

ORDINANCE NO. 21 - \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 5 (DEDICATION OF PARK LANDS AND SCHOOL SITES OR FOR PAYMENT OF FEES IN LIEU OF) OF CHAPTER 3 (REQUIRED IMPROVEMENTS) OF TITLE 7 (SUBDIVISION REGULATIONS) OF THE NAPERVILLE MUNICIPAL CODE PERTAINING TO THE GENERATION TABLE APPLICABLE TO RESIDENTIAL DEVELOPMENTS PROPOSED WITHIN THE CITY WHICH ARE WITHIN THE BOUNDARIES OF INDIAN PRAIRIE COMMUNITY SCHOOL DISTRICT NO. 204**

**RECITALS**

- A. WHEREAS**, on June 19, 1972, the City Council of the City of Naperville (“**City**”) approved Ordinance 72-020, amending the Municipal Code to require developers to dedicate land for park and recreational purposes and for school sites, or fees in lieu thereof, to serve the immediate and future park and school needs of the residents of proposed developments; and
- B. WHEREAS**, Ordinance 72-020 was codified in Section 7-3-5 (Dedication of Park Lands and School Sites or For Payment of Fees in Lieu of) of the Naperville Municipal Code and is commonly referred to as the “**Land Cash Ordinance**”; and
- C. WHEREAS**, the adopted Land Cash Ordinance utilizes generation tables to estimate the number of residents which will be generated by a new development; and
- D. WHEREAS**, the Land Cash Ordinance has been amended from time to time since its original codification; generation tables in the Land Cash Ordinance were most recently updated in 2005; and
- E. WHEREAS**, SD 204 has found that the current generation tables in the Land Cash Ordinance overestimate the number of school-aged children generated from single-family homes and underestimate the number of school-aged children generated from townhomes and apartments; and
- F. WHEREAS**, on November 30, 2020, the City received a request from Indian Prairie School District 204 (“**SD 204**”) to initiate an amendment to the Land Cash Ordinance affecting only properties in the City which are within the boundaries of Indian Prairie School District 204 to address the discrepancy between the estimated number of school children generated and the observed number of school children generated from residential developments; and
- G. WHEREAS**, in support of the requested amendment, SD 204 has submitted a generation analysis using data from 2019 and 2020 and a proposed updated generation table which were prepared by SD 204’s consultant, RSP; and

- H. **WHEREAS**, on March 11, 2021, SD 204 and City staff held a public informational meeting on the proposed amendment to update the generation tables of the Land Cash Ordinance and invited over 100 interested parties; and
- I. **WHEREAS**, no objections to the proposed amendments to the Land Cash Ordinance were received at the March 11, 2021 public meeting or through the project webpage; and
- J. **WHEREAS**, the proposed amendments to the Land Cash Ordinance will be applicable only to properties within the boundaries of SD 204 which are within the City and shall not affect the provisions in the Land Cash Ordinance which are applicable to the Naperville Park District or any other school district located in any part of the City; and
- K. **WHEREAS**, the City of Naperville is a home rule unit of local government under the Constitution and laws of the State of Illinois and may exercise any power and perform any function pertaining to its government and affairs; and
- L. **WHEREAS**, the Naperville City Council has determined that it is appropriate to adopt the proposed text amendments to the Land Cash Ordinance as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:**

**SECTION 1:** The Recitals set forth above are incorporated herein and made part hereof as though fully set forth in this Section 1.

**SECTION 2:** Section 5 (Dedication of Park Lands and School Sites or For Payment of Fees in Lieu of) of Chapter 3 (Required Improvements) of Title 7 (Subdivision Regulations) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the ~~stricken~~ language, as follows:

**7-3-5: - DEDICATION OF PARK LANDS AND SCHOOL SITES OR FOR PAYMENTS OR FEES IN LIEU OF:**

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 and land for school sites, to serve the immediate and future needs of the residents of the development, or to pay a cash contribution in lieu of actual land dedication as provided herein, or a combination of both, based on the recommendation of the public body which will be the recipient of the contribution, but

subject to final determination of the City Council. Said dedication shall be made in accordance with the provisions, criteria and formulas set forth herein. Donation of land and/or payment of cash in lieu thereof, or a combination of both, is also referenced herein as a "land-cash contribution".

