VILLAGE OF SOUTH BARRINGTON

ORDINANCE NO. 2004-08

AN ORDINANCE AMENDING TITLE 11, CHAPTER 4, OF THE VILLAGE OF SOUTH BARRINGTON CODE REGARDING THE DEDICATION OF SCHOOL SITES, PARK LANDS AND LIBRARY LANDS, AND FIRE/RESCUE CAPITAL FACILITIES CONTRIBUTIONS OR PAYMENT OF CASH CONTRIBUTIONS IN LIEU THEREOF

WHEREAS, the Village of South Barrington (the “Village”), Cook County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6 of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village’s home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety and welfare of its citizens; and

WHEREAS, Village of South Barrington anticipates a population increase due to the subdivision and planned development of vacant land within the jurisdiction of the Village; and

WHEREAS, the Village has found that healthful, productive community life depends in part on the availability of recreational park space; and

WHEREAS, it is hereby found and determined that the public interest, convenience, health, welfare and safety requires the establishment of additional school sites serving the new residents of the Village; and

WHEREAS, it is hereby found and determined that the public interest, convenience, health, welfare and safety requires the establishment of new park sites serving the new residents of the Village; and

WHEREAS, it is hereby found that the public interest, convenience, health, welfare and safety requires the establishment of additional library facilities and sites to provide adequate educational, cultural and recreational services to the new residents of the Village; and

WHEREAS, it is hereby found that the public interest, convenience, health, welfare and safety requires the establishment of additional fire protection facilities and sites serving the new residents of the Village in order to adequately serve and protect them; and

WHEREAS, demographic studies of the residential portions of a proposed subdivision or planned development can be readily and scientifically conducted to estimate the number of elementary and secondary school-age children and adults to be generated therefrom and provide
data by which the required dedications of land specifically and uniquely attributable to the activity of the subdivider-developer and the proposed subdivision or planned development may be calculated; and

WHEREAS, it has been found and determined that the provisions and locations of park, recreation and school sites to serve the immediate and future needs of residents and children of each new subdivision or planned development are just as essential to proper land development, and to that end, the Village has determined that the dedication of land for park, recreation, and school sites or cash contributions in lieu of actual land dedication (when the latter is deemed impractical) or a combination of both shall be required to each subdivider or developer of a planned development; and

WHEREAS, it has been found and determined that the provisions and locations of fire/rescue and library sites and services to serve the immediate and future needs of residents of each new subdivision or planned development are essential to proper land development, and to that end, the Village has determined that the dedication of land for such purposes or cash contributions in lieu of actual land dedication (when the latter is deemed impractical) or a combination of both shall be required of each subdivider or developer or a planned development.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of South Barrington, Cook County, Illinois as follows:

Section 1. That Chapter 4, entitled “Dedication of Lands for Public Use”, of Title 11 of the Village Code of South Barrington is amended as follows:

11-4-1: PARK LAND DEDICATIONS:

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer will be required to dedicate land for park and recreational purposes, to serve the immediate future needs of the residents of the development, or cash contribution in lieu of actual land dedication, or a combination of both at the option of the Village, in accordance with the following criteria and formula and as set forth in Section 11-4-7 of this Ordinance. (Ord. 0-78-120, 12-14-1978)

11-4-1-1: CRITERIA FOR REQUIRING PARK AND RECREATION LAND DEDICATION:

A. Requirement and Population Ratio: The ultimate density of a proposed development shall bear directly upon the amount of land required for dedication. The total requirement shall be eleven (11.0) acres of land per one thousand (1,000) of ultimate population in accordance with the following classifications:

<table>
<thead>
<tr>
<th>Types of Recreation Area</th>
<th>Minimum Size Range</th>
<th>Acres Per 1,000 People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighborhood Playground</td>
<td>5.0 acres</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>Neighborhood Park</td>
<td>3.5 acres</td>
<td>2.0 acres</td>
</tr>
<tr>
<td>District-wide Park or Playfield</td>
<td>4.0 acres</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>Community-wide Recreation Park</td>
<td>12 acres up to 30 acres</td>
<td>4.0 acres</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>11.0 acres</td>
</tr>
</tbody>
</table>

This contribution and/or dedication are based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section shall be made in accordance with Section 11-4-8 herein. Failure to timely object to these requirements in strict accordance with Section 11-4-8 herein shall thereafter waive any right to raise an objection at a later time.

B. Location: The Comprehensive Park and Recreation Plan and the "Standards by Types of Recreation and Park Areas" as adopted by the South Barrington Park District shall be used as a guideline in locating sites. A neighborhood park site of not less than five (5) acres shall be considered a requirement. A central location which will serve equally the entire development is more desirable. In large developments, these sites can be located throughout the development according to established standards for park area distances.

C. Credit for Private Open Spaces and Recreation Areas: When subdividers or developers provide their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development, a portion of the park and recreation area in subdivisions or planned unit developments may, at the option of the Board of Trustees, be provided in the form of "private" open space in lieu of dedicated "public" open space. Such private open space may include water areas or land areas or a combination of both determined to be suitable for recreation purposes. The extent of such credit shall be determined by the Board of Trustees after consultation with the Board of Park Commissioners of the South Barrington Park District, based upon the needs of the projected residents and in conformance to the total park and recreation land for the general area. The Village will notify the Park District of a Developer's request for credit for private open spaces and recreation areas at least fifteen (15) days prior to the Plan Commission meeting at which said request will be reviewed.

In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the developer as part of his obligation. Detailed plans of such areas, including specification of facilities to be installed, must be approved by the Village, and before any credit is given for private recreation areas, the subdivider or developer must guarantee that these private recreation areas will be permanently maintained for such use by the execution of the appropriate legal documents. Private "swimming clubs" are included in this provision. A copy of "Suggested Criteria for Swimming Pool Development" as adopted by the South Barrington Park District shall be used for the guidance of the developer. When an adjustment for private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given; however, in no event shall the credit exceed fifty percent (50%) of the total park land dedication that would have been required.
11-4-1-2: CRITERIA FOR REQUIRING A CONTRIBUTION IN LIEU OF PARK SITES:

Where the development is small and the resulting site is too small to be practical, or when the proposed park site is determined by the Village and South Barrington Park District to be inappropriate for park and recreational purposes, the Village shall require the subdivider or developer to pay cash contribution in lieu of the land dedication required. Such cash contribution in lieu of land shall be made in accordance with procedures in Section 11-4-7.

11-4-1-3: DENSITY FORMULA:

The *Table of Estimated Ultimate Population Per Dwelling Unit*, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm shown in Section 11-4-14 herein, constitutes projections of anticipated population density and 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 pursuant to Section 11-4-8 herein.

A bedroom as used in this Section shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and 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(s) and family room (one per unit).

The most recent version of the *Table of Estimated Ultimate Population per Dwelling Unit* shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 11-4-8 herein. Objections to the *Table of Estimated Ultimate Population per Dwelling Unit* shall be made in accordance with Section 11-4-8 to the Plan Commission. Failure to object to the *Table of Estimated Ultimate Population per Dwelling Unit* in accordance with Section 11-4-7-8 shall thereafter waive any right to raise an objection at a later time.

In the event a subdivider or developer files a written objection to the *Table of Estimated Ultimate Population Per Dwelling Unit* listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 11-4-8 herein.

