to be generated by the several types of dwelling units that may be built within a residential development or subdivision, and, by multiplying these population equivalents by the number of each type of dwelling unit proposed to be constructed within such development or subdivision, shall be utilized to arrive at the total number of persons expected to reside within the development or subdivision; in turn, the total population figure shall be multiplied by the requirement of 11 acres of park or recreational land per 1,000 persons to arrive at the total number of acres of land required to be donated or contributed hereunder to the Village of Homer Glen. A copy of Table II is attached hereto as Exhibit A and by this reference is incorporated into this Ordinance as if fully set forth herein.

2. Location and Ownership.

The Village Comprehensive Plan, land use map of the Village, present availability of park or recreational facilities, recommendations of Village committees, commissions or other bodies, published guidelines or standards of nationally recognized park or recreational land associations, and the concerns of civic or resident groups may be utilized by the Village of Homer Glen as guidelines in locating sites. Other factors being equal, park sites having at least 66 feet of frontage on dedicated public roads are most desirable. Park and recreational areas should also be designed to be accessible to the residents of the surrounding area in which they are located and to maximize the usefulness of the acreage being donated. Proposed subdivisions may be designed to provide passive and active recreation improvements. Passive recreation improvements may consist of trails, picnic areas and benches. Active recreation improvements shall consist of sports fields, game tables, sand boxes and other playground equipment. Full unencumbered fee simple title to the donated or contributed land shall be conveyed to the Village of Homer Glen by

general warranty or trustee's deed, and such conveyances shall be accompanied by a policy of title insurance from a title company acceptable to the Village, which policy (and the commitment therefore) shall not disclose any matter, fact or thing which in the opinion of the Village or its counsel materially affects the usefulness of the donated property for its intended purpose.

3. Time of Conveyance or Payments.

All conveyances of land or payments of cash required under the provisions of this Ordinance shall be made not later than contemporaneously with the full execution and recording of the final plat of subdivision or final plat or plan for planned unit development encompassing the residential subdivision or other development in question, provided, however, that pending the completion of the construction of public improvements in the subdivision or development, or of the completion of any improvements of any kind required to the property being donated or contributed, the owner, developer or subdivider of the property in question shall remain responsible for the maintenance and upkeep of the dedicated property, and shall (i) cause the Village to be named as an additional insured on the owner, developer or subdivider policy of liability insurance, which shall provide for commercial liability insurance coverage in an amount not less than \$1,000,000.00 per occurrence, and (ii) secure the performance of this obligation by posting with the Village an irrevocable letter of credit in such amount as may be determined by the Village's engineering consultants.

B. Criteria for requiring a contribution in lieu of park and recreation sites.

Where the subdivision or development in question is small and the resulting site is too small to be practically developed for park or recreational purposes, or when the available land is geologically and topographically inappropriate or otherwise unsuitable for park or recreational purposes, the Village shall require the subdivider or developer to pay a cash contribution in lieu of all or a portion of the land dedication otherwise required. The cash contribution in lieu of park and recreation land as hereinbefore classified, will be available to serve the immediate or future needs of the residents of that subdivision or development, for the improvement of other existing local parks or for otherwise addressing park or recreation land or capital needs, but shall not be utilized for routine maintenance or operational expenses of any park or recreational facilities of the Village.

1. Time of conveyance of payment.

Payment shall be made as set forth above in Section 3A(3) of this Ordinance. All cash contributions received hereunder shall be held in a segregated account or accounts established for the express and sole

purpose of holding such contributions, and withdrawals from such accounts shall only be made for the acquisition and improvement of land for park and recreation facilities.

2. Fair Market Value.

The cash contribution in lieu of land shall be based on the "fair market value" of the acres of land in the area that otherwise would have been dedicated as park and recreation sites. The Village of Homer Glen has determined that the present fair cash market value of one acre of land improved in accordance with the requirements of this Ordinance and which would otherwise be available and permitted to be developed with residential dwelling units in a manner similar to and consistent with the subdivision or development in question is one hundred sixty thousand dollars (\$160,000.00) per acre. The Village Board shall review and if necessary adjust this valuation not less frequently than annually. The valuation set forth in this Ordinance, as adjusted from time to time, shall be used in calculating the cash equivalent value of any land contribution determined in accordance with the procedures set forth in this Ordinance unless any subdivider, developer, or owner of land subject to this Ordinance with a pending application for final plat or planned unit development on file with the Village files a written objection thereto. In the event of any such objection, the subdivider, developer, or owner shall submit an appraisal showing the "fair market value" of land improved in accordance with the requirements of this Ordinance and which would otherwise be available and permitted to be developed with residential dwelling units in a manner similar to and consistent with the subdivision or development in question together with other relevant evidence of the value thereof. Final determination of said "fair market value" per acre of such improved land shall be made by the Village Board based on the information submitted by the subdivider, developer or owner and from such other sources as may be available to the Village.