It is recognized that fair market value and population density, age distribution and local conditions change over the years, and that the specific formula for the dedication of land, or the payment of fees in lieu thereof, as stated herein, is subject to periodic review and amendment as necessary.

1. Criteria Ffor Requiring Park And Recreation Land Dedication: \* \* \*
2. Criteria Ffor Requiring School Site Dedication: \* \* \*
3. Criteria Ffor Requiring A Contribution In Lieu Of Park And School Sites: \* \*
4. Generation Tables:

4.1. School Dedications Aand Contributions for Pproperties other than those located within the boundaries of Indian Prairie School District 204: The following table of population density represents current and short range trends in family size for a new residential construction located outside the boundaries of Indian Prairie School District 204 and shall be used in calculating the amount of required dedication of acres of land for school sites or the cash contribution in lieu of unless a written objection is filed thereto by the subdivider or developer. A written objection shall be submitted and processed in accordance with Section 7-3-5:12. For property that is located in the City which is within the boundaries of Indian Prairie School District 204, see Section 7-3-5:4.2.

<b><u>SCHOOL GENERATION RATE TABLE #1</u></b>							
<u>[For property in the City for school districts not within the boundaries of School District 204]</u>							
<u>POPULATION PER UNIT (SCHOOL DONATION)—NAPERVILLE, ILLINOIS</u>							
Type Of Unit	Preschool 0—4 Years	Elementary Grades K—5 5—10 Years	Middle School 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
<i>Detached Single-Family:</i>							
2 bedroom	0.120	0.411	0.138	0.549	0.222	1.856	2.746
3 bedroom	0.268	0.486	0.153	0.639	0.135	1.913	2.955

4 bedroom	0.371	0.702	0.259	0.	0.242	1.985	3.532
5 bedroom	0.386	0.590	0.236	0.826	0.242	2.191	3.645
<i>Attached Single-Family:</i>							
2 bedroom	0.206	0.084	0.057	0.141	0.030	1.318	1.697
3 bedroom	0.214	0.104	0.039	0.143	0.050	1.966	2.374
4 bedroom	0.183	0.271	0.106	0.377	0.105	2.102	2.767
5 bedroom <sup>1</sup>	—	—	—	—	—	—	—
<i>Apartments:</i>							
Efficiency *	—	—	—	—	—	1.400	1.400
1 bedroom	0.058	0.032	0.012	0.044	0.013	1.653	1.710
2 bedroom	0.129	0.064	0.031	0.095	0.038	1.744	2.007
3 bedroom	0.199	0.115	0.073	0.188	0.083	2.005	2.475
NOTE: There are only three (3) significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one (1) category is provided. The same is true with apartments; thus only one (1) category.							

<sup>1</sup> Indicates no yield data was generated due to a lack of population or no (or very few) residential units in the sample. Thus, it was not possible to derive useful yield data. The adult population yield statistic has been derived from the 2000 table of estimated ultimate population.

4.2 School Dedications And Contributions for Property in the City within the boundaries of Indian Prairie School District 204: The following table of population density represents current and short range trends in family size for a new residential construction located in the City within the boundaries of Indian Prairie School District 204 and shall be used in calculating the amount of required dedication of acres of land for school sites or the cash contribution in lieu thereof unless a written objection is filed thereto by the subdivider or developer. A written objection shall be submitted and processed in accordance with Section 7-3-5:12.

<b>SCHOOL GENERATION RATE TABLE #2</b>			
<u>[For property in the City within the boundaries of School District 204]</u>			
<u>Type of Unit</u>	<u>Elementary Grades K-5</u>	<u>Junior High Grades 6-8</u>	<u>High School Grades 9-12</u>
<i><u>Detached Single-Family:</u></i>			
<u>2 bedroom</u>	<u>0.183</u>	<u>0.085</u>	<u>0.091</u>
<u>3 bedroom</u>	<u>0.206</u>	<u>0.123</u>	<u>0.165</u>
<u>4 bedroom</u>	<u>0.362</u>	<u>0.212</u>	<u>0.277</u>
<u>5 bedroom</u>	<u>0.448</u>	<u>0.241</u>	<u>0.250</u>
<i><u>Attached Single-Family:</u></i>			
<u>1 bedroom</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>
<u>2 bedroom</u>	<u>0.124</u>	<u>0.057</u>	<u>0.076</u>
<u>3 bedroom</u>	<u>0.208</u>	<u>0.111</u>	<u>0.130</u>
<u>4 bedroom</u>	<u>0.228</u>	<u>0.172</u>	<u>0.172</u>
<i><u>Apartments:</u></i>			
<u>0 efficiency</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>
<u>1-bedroom</u>	<u>0.031</u>	<u>0.018</u>	<u>0.016</u>
<u>2-bedroom</u>	<u>0.074</u>	<u>0.048</u>	<u>0.073</u>
<u>3-bedroom</u>	<u>0.164</u>	<u>0.073</u>	<u>0.081</u>