11-4-2: SCHOOL SITE DEDICATIONS:

As a condition of approval of a final plat of subdivision, or a final plat of planned unit development, the subdivider or developer will be required to dedicate land for school sites, to serve the immediate and future needs of the residents of the development, or cash contribution in lieu of actual dedication, or a combination of both, at the option of the village, in accordance with the following criteria and formula and as set forth in Section 11-4-7 of this Ordinance. (Ord. 0-79-126, 3-8-1979)
11-4-2-1: CRITERIA FOR REQUIRING SCHOOL SITE DEDICATION:

A. Requirement and Population Ratio: The ultimate number of students to be generated by a subdivision or planned unit development shall bear directly upon the amount of land required to be dedicated for school sites. The land dedication requirement shall be determined by obtaining the ratio of: 1) estimated children to be served in each such school classification over the 2) maximum recommended number of students to be served in each such school classification as stated herein, and then applying such ratio to the 3) portion of said minimum recommended number of acres for a school site of each such school classification as stated herein. The product thereof shall be the acres of land deemed needed to have sufficient land for school sites to serve the estimated increased children in each such school classification. (Ord. 0-79-126, 3-8-1979)

B. School Classifications and Size of School Sites: School classifications and size of school sites within the village which shall be required to the subdivider/developer shall be determined in accordance with the following criteria:

<table>
<thead>
<tr>
<th>SCHOOL DISTRICT 220</th>
<th>SCHOOL DISTRICT 300</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>School Classification by Grades</strong></td>
<td><strong>School Classification by Grades</strong></td>
</tr>
<tr>
<td>Elementary Schools, Grades kindergarten through 5th or 6th</td>
<td>Elementary Schools, Grades kindergarten through 5th or 6th</td>
</tr>
<tr>
<td>500 students</td>
<td>600 students</td>
</tr>
<tr>
<td>15 acres</td>
<td>15 acres</td>
</tr>
<tr>
<td>Junior high schools, grades 6th through 8th or 7th and 8th</td>
<td>Junior high schools, grades 6th through 8th or 7th and 8th</td>
</tr>
<tr>
<td>800 students</td>
<td>900 students</td>
</tr>
<tr>
<td>25 acres</td>
<td>30 acres</td>
</tr>
<tr>
<td>High schools, grades 9th through 12th</td>
<td>High schools, grades 9th through 12th</td>
</tr>
<tr>
<td>2,500 students 500 (addition only) 3,000 students total</td>
<td>1,800 students</td>
</tr>
<tr>
<td>72 acres 15 acres</td>
<td>60 acres</td>
</tr>
<tr>
<td>adjacent to present High School</td>
<td>adjacent to present High School</td>
</tr>
<tr>
<td>87 acres total</td>
<td></td>
</tr>
</tbody>
</table>

This contribution and/or dedication are based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They
shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section shall be made in accordance with Section 11-4-8 herein. Failure to timely object to these requirements in strict accordance with Section 11-4-8 herein shall thereafter waive any right to raise an objection at a later time.

C. Location: The comprehensive school plan and/or the standards adopted by the affected school district shall be used as a guideline in locating sites. (Ord. 0-79-126, 3-8-1979)

11-4-2-2: CRITERIA FOR REQUIRING A CONTRIBUTION IN LIEU OF SCHOOL SITES:

Where the development is small and the resulting site is too small to be practical or when the available land is inappropriate for a school site, the village shall require the subdivider or developer to pay cash contribution in lieu of the land dedication required. Such cash contribution in lieu of land shall be made in accordance with procedures in Section 11-4-7.

11-4-2-3: DENSITY FORMULA:

The Table of Estimated Ultimate Population Per Dwelling Unit, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm shown in Section 11-4-14 herein, constitutes projections of anticipated population density and 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 pursuant to Section 11-4-8 herein.

A bedroom as used in this Section shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and 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(s) and family room (one per unit).

The most recent version of the Table of Estimated Ultimate Population per Dwelling Unit shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 11-4-8 herein. Objections to the Table of Estimated Ultimate Population per Dwelling Unit shall be made in accordance with Section 11-4-8 to the Plan Commission. Failure to object to the Table of Estimated Ultimate Population per Dwelling Unit in accordance with Section 11-4-7-7 shall thereafter waive any right to raise an objection at a later time.

In the event a subdivider or developer files a written objection to the Table of Estimated Ultimate Population Per Dwelling Unit listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 11-4-8 herein.
11-4-3: FIRE/RESCUE LAND DEDICATIONS:

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer will be required to dedicate land for Fire/Rescue facilities, to serve the immediate future needs of the residents of the development, or cash contribution in lieu of actual land dedication, or a combination of both at the option of the Village, in accordance with the following criteria and formula and as set forth in this Section 11-4-7 of this Ordinance.

11-4-3-1: CRITERIA FOR REQUIRING FIRE/RESCUE LAND DEDICATION:

A. Requirement and Population Ratio: The development of new subdivisions and planned developments increases the demands upon the existing fire/rescue protection service provided in a proportionate and ascertainable manner and create the need for additional fire/rescue, firehouse and training sites. Studies reveal the need to develop additional fire/rescue protection services. Therefore, as a condition of approval of a final plat of subdivision or of a final plat of a planned development, each developer or subdivider shall be required to dedicate land for fire/rescue facilities to serve the immediate and future needs of the residents of the development or shall be required to make a cash contribution in lieu of actual land dedication.

The ultimate density of a proposed development shall bear directly on the amount of land required for a fire/rescue site dedication. The Village hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the fire/rescue districts' own internal examination of fire/rescue utilization and needs.

This contribution and/or dedication are based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section shall be made in accordance with Section 11-4-8 herein. Failure to timely object to these requirements in strict accordance with Section 11-4-8 herein shall thereafter waive any right to raise an objection at a later time.

B. Location: the appropriate fire district in consultation with the Village shall determine the location of any new fire/rescue facility and/or training site.

11-4-3-2: CRITERIA FOR REQUIRING A CONTRIBUTION IN LIEU OF FIRE/RESCUE SITES:

Where the development is small and the resulting site is too small to be practical or when the available land is inappropriate for a fire/rescue site, the village shall require the subdivider or developer to pay cash contribution in lieu of the land dedication required. Such cash contribution in lieu of land shall be made in accordance with procedures in Section 11-4-7.
11-4-3-3: DENSITY FORMULA:

The *Table of Estimated Ultimate Population Per Dwelling Unit*, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm contained in Section 11-4-14 herein, constitutes projections of anticipated population density and 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 pursuant to Section 11-4-8 herein.

A bedroom as used in this Section shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and 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(s) and family room (one per unit).

The most recent version of the *Table of Estimated Ultimate Population per Dwelling Unit* shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 11-4-8 herein. Objections to the *Table of Estimated Ultimate Population per Dwelling Unit* shall be made in accordance with Section 11-4-8 to the Plan Commission. Failure to object to the *Table of Estimated Ultimate Population per Dwelling Unit* in accordance with Section 11-4-8 shall thereafter waive any right to raise an objection at a later time.

In the event a subdivider or developer files a written objection to the *Table of Estimated Ultimate Population Per Dwelling Unit* listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 11-4-8 herein.

11-4-4: LIBRARY LAND DEDICATIONS:

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer will be required to dedicate land for library purposes, to serve the immediate future needs of the residents of the development, or cash contribution in lieu of actual land dedication, or a combination of both at the option of the Village, in accordance with the following criteria and formula and as set forth in this Section 11-4-7 of this Ordinance.

11-4-4-1: CRITERIA FOR REQUIRING LIBRARY LAND DEDICATION:

A. Requirement and Population Ratio: The ultimate density of a proposed development shall bear directly on the amount of land required for dedication. New development and increased population create greater demands for adequate and efficient library services to meet the educational, cultural and recreational needs of the citizenry. They create the need for additional library facilities. The Village hereby finds that the total requirement shall be 2.5 acres of land per 10,000 of ultimate population.
These requirements are based upon a review of available data, studies and literature on the subject, as well as the Library District’s own internal examination of library utilization and needs. They shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash in lieu of land contribution herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 11-4-8 herein. Failure to timely object to these acreage requirements in accordance with Section 11-4-8 herein shall thereafter waive any right to raise an objection at a later time.