3. Criteria for requiring dedication and a fee.

There will be situations in subdivisions or developments when a combination of land dedication and a contribution in lieu of land are both necessary. These occasions will arise when:

- a. Only a portion of the land to be developed is proposed as the location for a park site. That portion of the land within the subdivision falling within the park location shall be dedicated as a site as aforesaid, and a cash contribution in lieu thereof shall be dedicated.
- b. A major part of the local park or recreation site has already been acquired and only a small portion of the land is needed from the

development to complete the site. The remaining portions shall be required by dedication, and a cash contribution in lieu thereof shall be required.

- c. The public park and recreational needs of the Village and its residents require or make necessary or desirable not only the conveyance of an area of land but also the contemporaneous expenditure of funds to improve such land to provide specified park or recreational facilities.

4. In-Kind Contributions.

At the sole and unrestricted discretion of the Village Board of Trustees, the Village may elect to permit a subdivider, owner or developer to make all or a portion of a cash donation or contribution otherwise required hereunder by constructing improvements to Village park or recreational property or by providing equipment or facilities for such properties, provided, however, that the foregoing shall not relieve a developer, owner or subdivider to any extent from improving donated land in accordance with the minimum requirements otherwise set forth in this Ordinance.

C. Density formula.

The table of population density entitled Table II and attached to this Ordinance and incorporated herein as Exhibit A is generally indicative of current and short range projected trends in family size for new construction and shall be used in calculating the amount of required dedication of acres of land or the cash contributions in lieu thereof unless a written objection is filed thereto by the owner, subdivider or developer.

A bedroom used in this Ordinance shall include any den, study, loft or extra room located on any floor in a dwelling unit which is not clearly identified for some other specific purpose such as a kitchen (one per unit), dining room (one per unit), living room (one per unit), bathroom and family room (one per unit).

In the event that an owner, subdivider or developer files a written objection to Table II, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or development and in that event, final determination of the density formula to be used in such calculations shall be made by the Village Board based upon such demographic information submitted by the owner, subdivider or developer and from other sources which may be available to the Village. It is recognized that population density, age distribution and local conditions change over time, and the specific formula for the dedication of land, or the payment of fees in lieu thereof, as set forth in Table II, shall be subject to review and, if necessary, adjustment by the Village Board, not less frequently than annually.

D. Reservation of additional land.

Where the Comprehensive Plan of the Village of Homer Glen or the other applicable standards of the Village call for a larger amount of park and recreational land in a particular subdivision or planned unit development than the owner, subdivider or developer is required to dedicate, the land needed beyond the required contribution shall be reserved and designated for subsequent purchase by the Village provided that within two (2) years from the approval of the final plat of subdivision or final plat or planned unit development, the Village shall sign a contract to purchase the land or file a condemnation suit in pursuit thereof, or relinquish and rescind such reservation.

E. Combining with adjoining development.

Where the subdivision or development is less than 40 acres, park and recreation space is to be dedicated should, where possible, be combined with dedications from adjoining developments in order to produce useable park or recreation areas without hardship on a particular owner, subdivider or developer.

F. Improved sites.

All land shall be dedicated with full access to electric, gas, telephone, water, and sewer/septic, provided by the means of the extension of necessary lines, mains, appurtenances to the property or the construction of necessary on-site facilities, and shall also be served with access to and from fully improved streets with curb and gutter, and necessary storm drainage, provided, however, that no storm detention or retention facilities shall be located or constructed on any such land unless such facilities are solely being utilized to serve that land. Furthermore, all such sites shall be graded as approved by the Village's engineering consultants and fully seeded, unless the Village shall designate that all or a portion of the land contains natural flora or other features worthy of preservation in which case the owner, developer or subdivider shall perform the foregoing functions to the maximum extent possible while still preserving and leaving pristine and undeveloped in any way those areas designated for preservation. Trees shall be planted along all right-of-ways with not less than two (2) tree species a minimum of ten (10) feet and maximum of thirty (30) feet on center. Interior areas shall remain natural and any additional plantings shall be informal in design. Tree planting required along the perimeter of a park is in addition to tree planting required in the adjacent public right-of-way. Promenades and esplanades within a park may be formally planted with trees parallel to the walkway. Interior portions of the park are encouraged to be kept free of plantings. Areas for active use and any facilities which accompany such use shall have a tree planting design which integrates the structures into the park and defines the areas set aside for active recreation use from areas of passive use. Plantings in the interior portions of the park are encouraged to follow topographical lines. All improvements shall be constructed not later than three (3) years after the date of Final Plat approval or