4.3 4.2–Park Dedications And Contributions: The following table of population density represents current and short-range project trends in family size for new residential construction and shall be used in calculating the amount of required dedication of acres of land for park sites or the cash contribution in lieu of unless a written objection is filed thereto by the subdivider or developer. A written objection shall be submitted and processed in accordance with Section 7-3-5:12.

**PARK GENERATION RATE TABLE**

[For property in the City within the boundaries of the Naperville Park District]  
POPULATION PER UNIT (PARK DONATION)—NAPERVILLE, ILLINOIS

Type Of Unit	Preschool 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 Unit
<i>Detached Single-Family:</i>							
2 bedroom	0.127	0.327	0.102	0.429	0.118	1.779	2.453
3 bedroom	0.244	0.440	0.179	0.618	0.177	1.892	2.930
4 bedroom	0.348	0.522	0.235	0.758	0.265	2.116	3.486
5 bedroom	0.333	0.533	0.262	0.795	0.279	2.344	3.750
<i>Attached Single-Family:</i>							
2 bedroom	0.072	0.091	0.044	0.135	0.080	1.610	1.897
3 bedroom	0.157	0.178	0.060	0.238	0.113	1.746	2.253
4 bedroom	0.217	0.358	0.154	0.511	0.198	2.127	3.053
<i>Apartments:</i>							
Efficiency *	—	—	—	—	—	1.210	1.210
1 bedroom	0.015	0.033	0.013	0.046	0.013	1.691	1.764
2 bedroom	0.037	0.063	0.028	0.091	0.030	1.748	1.906
3 bedroom	0.037	0.152	0.091	0.243	0.083	2.330	2.692
NOTE: There are only three (3) significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one (1) category is provided. The same is true with apartments; thus only one (1) category.							

\* Indicates no yield data was generated due to a lack of population or no, (or very few) residential units in the sample. Thus, it was not possible to derive useful yield data. The adult population yield statistic has been derived from the 2000 table of estimated ultimate population.  
Ehlers & Associates, Inc., November 2000

**4.4 4-3 Assisted Living Developments:** The definition of "Assisted living establishment" as established by the Illinois Department of Public Health, and as amended from time to time, shall serve as the definition of assisted living developments herein.

The land-cash contribution for the park district related to assisted-living developments shall be subject to a reduction of the park district dedication fee. The cash-in-lieu fee shall be determined by the number of beds provided in the development divided by four (4) times the efficiency rate per the table contained in Section 7-3-5:4.2. Said reduction shall not preclude consideration of further reductions of land-cash contributions in accord with Section 7-3-5:1.3 above.

The land-cash contribution for the school district shall be established as provided herein but deemed waived as to assisted-living developments.

4.54.2.2. Age Restricted Developments: Age restricted developments are defined in accordance with the Federal Fair Housing Act as amended from time to time.

The land-cash contribution for the park district related to age restricted developments shall be calculated based upon a population generation rate of one and eight-tenths (1.8) persons per unit. If the development ceases to be age-restricted, the required park donation shall be recalculated using the standard population generation rate as per the ordinance in place at the time of age-restriction removal. The developer, and/or his or her assignees, shall be required to pay the difference between the initial payment and the recalculated payment within sixty (60) days of assessment, unless otherwise extended by the Zoning Administrator.

The land-cash contribution for the school district shall be established as provided herein but deemed waived as to age restricted developments. Subject to review and approval by the City Attorney, covenants regarding age restriction and penalties for violation of such restrictions, as generally outlined in Subsection 7-3-5:4.2.2.1, shall be recorded prior to the City granting final subdivision plat approval.