B. Location: The location of any new library facility shall be determined by the Library after consultation with the Village.

11-4-4-2: CRITERIA FOR REQUIRING A CONTRIBUTION IN LIEU OF LIBRARY SITES:

Where the development is small and the resulting site is too small to be practical or when the available land is inappropriate for a library site, the village shall require the subdivider or developer to pay cash contribution in lieu of the land dedication required. Such cash contribution in lieu of land shall be made in accordance with procedures in Section 11-4-7.

11-4-4-3: DENSITY FORMULA:

The Table of Estimated Ultimate Population Per Dwelling Unit, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm shown in Section 11-4-14 herein, constitutes projections of anticipated population density and 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 pursuant to Section 11-4-8 herein.

A bedroom as used in this Section shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and 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(s) and family room (one per unit).

The most recent version of the Table of Estimated Ultimate Population per Dwelling Unit shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 11-4-8 herein. Objections to the Table of Estimated Ultimate Population per Dwelling Unit shall be made in accordance with Section 11-4-8 to the Plan Commission. Failure to object to the Table of Estimated Ultimate Population per Dwelling Unit in accordance with Section 11-4-8 shall thereafter waive any right to raise an objection at a later time.

In the event a subdivider or developer files a written objection to the Table of Estimated Ultimate Population Per Dwelling Unit listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned
development, and in that event final determination of the density formula shall be made in accordance with Section 11-4-8 herein.

11-4-7: GENERAL REQUIREMENTS FOR ALL Dedications of land For public use

11-4-7-1: CRITERIA FOR REQUIRING A CASH CONTRIBUTION IN LIEU OF dedication OF SCHOOL, PARK, LIBRARY AND FIRE/RESCUE SITES:

A. When the development is small and the resulting site is too small to be practical, or when the available land is inappropriate for park and recreational purposes or school, fire/rescue or library sites or is in conflict with the approved Comprehensive School Plan, the Village, with the concurrence of the affected district, shall require the subdivider or developer to pay a cash contribution in lieu of the land dedication.

The cash contribution in lieu of park and recreation land dedication shall be held in trust by the Village and shall be used solely for the acquisition of park and recreation land as classified above, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the expansion of other existing local park and recreation lands that already serve such needs or for any other lawful park purpose or for any park purpose agreed to by the owner, subdivider or developer at the time of platting.

The cash contribution in lieu of dedication of school sites shall be held in trust by the Village and shall be used solely for the acquisition of land for school sites to serve the immediate or future needs of children from that subdivision or development or for the expansion of any existing school site that already serves such needs or for any other lawful school purpose or for any school purpose agreed to by the owner, subdivider or developer at the time of platting.

The cash contribution in lieu of fire/rescue sites shall be held in trust by the Village and shall be used for the acquisition of land for fire/rescue facilities or training sites to serve the immediate and future needs of the residents of that subdivision or development or for the expansion of any other existing fire station or training site that already serves such needs or for any other lawful fire/rescue purpose agreed to by the subdivider or developer at the time of platting.

The cash contribution in lieu of a library site dedication shall be held in trust by the Village and shall be used for the acquisition of library land as required herein, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the expansion of existing or proposed library facilities that already serve or will serve such needs or for any other lawful purpose agreed to by the owner, subdivider or developer at the time of platting.

B. If any portion of a cash contribution in lieu of dedication of library and/or school sites or park and recreation or fire/rescue land dedication is not expended for the purposes set forth herein within 13 years from the date of receipt, it shall be refunded by the entity holding the
contribution to the record owner of the subdivided land at the time of the refund. If there is more than one record owner of the subdivided land or of the land that comprises the planned development, as applicable, such record owners shall share in the refund pro-rata based on the cash contributions originally paid by each property.

C. Fair Market Value: The cash contributions 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, school sites, fire rescue and library. The fair market value, on a per acre basis, shall assume, unless determined otherwise pursuant to Section 11-4-8 herein, that the land is zoned in a one-family dwelling residential zoning district subdivided with appropriate frontage on a dedicated street or road, has all appropriate utilities available, is improved as set forth in Sections 11-4-7-6 herein, and is otherwise property capable of being used for residential development. Based upon a study of comparable real estate transactions, it has been determined that the present "fair market value" of such improved land in and surrounding the Village is, as of the effective date of this Ordinance 2004- _708_ adopted on _April_ 8, 2004, as follows:

a. $98,000.00 per acre for purposes of locating a park.

b. $196,000.00 per acre for purposes of locating an elementary or junior high school within School Districts 220 and 300 and locating a high school within School District 300.

c. $350,000.00 per acre for purposes of adding on to the existing high school in School District 220

d. $196,000 per acre for purposes of locating a fire station.

e. $350,000.00 per acre for purposes of locating and/or adding on to the existing Library

These figures shall be adjusted by the Village Board from time to time with appropriate study and documentation. The "fair market value" as defined above shall be used in calculating any cash in lieu of land dedication herein unless timely objected to as provided in Section 11-4-8 herein. Objections to the fair market value as defined above shall be made in accordance with Section 11-4-8 to the Plan Commission. Failure to timely object to the "fair market value" as defined above in accordance with Section 11-4-7-7 herein shall thereafter waive any right to raise an objection at a later time.

D. Criteria for Requiring Dedication and a Contribution: There will be situations in subdivisions or planned developments when a combination of land dedication and a cash 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, school site, fire/rescue, library, or (that portion of the land within the subdivision falling within the a park, school site, fire/rescue, library; location shall be dedicated as a site as stated above, and a cash contribution in lieu thereof shall be required for any additional land that would have been
required to be dedicated); or (b) a major part of the local park, school site, fire/rescue, library, has already been acquired by the particular district or Village and only a small portion of land is needed from the development to complete the site (the remaining portion shall be required by dedication, and a cash contribution in lieu thereof for the rest of the required land shall be required).

11-4-7-2: CONSUMER PRICE INDEX.

The fair market value identified in Section 11-4-7-1 above shall be subject to a "CPI Adjustment" which shall be calculated on January 1, 2004 as a base year adjusted on the first day of January in each year thereafter. Annually, the fixed charge shall be adjusted to an amount equal to the fixed charge multiplied by a fraction, the numerator of which is the "All Items" Consumer Price Index for Urban Consumers (1982-84 = 100) for Chicago, Illinois, published by the United States Department of Labor’s Bureau of Labor Statistics ("CPI") for the month of December preceding the year of adjustment and the denominator of which is the CPI for the month of December preceding the month of adjustment. If any index is calculated from a base different from the base period 1982-84 = 100, such index shall be converted to a base period of 1982-84 = 100 by use of a conversion factor supplied by said Bureau of Labor Statistics. If the CPI is discontinued or replaced, such other governmental Cost of Living Index or computation which replaces the CPI shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or replaced.

11-4-7-3: DENSITY FORMULA:

The Table of Estimated Ultimate Population Per Dwelling Unit, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm shown in Section 11-4-14 herein, constitutes projections of anticipated population density and 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 pursuant to Section 11-4-7-8 herein.

A bedroom as used in this Section shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be converted into a sleeping area and 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(s) and family room (one per unit).

The most recent version of the Table of Estimated Ultimate Population Per Dwelling Unit shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 11-4-8 herein. Objections to the Table of Estimated Ultimate Population Per Dwelling Unit shall be made in accordance with Section 11-4-8to the Plan Commission. Failure to object to the Table of Estimated Ultimate Population Per Dwelling Unit in accordance with Section 11-4-8 shall thereafter waive any right to raise an objection at a later time.
In the event a subdivider or developer files a written objection to the Table of Estimated Ultimate Population Per Dwelling Unit listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 11-4-8 herein.

11-4-7-4: RESERVATION OF ADDITIONAL LAND:

When the Comprehensive Plan or the standards of the Village call for a larger amount of park and recreational land, school sites, fire/rescue and library, or in a particular subdivision or planned development than the developer is required to dedicate pursuant to this Section 11-4-7, the land needed beyond the developer's dedication shall be set aside and reserved by the developer for subsequent purchase by the Village (at a price determined at the time of reservation) or other public body designated by the Village, provided that such acquisition is made within two (2) years from the date of approval of the final plat.

11-4-7-5: COMBINING WITH ADJOINING DEVELOPMENTS:

Where appropriate, a public open space or a school site that is to be dedicated should, if possible, be combined with dedications from adjoining developments in order to produce usable recreation areas and/or school sites without undue hardship on a particular developer.

11-4-7-6: REQUIREMENTS FOR DEDICATED LAND:

A. Topography and Grading: The slope, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purpose. Wetlands and flood plains may be accepted for Village ownership and maintenance, but shall not serve as a credit toward the required park site dedication. 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 dedication. A park site shall be not less than one acre in area. The Village Board reserves the right, however, in its sole discretion, to accept in whole or in part, certain areas such as, but not limited to, tree massings, prairie remnants, high quality or unique wetlands, or other natural features as all or part of the required park site dedication in furtherance of open space preservation that may be unique to a given parcel or development. Wetlands, flood plains, detention areas, retention areas and areas of steep slope shall not be accepted as park, school, fire/rescue or library sites and shall not serve as a credit toward the required park, school, fire/rescue or library site cash contribution in lieu of land dedication.

In addition, the following site conditions and preparation standards shall be met:

1. Slope:
   a. Should not vary greatly in appearance from existing and adjacent slopes;
   b. Optimum slopes range from two percent minimum to five percent maximum. No less than two percent slope is acceptable under any circumstances;
c. Maximum allowable slope is 10 percent, except under special conditions where greater slopes are desirable to enhance the use of the site; and

d. On-site drainage patterns shall be designated and constructed to:
   i. Ensure flow toward swales; and
   ii. Ensure drainage away from active areas.

2. Grading:
   a. Rough grading shall be completed at time of rough grading of adjacent contiguous area;
   b. Grading shall comply with Village approved plans;
   c. Subgrade shall be graded and compacted so it will parallel finished grade;
   d. Subgrade material shall be loosened and fine graded to a depth of two to four inches. All stones over four inches in size, sticks, debris, rubbish and other foreign substances shall be removed; and
   e. Finished grades shall be uniform in slope between points for which elevations have been established.

3. Soils:
   a. Soils shall not differ from those naturally occurring;
   b. Soils shall not offer any restriction to the ultimate use of the property;
   c. Topsoil shall be spread evenly and lightly compacted to a minimum depth of six inches over the entire site;
   d. Topsoil must be good, friable soils with good tillage and shall be without any admixture of subsoil, clay, gravel, stones, debris, refuse, sand or other subsurface elements;
   e. Topsoil shall not be placed in a muddy or frozen condition;
   f. Topsoil shall contain no toxic substances which may be harmful to plant growth; and
   g. Topsoil shall be spread no later than the placement of topsoil on the first lot adjacent to the site.

4. Seeding:
   a. All proposed park and recreational, school sites, and library, shall be seeded and an acceptable stand of grass or vegetation established prior to dedication of the area to the Village;
   b. Village-approved ground covers and grasses shall be used for all park and recreational areas suitable for the nature of the activity planned to occur thereon;
   c. Seeding shall be completed during the fall or spring planting times, depending upon the recommended seed planting specifications;
   d. Seeding shall be on moderately dry soil on a seed bed which will easily accept and nurture germination of seeds;
   e. Seeding shall be watered sufficiently so that the vegetation becomes reasonably established; and
   f. The developer shall be responsible for making necessary reparations to the site caused by erosion or other damage. Reparations shall be completed prior to acceptance of the site.
B. Improved Sites: All sites shall be dedicated in a condition ready for full service of electricity, natural gas, telephone and cable television, and streets (including enclosed drainage and curb and gutter, where applicable), as applicable to the location of the site, and shall otherwise comply with the requirements of the Village ordinances and codes. The landscaping normally included within the definition of "improved" sites under said ordinances and codes may be deleted due to the delay time between dedication of any such school site and the construction of school facilities thereon, except for groundcover as required in this Section. The site shall have direct access to a fully improved street across at least 20 percent of the distance of its perimeter. Park, school and library sites should ideally be accessible by a bicycle/pedestrian trail, and any such access route onto the property shall be at least 25 feet wide. Such access routes should normally be dedications and not easements, depending on which entity of government is to be responsible for said routes. Any vehicular access route leading to or on the site shall be of sufficient size and good geometry to properly accommodate vehicles that will access and traverse the site, including but not limited to good principles of traffic circulation, accommodation of one-way and/or two-way drives for school buses, separation of bus traffic from passenger automobile traffic, bus drop-off areas separate from publicly-dedicated streets, guest and employee parking areas, and the like. Such off-street access routes, drives, drop-offs and parking areas will not be dedicated rights-of-way and shall be the responsibility of the owner of the site to maintain.

C. Environmental Risk Audit: Prior to the conveyance of any land to the Village, park district, school district, fire protection district or library district, the intended grantee shall be furnished with an environmental risk audit prepared by an environmental professional meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), certified to and acceptable to the grantee, assuring the grantee that there are no hazardous substance(s) (as defined hereinafter) on, under, to or from the land. Said environmental audit shall be what is commonly referred to as a Phase I Environmental Audit, which shall meet the minimum requirements for a pre-acquisition audit as set for in 415 ILCS 5/22.2(j)(6)(E)(iii)(v).

In the event the Phase I Environmental Audit does not conclude there is no presence or likely presence of a release of substantial threat of a release of hazardous substance(s) or pesticide on, under, to or from the land, the grantee shall furnish a Phase II Environmental Audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(vi), including a soil toxicity analysis and recommendation from said environmental professional, meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), which concludes that there is no presence or likely presence of a release or substantial threat of a release of hazardous substance(s) on, under, to or from the land, and certifying that, in the judgment of said environmental professional, there is no reasonable probability that the land contains any hazardous substance(s) in violation of any federal or state environmental standards.

In the event said Phase II Environmental Audit and/or soil toxicity analysis discloses the presence or likely presence of a release or a substantial threat of a release of any hazardous substance(s) at, on, under, to or from the land to the conveyed, the grantor shall first cause all such hazardous substance(s) to be removed at its sole cost and expense in accordance with all federal, state and local environmental laws, rules and regulations and furnish the intended grantee with a "No Further Remediation Letter" from the governmental agencies
having jurisdiction over the clean up prior to conveyance of any of the land to the intended grantee.

Prior to the conveyance of the land, the subdivider or developer, as the case may be, and the owner of the land to be conveyed, shall execute and deliver to the intended grantee an Environmental Indemnification Agreement, which form has been approved by the Village Attorney, agreeing to defend, indemnify and hold the Village, its corporate authorities, officers, officials, employees, agents, successors and assigns, and the park, fire/rescue, school district, or library as the case may be, and its respective officers, officials, employees, agents, successors and assigns, harmless from and against any and all liability, claims, damages, causes of action and expenses arising out of the presence of any hazardous substance(s) in, under or upon said land to be conveyed prior to the date of conveyance.

Hazardous substance(s) includes without limitation:

1. Those substances included in the definitions of hazardous substances, extremely hazardous substances, hazardous materials, toxic substances, toxic chemicals, toxic wastes, hazardous chemicals, hazardous wastes, solid waste and pesticides in CERLA, SARA, RCRA, HSWA, TSCA, OSHA, FWPCE, Illinois Pesticides Act (415 ILCS 60/1 et seq.), Illinois Responsible Property Transfer Act (765 ILCS 90/1 et seq.) and the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 et seq.), 49 U.S.C. Section 1801 et seq., as amended, and as they may be amended in the future, and in the regulations promulgated pursuant to said laws.

2. Those substances defined in Section 1003 of the Illinois Environmental Protection Act and in the regulations promulgated pursuant to said act or other Illinois laws pertaining thereto.

3. Those substances listed in the U.S. Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto).

4. Such other substances, materials and wastes which are to become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws, ordinances or regulations.

5. Any material waste or substance which is (a) asbestos, (b) polychlorinated biphenols, (c) designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 1317, (d) explosives, or (e) radioactive materials.

6. For purposes of this Section 11-4-7-6C, hazardous substances shall include petroleum or its byproducts as regulated under RCRA and any applicable state law or regulations.

D. Suitability of Soils at Site: The subdivider or developer, at its own cost or expense, shall provide to the Village, park district, school district, fire district or library district soil boring data, soil compaction test results and such other engineering studies, data and information pertaining to the proposed park and recreational, fire/rescue, school, library or site, which the Village, park district, school district, fire district or school district may request to enable it to
determine the suitability of the proposed land dedication for park and recreation, school sites, fire/rescue, or library. The Village shall have the right to reject any site which the Village, in accordance with sound engineering practices, is not suitable for site purposes.

E. **Title Insurance, Survey, Assessment Plats:** Each deed or other instrument conveying land to the Village shall be accompanied by:

1. A written commitment issued by a title insurer licensed to do business in the state to insure the grantee’s title to such real estate in an amount equal to the value computed pursuant to Section 11-4-7-1 herein, with extended coverage over the general exceptions to title and subject only to:

   a. real estate taxes not yet due and payable,
   b. covenants, conditions and restrictions which do not prohibit the use of the subject property for library, school or park and recreational use,
   c. utility easements located within 20 feet of the boundary lines of the subject real estate (except where approved on the final engineering plans approved by the Village Engineer),
   d. drainage ditches, feeders and laterals.
   e. underground pipe or other conduit, and
   f. acts done or suffered by or judgments against the grantees.

2. A current ALTA boundary line survey, certified to the grantee by a licensed Illinois Land Surveyor to be in compliance with the American Land Survey Standards, showing no encroachments; and

3. Except in instances where the real estate is to be conveyed is a lot in a recorded subdivision, an assessment plat and tax division petition in a form acceptable to the appropriate Village authorities so the land to be conveyed can be assigned its own permanent real estate index number (PIN) for exemption purposes.

In addition, monuments must be established and the land staked immediately prior to dedication of the property. The subdivider or developer shall pay for the cost of the owner’s title insurance in said amount, the ALTA survey, the assessment plat and any and all costs in connection with the tax division.

F. **Real Estate Tax Escrow:** The developer shall pay the general real estate taxes on the land not yet due and payable as of the date of transfer, and shall deposit a sum of money in escrow with the intended grantee’s attorney or a title company licensed to do business in the State of Illinois, which is prorated as of the date of transfer on the basis of 110 percent of the tax assessor’s latest assessed valuation, the latest known equalization factors and the latest known tax rate on the land. In the event the previous tax information or the previous tax bill includes other property, then the amount to be deposited in escrow shall be adjusted ratably based on the net acreage of the land compared to the net acreage of the other parcels covered by said tax bills. After the land has been divided for real estate tax purposes and has been conveyed to the intended grantee, the grantee shall proceed with due diligence to apply for a
real estate tax exemption on the land.

11-4-7-7: CONDITION TO ANNEXATION:

The dedications of land or cash contributions in lieu thereof required by this Chapter shall also be required as a condition to the annexation of any land to the Village, and provisions therefore shall at a minimum be incorporated in any annexation or pre-annexation agreement governing such land. However, the Village reserves the right to negotiate dedications of land or cash contributions in lieu of land or a combination thereof greater than those set forth herein.

11-4-8: 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 Chapter 11-4 to a particular subdivision or planned development, shall first be referred to the Plan Commission for a hearing. An objection must be made, if at all, prior to the approval of the final plat of subdivision by the Village. A failure to object by such time shall constitute a waiver of the right to object to the provisions of Section 11-4-7 or any other provisions of this Ordinance. The procedure for a hearing before the Plan Commission shall be as follows:

11-4-8-1: DUTIES OF THE PLAN COMMISSION:

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

A. Advise and assist the Village in resolving objections regarding the Table of Estimated Ultimate Population Per Dwelling Unit in Section 11-4-14, the size of the park, fire/rescue, library, and school sites in Sections 11-4-1-1, 11-4-2-1, 11-4-3-1, and 11-4-4-1 respectively, the fair market value of the land used to calculate the cash contribution in Section 11-4-7-1, or any other application of this Chapter 11-4 to a particular subdivision or planned development.

B. The Plan Commission shall adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this Section.

11-4-8-2: INFORMATION AND SERVICES TO BE USED:

The Village shall make available to the Plan Commission all professional reports relating to the Table of Estimated Ultimate Population Per Dwelling Unit, the size of the library, fire/rescue, park and school sites and the fair market value of land used in calculating these cash contributions. The Plan Commission may also request that the Village Board retain the services of professionals (attorneys, appraisers, statisticians, etc.) to assist in its review of issues raised by any objection.
11-4-8-3: PROCEDURE FOR RESOLVING AN OBJECTION:

A. Upon receipt of an objection, the Village Administrator shall place the same on the next regular meeting agenda of the Village Board. Thereafter the Village Board shall refer the objection to the Plan Commission and by resolution to establish a hearing date.

B. The Plan Commission shall provide public notice of the hearing date to consider the objection and shall notify affected library, fire protection, school and park districts by certified mail, return receipt requested, of the filing of the objection and of any hearing regarding same.

C. The Objector shall publish notice of the hearing date once 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. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear. The notice shall not be smaller than one-quarter page of a standard size or tabloid-size newspaper. The objector shall send a copy of said notice to all Benefiting Districts and to any person who has requested said notice by certified mail (stamped at a U.S. Postal Service facility showing the date of mailing) at least 30 days prior to the hearing date.

D. The notice shall contain all of the following information:

1. The headline shall read: "NOTICE OF PUBLIC HEARING ON OBJECTION TO APPLICATION OF ORDINANCE REQUIRING THE DEDICATION OF PARK LANDS, FIRE/RESCUE SITES, SCHOOL SITES, LIBRARY SITES, OR PAYMENT OF THE CASH CONTRIBUTIONS IN LIEU THEREOF".

2. The date, time and location of the public hearing.

3. A statement that the purpose of the hearing is to consider the objection to a component of the application of the ordinance requiring the dedication of park lands, fire/rescue sites, school sites, library sites or calculation of cash payments in lieu thereof.

4. A general description of the parcel(s), service area or areas within the Village that are the subject of the hearing.

5. A statement that the Village shall make available to the public, upon request, an easily understandable and detailed map of the parcel(s), service area or areas to which the ordinance applies, and any other available information about the objection.

6. A statement that any member of the public affected by the ordinance or the parcel(s) or service area shall have the right to appear at the public hearing and present testimony and/or evidence in support of or against the objection.

E. A public hearing shall be held for the consideration of the objection. In addition to the Village, any affected park district, fire/rescue, school district, library district, and provider shall be allowed to participate in such hearing as a party thereto to present evidence, cross-
examine witnesses and make arguments to the Plan Commission regarding the issues raised in 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 ordinance as it pertains to the development in question.

11-4-8-4: COSTS AND FEES:

The objector shall bear all costs of the hearing before the Plan Commission, including, but not limited to attendance fees paid the Plan Commission members, publication costs, professional consultants and any other expenses of the Village. The objector shall not be responsible for the expenses incurred by any benefiting district with respect to the objection. Failure to promptly pay expenses incurred by the Village shall be cause to stay or defer any hearings, meetings or actions by the Village.

11-4-9: REQUIREMENTS AND CONDITIONS OF BENEFITING DISTRICTS:

A. Indemnification: As a condition to the Village distributing land dedications and/or cash contributions in lieu thereof, the appropriate district shall execute an indemnification agreement in the form set forth in Section 11-4-8-1.

B. Distribution: The cash contribution in lieu of land dedication imposed by this ordinance shall be collected and held by the Village to be used for the purposes set forth in this ordinance. Such distributions shall be made not later than the 15th day of April, July, October and January of all funds received by the Village in the prior quarter accrued interest on all funds, shall be the property of the Village to be utilized for the administration of this Ordinance. Such distribution shall be conditioned upon the Benefiting District being in compliance with the conditions set forth on paragraphs A, C and D of this Section.

As a condition of distribution of these land dedications and/or cash contributions in lieu of land dedications, the Village shall require that the park district, school district, fire/rescue provider, or library district, benefiting from such land dedications and/or cash contributions conduct a needs assessment and adopt a plan for acquisition of land and capital facilities needed to accommodate growth.

C. Annual Report by Benefiting District: Within ninety (90) days of the end of each fiscal year, every Benefiting District that receives payments from the Village under this Agreement shall submit a report to the Village describing the manner in which the payments have been used. This report shall include information requested by the Village, including, but not limited to: the balance of funds held at the close of the prior fiscal year, the amount of payments received during the fiscal year, the amount expended during the fiscal year, the purpose of the expenditures and to whom paid, as well as the balance of funds held by the Benefiting District at the end of the fiscal year. When this Agreement provides that money turned over to Benefiting District is to be used for a specific purpose or within a specific time period, the report shall address those issues. If the Benefiting District should fail to file such a report...
with the Village, the Village may delay the payment of any additional funds due the Benefiting District until such time as a full report containing adequate information is transmitted to the Village.

D. Needs Assessment; Land and Capital Facilities Acquisition Plan:

1. A needs assessment shall contain the following information for each district (park, fire/rescue provider, school, library, and):
   a. A description of the nature and location of existing park, fire/rescue, school, or library lands and existing capital facilities within each district.
   b. An identification of the capacity of each park, fire/rescue facility, school building, library facility or site within the particular district and of the number of students then enrolled in each school building.
   c. A projection of the character and location of new development that is expected to occur within each district or Village during the succeeding 10-year period. The district or Village may obtain the information necessary to make this projection from sources such as but not limited to: municipalities, other units of government, agencies and consultants.
   d. An identification of the amount of lands that will be necessary within the district and Village in order to accommodate the demands of such projected new development, and an estimate of the public grounds acquisition costs that will be incurred or have been incurred by each district in acquiring such lands.
   e. A general description of each classification of capital facilities (including construction, expansion or enhancement of any public facilities and the land improvement, design, engineering and professional costs related thereto) that will be necessary within each district in order to provide adequate capacity for the projected new development, and an estimate of the capital facilities costs that will be incurred by each district in constructing such capital facilities.

2. Based upon the needs assessment, the park district, the school district, fire/rescue district or library district shall provide the Village with an acquisition plan for lands and capital facilities. This acquisition plan shall:
   a. Project for a planning period of at least five years, the need for lands and capital facilities within the district or Village;
   b. Set forth a schedule for the acquisition of such lands and facilities to meet the projected needs (which schedule may be conditioned upon the availability of financing);
   c. Indicate the size and general location of the needed lands and facilities;
   d. Identify the estimated or incurred costs of acquiring such needed lands and facilities;
   e. Set forth the anticipated funding sources for the acquisition of such needed lands and facilities;
   f. Determine the feasibility of acquiring the needed lands and facilities based upon the district's current financial condition;
g. Determine the feasibility of acquiring the needed lands and facilities based upon the district's or Village's estimate of the revenues (including, without limitation, cash in lieu of land dedication as required by Section 11-4-7 herein) pursuant to the plan.

h. The impact on property taxes in the Village assuming the plan is implemented.

3. If the Village deems it necessary, it may require an updated needs assessment and plan for acquisition of land and capital facilities from the district annually. The failure to require said assessment update shall not invalidate the requirements of this Section.

11-4-10: TIME OF PAYMENT:

A. All land dedications and cash contributions imposed by this Chapter shall be due and payable upon final plat approval, unless otherwise determined as provided in Paragraphs B, C and D below. In calculating the fee at the time of platting, the Village will assume the maximum density permitted under the zoning classification approved pursuant to the table in Section herein. For example, if the subdivision in question is zoned single family, the Village will assume for purposes of calculating fees payable, pursuant to this Chapter, that all houses will have four bedrooms. The amount determined by such calculation shall be paid prior to the signing of the final plat of subdivision for the lots contained within said final plat. Such amount shall satisfy the obligation under this Chapter for the lots within that final plat. Objections to these calculations for any particular final plat shall be made in accordance with Section 11-4-8 herein. Failure to timely object to these acreage requirements in accordance with Section 11-4-8 herein shall thereafter waive any right to raise an objection at a later time.

B. For any lot in a plat that had final plat approval prior to January 1, 1979 or any lot for which no payments have been made under this Chapter, all fees imposed by this Chapter shall be due and payable at the time a building permit is issued.

C. The Village may agree that payment of fees be made at the time of building permit issuance in consideration of which the owner, subdivider or developer shall execute an agreement, agreeing that the fees payable will be paid in accordance with the requirements of this Section and further agreeing that the fees may be expended for the purposes described in said Section. Requests for a delayed payment shall be made to the Plan Commission when applying for approval of the final plat and must be approved by the Village Board as a part of the final plat approval process. Such agreement shall be recorded with the plat of subdivision.

D. In the event the Village and owner, subdivider or developer agree to enter into an agreement substantially in conformity with that shown in Section 11-4-13, the cash contributions owed shall be based upon this Chapter, or as provided in such future ordinances amending or replacing this Chapter, which is in effect at the time the building permit is issued. In calculating any cash contributions in lieu of land dedication payable at time of issuance of
building permit, the Village shall use the fair market value as set forth in Section 11-4-7-1 and the and the Table of Ultimate Population Per Dwelling Unit in Section 11-4-9 or any amendments thereto and in effect at the time of the contribution and building permit issuance.

11-4-11: MISCELLANEOUS:

The Village recognizes the fact that developments may differ in their impact upon a community. Consequently, the Village reserves the right to negotiate dedications that are different from those contained in this Ordinance when annexing property to the Village pursuant to an annexation agreement.

11-4-12: AGREEMENT REGARDING THE RECEIPT OF DEVELOPER SUBDIVISION CONTRIBUTIONS AND INDEMNIFICATION AGREEMENT

A. Prior to the distribution of any cash or land to a Benefiting District, the Benefiting Government shall enter into an agreement with the Village as set out in Paragraph B below. The Village President and Village Clerk are authorized to execute said agreements on behalf of the Village without additional authorization of the Village Board. Said agreement shall be utilized by the parties unless the Village Board authorizes the execution of an agreement in another format.

B. Agreement

WHEREAS, the Village of South Barrington, Illinois, on behalf of itself, its officers, employees and independent contractors (the "Village"), through its ordinances or through the provisions of its annexation agreements has required that developers make contributions to the Village, that the Village, in turn, may make available for other government bodies that are affected by the subdivision improvements; and

WHEREAS, such contributions may be in land or in money and, when transferred or paid over to those government bodies, inure in part to the benefit of those government bodies and not entirely to the direct benefit of the Village; and

WHEREAS, from time to time within the Village, and within other municipalities, disputes have arisen regarding the validity and amount of such contributions; and

WHEREAS, the Village is willing, at its discretion, to continue seeking the contribution of land or money but wishes to procure a commitment from other government bodies benefited by the receipt of such contributions that those government bodies will (a) acknowledge that the requirement that such subdivision contributions be made are totally within the discretion of the Village as to their existence, manner and amount; (b) pay the cost of defending any lawsuit or other legal action that is filed challenging the appropriate amount of the contributions, the time at which they are to be made or any other aspect of the contributions; and (c) comply with the terms of a final and nonappealable judicial determination by a court of competent jurisdiction rendered in connection with any lawsuit; and

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WHEREAS, the Village is willing, in its discretion, to pay over or require contributions only to other government bodies that execute this agreement annually.

NOW, THEREFORE, IT IS AGREED in consideration for the payment of money or the transfer of the land to the Benefiting District, which the Village from time to time may within its discretion cause to be made by developers that are subdividing property, it is agreed between the Village, on behalf of itself and its officers, employees and independent contractors, and 

_________________________ , a government body within the State of Illinois (the "Benefiting District") as follows:

1. The Benefiting District acknowledges that, except as otherwise provided in the Village's ordinances and/or annexation agreements, the Village is not obligated to cause the payment of money or the transfer of land to the Benefiting District. The Benefiting District recognizes that the Village may, at its sole discretion, amend its ordinances or annexation agreements or its practices to discontinue the payment of subdivision contributions to the Benefiting District.

2. A. In the event an objection filed under Section 11-4-8 or a lawsuit is filed against the Village, the Benefiting District, and/or others by a developer that is subdividing property or any other person, corporation or entity that challenges the appropriateness, amount, timing or any other aspect of a subdivision contribution that, pursuant to the terms of the Village's ordinances or annexation agreements, has been paid or is due to the Benefiting District, then the Benefiting District does agree to pay the costs and litigation expenses (including reasonable attorneys' fees) incurred by the Village in defending such lawsuit or legal action. The Benefiting District shall pay the costs and expenses when and as incurred by the Village but in no event more than once a month. As a condition precedent to the payment of these costs and expenses, the Village shall submit to the Benefiting District copies of the original statements reflecting the costs and expenses, together with the non-privileged supporting documentation that may be reasonably requested by the Benefiting District. If more than one Benefiting District is affected by the litigation, each shall pay a portion of the costs and expenses based upon their each Benefiting District's proportion of the benefit that is being challenged.

B. The Village covenants and agrees that it shall employ competent and skilled legal counsel to represent the Benefiting District and the Village, and further covenants and agrees that it shall keep the Benefiting District fully advised as to the progress and status of the litigation. In particular, the Village shall provide to the Benefiting District copies of all pleadings filed in the litigation and shall consult regularly (and shall cause its attorneys to consult regularly) with the Benefiting District or its attorneys, as applicable, as to the strategy for defending the lawsuit. In no event may such litigation be compromised or settled by the Village without at least 30 days' prior written notice to the Benefiting District. In the event that the Benefiting District decides that it would prefer to be represented in the litigation by legal counsel of its own choosing, then the Benefiting District shall be free to retain its own legal counsel for that purpose and to intervene in the litigation. In the event the Benefiting District shall intervene in the litigation its legal counsel may take the lead in the litigation, however the Village's

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legal counsel will continue to monitor the litigation and the Benefiting District shall be responsible for such costs as may be incurred by the Village. The Benefiting District shall still be liable for all sums that have accrued pursuant to the above subparagraph 2-A and that remain due and owing from the Benefiting District to the Village relating to the defense of any lawsuit filed in connection with dedications required for cash in lieu thereof collected for or distributed to the Benefiting District.

3. The Benefiting District shall further indemnify and hold harmless the Village from any and all liability arising from Section 11-4 of the Subdivision Code of the Village, including but not limited to, the general administration and handling of funds required by the Village and the Benefiting District.

4. In the event that a final and nonappealable judicial determination is made by a court of competent jurisdiction that contributions of land or money received by the Benefiting District are, in whole or in part, excessive, the Benefiting District shall promptly repay those contributions to the person who procures such a judgment, together with all other amounts judged by the court to be owing from the Benefiting District. In the event a judicial determination should require the payment of damages or payment of the attorneys' fees of the plaintiff's attorneys, in addition to the return of contributions held to be excessive, the Benefiting District shall pay all additional amounts in the same manner as is provided in paragraph 2-A.

5. In further consideration of the continued distribution of payments by the Village to the Benefiting District of the subject contributions of land or money, the Benefiting District agrees that its obligations under this Agreement shall extend to both past and future cash and land contributions. All distributors of cash payments shall be made in accordance with Village Code Section 11-4-9, and any interest accrued prior to distribution by the Village shall be retained by the Village.

6. Within ninety (90) days of the end of each fiscal year, event Benefiting District that receives payments from the Village under this Agreement shall submit a report to the Village describing the manner in which the payments have been used and provide any additional information the Village may require. This report shall include information requested by the Village, including, but not limited to: the balance of funds held at the close of the prior fiscal year, the amount of payments received during the fiscal year, the amount expended during the fiscal year, the purpose of the expenditures and to whom paid, as well as the balance of funds held by the Benefiting District at the end of the fiscal year. When this Agreement provides that money turned over to Benefiting District is to be used for a specific purpose or within a specific time period, the report shall address those issues. If the Benefiting District should fail to file such a report with the Village, the Village may delay the payment of any additional funds due the Benefiting District until such time as a full report containing adequate information is transmitted to the Village. The Benefiting District understands that it will be asked to execute an indemnity agreement similar to this Agreement on an annual basis and that the Village shall not pay any additional funds due to the Benefiting District until such time as the Village is in receipt of such annually executed indemnity agreement.
This Agreement shall be terminable by either party for any reason or no reason at all upon 30 days' prior written notice to the other party evidencing the intention to so terminate this Agreement. But the termination of this Agreement shall not affect the continuing obligation of the Benefiting District or the Village with regard to claims or damages allegedly arising out of the Village's efforts prior to termination to impose, collect or distribute contributions, or to the actual distribution of subdivision contributions.

DATED this _____day of __________, 20____.

Village of South Barrington

Benefiting District:

________________________  ________________________
Village President  Title:

ATTEST:

________________________  ATTEST:

________________________  Secretary

Village Clerk

11-4-13: AGREEMENT BETWEEN OWNER AND VILLAGE TO DELAY PAYMENT OF CASH CONTRIBUTIONS

A. Any owner, subdivider or developer wishing to delay the payment of the contribution required by this Chapter, shall enter into an agreement with the Village in substantial conformance with the Agreement set forth in Paragraph B below. The Village Board must authorize such agreement at the time of final plat.

B. Agreement For Delay Of Cash Contributions For Parks and Recreation, Fire/Rescue, School Lands, and Library,

The Village of South Barrington (the "Village") and, ___________________________ ("Owner") agree as follows. For purposes of this Agreement, "Owner" is defined as the subdivider, developer, individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having a proprietary interest of record in the subject property, except that in the case of a trust the Owner shall be deemed to include the beneficiary or beneficiaries and the trustee thereof. The term "Owner" also includes the Owner’s authorized agent or any person authorized by such owner to apply for Village approval in connection with a final plat of subdivision, building permit, or other improvement or development upon real property.

The Village has approved a final plat of subdivision or a final plat of a planned development at the request of Owner for the real estate legally described in Exhibit 1 attached hereto and made a part hereof (the "Land"). Accordingly, pursuant to the Village's Code of ordinances, Chapter 11-4, certain cash contributions in lieu of dedications for, park and recreation,
fire/rescue, school lands and library are immediately due from the Owner.

1. Owner has, however, requested that the payment of the aforesaid cash contributions be delayed and that the same become due and payable on a per dwelling unit basis at the time the Village issues a building permit for the particular dwelling unit.

2. In consideration for the Village agreeing to delay the required payment of the cash contributions in accordance with Paragraph 1 above, Owner hereby agrees as follows:

   a. The amount of cash contributions owed shall be calculated based upon Title 11 Chapter 4 of the Village Code of South Barrington, or as provided for in such other future ordinance amending or replacing such Chapter which is in effect at the time of the issuance of a building permit; and

   b. Notwithstanding any present or future law, regulation and/or legal precedent to the contrary, the unit of local government or benefiting district that is the ultimate recipient of the subject cash contributions may expend such contributions for any of the following purposes intended to serve immediate or future needs of the residents and children of the Owner's subdivision or planned development: (1) for the acquisition of land; (2) for site improvements such as, by way of example, streets, curbs, gutters, storm water control, and utility extensions; (3) for construction of capital facilities, including, by way of example, new buildings and structures, and the expansion or enhancement of existing buildings and structures; and (4) for legal, architectural, engineering and “soft” costs related to the foregoing items (1), (2) or (3) above.

3. Developer has reviewed Title 11, Section 4 of the South Barrington Village Code regarding the dedication of lands or cash contributions in lieu thereof, as well as all of the methodology, formulae, calculations, projections, assumptions, numbers and other factors used to arrive at the land dedication requirements of cash contributions in lieu thereof that are the subject of this Agreement (hereinafter referred to as the “Ordinance and Attendant Calculations”) and hereby acknowledges and agrees that:

   a. Pursuant to the terms of the Ordinance, Developer has been offered the opportunity to raise in a hearing before the Village, any 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 the Ordinance; Developer has not raised such objections; Developer has thereby waived the right to assert those objections.

   b. Developer hereby waives any future right to object to or to institute any legal action regarding Ordinance and Attendant Calculations.

   c. Developer hereby acknowledges that Ordinance and Attendant Calculations have been properly passed, calculated and imposed.

4. This Agreement constitutes a covenant that is appurtenant to and runs with the Land. Either this Agreement or a memorandum thereof may be recorded against legal title to the
Land by either party hereto; provided, however, it shall be a condition of the Village's issuance of the first building permit for a dwelling unit on the Land that Owner shall provide satisfactory evidence to the Village that this Agreement or a memorandum thereof has been recorded against legal title to the Land.

5. Owner represents and warrants to the Village that it is the sole holder of record fee title to the Land and is authorized and empowered to enter into this agreement.

6. Except as modified herein, all provisions of Title 11, Chapter 4 of the Village Code of South Barrington shall apply to this subdivision (final plat) and development.

IN WITNESS WHEREOF, the Village and the Owner have caused this Agreement to be duly authorized, executed and entered into as of the _____ day of ______________, 200__.

Village President

Owner

Village Clerk

ATTEST:

This agreement shall be recorded with the plat of subdivision.
### TABLE OF ESTIMATED ULTIMATE SCHOOL POPULATION PER DWELLING UNIT

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<tr>
<th>Type of unit</th>
<th>Preschool 0-4 years</th>
<th>Elementary Grades K-5 5-10 years</th>
<th>Middle Grades 6-8 11-13 years</th>
<th>Total Grades K-8 5-13 years</th>
<th>High School Grades 9-12 14-17 years</th>
<th>Adults 18 years +</th>
<th>Total per Dwelling Unit</th>
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<tr>
<td>Detached Single-Family:</td>
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**Section 2.** If any provision of this Ordinance or the application thereof to any person or circumstances is declared invalid by a court or competent jurisdiction, such partial invalidity shall not affect the other provisions or applications of this Ordinance, the invalid provision shall be deemed stricken from this Ordinance as if it were not a part hereof, ab initio, and the remainder of this Ordinance shall continue in full force and effect.

**Section 3.** Any provision or regulation in conflict with any regulation contained in this ordinance shall be and is hereby repealed insofar as it is in conflict with that section.

**Section 4.** This amendment of Section 11-4 shall not affect in any way any and all previous dedications or payments made pursuant to the provisions of said Ordinance.
Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED: This 8th day of April, 2004.

APPROVED: This 9th day of April, 2004.

VILLAGE PRESIDENT

ATTEST:

VILLAGE CLERK

AYES: 5

NAYS: 0

ABSENT: 1

PUBLISHED IN PAMPHLET FORM: April 9th, 2004
VILLAGE OF SOUTH BARRINGTON

ORDINANCE NO. O-2007-839

AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF SOUTH BARRINGTON REGARDING THE DEDICATION OF LANDS FOR PUBLIC USE

WHEREAS, the Village adopted Ordinance 2004-708 regarding the “Dedication of Lands for Public Use” on April 8, 2004; and

WHEREAS, the land value study made for said Ordinance was based upon land values for January 1, 2003 and the Ordinance should have provided in Section 11-4-7-2 that the base year be January 1, 2003 rather than January 1, 2004 as listed in the Ordinance; and

WHEREAS, the Village Board wishes to correct the error in the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of South Barrington, Cook County, Illinois, as follows:

Section 1: The Code of Ordinances, Section 11-4-7-1is amended as follows:

11-4-7-2: CONSUMER PRICE INDEX:
The fair market value identified in section 11-4-7-1of this chapter shall be subject to a "CPI adjustment" which shall be calculated on January 1, 2003 as a base year adjusted on January 1 in each year thereafter. Annually, the "fair market value" fixed charge shall be adjusted to an amount equal to the "fair market value" fixed charge multiplied by a fraction, the numerator of which is the "all items" Consumer Price Index For Urban Consumers (1982-84 = 100) for Chicago, Illinois, published by the United States department of labor's bureau of labor statistics ("CPI") for the month of December preceding the year of adjustment and the denominator of which is the CPI for the month of December 2002 preceding the month of adjustment. If any index is calculated from a base different from the base period 1982-84 = 100, such index shall be converted to a base period of 1982-84 = 100 by use of a conversion factor supplied by said bureau of labor statistics. If the CPI is discontinued or replaced, such other governmental cost of living index or computation which replaces the CPI shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or replaced.

Section 2: THIS ORDINANCE shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

PASSED: This 13th day of December, 2007.
APPROVED: This 14th day of December, 2007.

ATTEST:                  APPROVED:
Donna W. Wood, Village Clerk           Frank J. Munoz, Jr., Village President

AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 0

PUBLISHED: DECEMBER 14, 2007