the date of issuance of occupancy permits for seventy-five percent (75%) of the lots to be developed in the subdivision, whichever is earlier.

G. Shape, topography and grading.

The shape, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purpose, as approved by the Village's engineering consultants. One hundred percent (100%) of the donated land shall be buildable for permanent structures as determined through the appropriate topographical studies and soil tests. Storm water detention areas shall not be accepted for Village ownership and maintenance, and the portion of a detention area designed to function primarily as a component of the storm water control system shall not serve as a credit toward the required park site contribution. Retention areas shall not be accepted for Village ownership and maintenance and shall not serve as a credit toward the required park site contribution. Except as otherwise approved by the Village Board on an individual basis after considering the significance of environmental features on the particular property, wetlands, floodplains, floodways, detention areas, retention areas, and areas of steep slope shall not be accepted as park sites and shall not serve as a credit toward the required park site cash in lieu of land contribution.

H. Credit for Private Park Site.

Where a private park site is included on a site plan, or in a proposed subdivision or planned unit development, and is designed to serve the immediate and future park needs of the residents of that subdivision or development; credit toward the required park donation site improvement fee may be given. The extent of such credit shall be at the sole discretion of the Village Board and shall be based upon the needs of the projected residents in conformance with the total needs for park and recreational sites for the general area. Where a private park site credit is given, the credit shall be subtracted from the park donation site improvement fee requirement as established in this Ordinance. The developer shall guarantee that the private park shall be permanently maintained for such use by the execution of appropriate legal documents.

I. Additional Requirements.

All land required for dedication for park purposes hereunder shall be in addition to land dedications required by other ordinances of the Village.

Section 4: Objections.

A. Objections.

All objections relating to acreage requirements, presumptions as to fair market value, the Table of Estimated Ultimate Population per dwelling unit or any other application of this Ordinance to a particular subdivision or planned development,

shall first be referred to the Plan Commission for hearing. An objection must be made, if at all, prior to the approval by the Village of the Final Plat. A failure to object by such time shall constitute a waiver of the right to object to the provisions of this Ordinance.

B. Duties of the Plan Commission.

The Plan Commission shall serve in an advisory capacity and shall have the following duties:

1. Advise and assist the Village in resolving objections regarding the Table II, the size of the park sites, the fair market value of the land used to calculate the cash contribution or any other application of this Ordinance to a particular subdivision or planned development.
2. The Village shall adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this ordinance.

D. Procedure for Resolving an Objection.

1. Upon receipt of an objection, the Director of Community Development shall place the same on the next regular agenda of the Board of Trustees. Thereafter, the Board of Trustees shall refer the objection to the Plan Commission and by resolution establish a hearing date.
2. The Plan Commission shall provide public notice of the hearing date to consider the objection and shall notify affected school and park districts by certified mail, return receipt requested, of the filing of the objection and of any hearing regarding same.
3. The Objector shall publish notice of the hearing date once each week for three consecutive weeks, at least 30 days before but no more than 60 days before the scheduled date of the hearing. Notice shall be published in a newspaper of general circulation within the corporate limits of the Village of Homer Glen. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear.
4. The notice shall contain all of the following information:
 - a. The headline shall read: "NOTICE OF PUBLIC HEARING ON OBJECTION TO CALCULATION OF CASH IN LIEU OF LAND CONTRIBUTION".
 - b. The date, time and location of the public hearing.

- c. A statement that the purpose of the hearing is to consider the objection to a component of a cash in lieu of land contribution.
 - d. A general description of the service area or areas within the Village that are the subject of the cash in lieu of land contribution.
 - e. A statement that the Village shall make available to the public, upon request, an easily understandable and detailed map of the area or areas to which the cash in lieu of land contribution applies, and any other available information about the objection.
 - f. A statement that any member of the public affected by the cash in lieu of land contribution shall have the right to appear at the public hearing and present evidence in support of or against the objection.
5. A public hearing shall be held for the consideration of the objection. The Plan Commission shall make a recommendation to adopt, reject in whole or in part, or modify the objection presented at the hearing, by written report to the Village, within 60 days after the hearing. The Village shall then have at least 60 but not more than 120 days to approve, disapprove, or modify, by ordinance or resolution, the findings in this report as it pertains to the development in question.

E. Costs and Fees.

The objector shall bear all costs of a hearing including the attendance fees paid the Plan Commission members, publication costs, professional consultants and any other expenses of the Village.

Section 5: When Dedications, Fees Are Due - All dedications and fees imposed by this Ordinance shall be due and payable upon Final Plat approval. However, the Village may agree that payment of fees may be made at the time of building permit issuance in consideration of which the subdivider or developer shall execute an agreement agreeing that the fees payable will be adjusted in accordance with the requirements of this Ordinance. If any portion of a cash contribution is not expended for the purposes set forth herein within twenty (20) years of the date of receipt, it shall be refunded to the present owner of the property for which the contribution was made.

Section 6: Severability - The various portions of this Ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this Ordinance shall not affect the validity of any other portions of this Ordinance, which shall be enforced to the fullest extent possible.

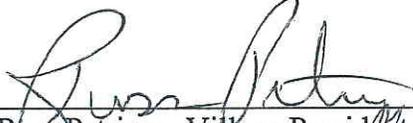
Section 7: Repealer - All ordinances or portions of ordinances previously passed or adopted by the Village of Homer Glen that conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.

Section 8: Effective Date - This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 28th day of March, 2006, with 5 members voting aye, 0 members voting nay, the President not voting, with 0 members abstaining or passing, and said vote being:

| | | | |
|---------------|---------------|----------------------|------------|
| Mary Niemiec | <u>Absent</u> | Dale Vogelsanger | <u>Aye</u> |
| Margaret Sabo | <u>Aye</u> | Brian Andrews | <u>Aye</u> |
| Marcia DeVivo | <u>Aye</u> | Christopher Locacius | <u>Aye</u> |

Approved this 28th day of March, 2006.



Russ Petrizzo, Village President

Attest: 

Gale Skroboton, Village Clerk

TABLE II--DENSITY FORMULA

The following table of population density is generally indicative of current and short-range projected trends in family size for new construction and shall be used in calculating the amount of required dedication of acres of land or the cash contributions in lieu thereof unless a written objection is filed thereto by the subdivider or developer:

| Type of Unit | Pre-School 0-4 Years | Elementary Grades K-5 5-10 Years | Junior High Grades 6-8 11-13 Years | TOTAL Grades K- 8 5-13 Years | High School Grades 9-12 14-17 Years | Adults 18 years + | Total Per Dwelling Unit |
|---|----------------------------|--|---|--|--|-------------------------|-------------------------------|
| Detached Single- Family: | | | | | | | |
| 2 Bedroom | .113 | .143 | .041 | .184 | .020 | 1.700 | 2.017 |
| 3 Bedroom | .292 | .422 | .120 | .542 | .184 | 1.881 | 2.899 |
| 4 Bedroom | .418 | .644 | .184 | .828 | .360 | 2.158 | 3.764 |
| 5 Bedroom | .283 | .461 | .132 | .593 | .300 | 2.594 | 3.770 |
| Attached Single- Family: | | | | | | | |
| 1 Bedroom | .000 | .000 | .000 | .000 | .000 | 1.193 | 1.193 |
| 2 Bedroom | .064 | .106 | .030 | .136 | .038 | 1.752 | 1.990 |
| 3 Bedroom | .212 | .227 | .065 | .292 | .059 | 1.829 | 2.392 |
| 4 Bedroom | .323 | .370 | .106 | .476 | .173 | 2.173 | 3.145 |
| Apartments: | | | | | | | |
| Efficiency | .000 | .000 | .000 | .000 | .000 | 1.294 | 1.294 |
| 1 Bedroom | .000 | .002 | .001 | .003 | .001 | 1.754 | 1.758 |
| 2 Bedroom | .047 | .100 | .028 | .128 | .046 | 1.693 | 1.914 |
| 3 Bedroom | .052 | .278 | .079 | .357 | .118 | 2.526 | 3.053 |

*Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, 1996, or as updated from time to time by the same consulting firm.

Exhibit "A"