4.5.1 4.2.2.1. Covenants ensuring the integrity and enforceability of age restrictions in an age-restricted development shall include, but not be limited to the following concepts:

4.5.1.14.2.2.1.1. All owners or occupants of property within an age-restricted development will strictly comply with the specified age restrictions.

4.5.1.24.2.2.1.2. Any home owners association ("HOA") formed for the subdivision shall create and consistently use a process designed to monitor and enforce age restriction requirements;

4.5.1.34.2.2.1.3. Violations of the covenants shall cease;

4.5.1.4 .2.2.1.4. Penalties for violation of specified age-restrictions shall apply to the student generator and the HOA.

4.5.1.4.1 4.2.2.1.4.1. Student Generator Penalties: If the owner of any dwelling unit violates or attempts to violate this Section by enrolling or attempting to enroll or assisting in any way in enrolling a child or children in the schools of the school districts ("student generator"), then said student generator shall be liable (i) to the school district for the cost of educating

any child or children so enrolled by the Student Generator from the development area in an amount determined in accordance with Section 10-20.12a of the Illinois School Code (105 ILCS 5/10-20, 12a) and (ii) to the school district a fine in the amount of three times the cost of educating any child or children enrolled as provided in (i) or fifty thousand dollars (\$50,000.00), whichever is greater, and (iii) for all reasonable costs of any enforcement action, including litigation expenses, title reports, and attorney's fees incurred as a result of such enforcement. All costs and fines, as specified herein, to be paid by the student generator shall be recorded as a lien against the dwelling unit(s) of the student generator, in addition to any other remedies available by law for the collection of said costs and fines.

4.5.1.4.24.2.2.1.4.2. Homeowners Association Penalties: It shall be the right, obligation and duty of the homeowners association ("HOA") to enforce the restrictions contained in this Section in a proactive and diligent manner. The HOA Board shall adopt, implement and enforce rules, regulations and procedures to ensure that at all times the restrictions contained herein are followed. At all times, the HOA shall have an obligation to cooperate with the school district and City in enforcement efforts pursuant to this Section. Within ninety (90) days of written notification to the HOA by the school district or the City of Naperville that a violation of the restrictions set forth in this Section may have occurred, the HOA shall commence an enforcement proceeding against the student generator, and shall diligently pursue the proceeding. If the HOA fails to commence such a proceeding within said time period and either the City and/or school district commences such a proceeding, or if the HOA commences a proceeding, but fails to diligently pursue the same, then the HOA shall pay a fine of fifty thousand dollars (\$50,000.00) to either the school district or the City and also be responsible to reimburse either the City or the school district for the costs and expenses of said their bringing such litigation including attorney's fees.

4.5.1.5 4.2.2.1.5. A provision that persons under the age of 22 may be guests in age restricted premises between May



15 and August 10 of each year, but that during the remainder of the year persons under the age of twenty-two (22) may visit a resident's home for a maximum of thirty (30) days of which no more than fourteen (14) may be consecutive.

4.5.24.2.2.2. By virtue of establishing a development as age restricted and accepting the benefits provided herein, the developer and their successors and assigns waive any right to challenge the school and park donation requirements if payment is ever required.

- |   |   |   |   |
|---|---|---|---|
| 5. Procedure For Making Contributions:    | * | * | * |
| 6. Reservation Of Additional Land:        | * | * | * |
| 7. Combining With Adjoining Developments: | * | * | * |
| 8. Topography And Grading: *              | * |   | * |
| 9. Improved Sites: *                      | * |   | * |
| 10. Title To Sites: *                     | * |   | * |
| 11. Sale Of Land; Proceeds: *             | * |   | * |
| 12. Objections: *                         | * |   | * |

(Ord. No. 95-62, 3-21-1995; Ord. No. 00-140, 8-15-2000; Ord. No. 01-95, 5-15-2001; Ord. No. 01-250, 12-18-2001; Ord. No. 02-01, 1-8-2002; Ord. No. 05-256, 12-20-2005; Ord. No. 07-188, 8-6-2007; Ord. No. 13-129, § 8, 11-5-2013; Ord. No. 18-003, § 3, 2-6-2018)

**SECTION 3:** This Ordinance shall be in full force and effect upon its passage and approval as required by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk