

Chapter 16.32

DEDICATIONS

Sections:

16.32.010	Definitions.
16.32.020	Applicability.
16.32.030	Amendments to preliminary plan.
16.32.040	Indemnification of city required by school and park district.
16.32.050	Payment - Expenses.
16.32.060	Dedication of park lands and school sites, or contribution of fees in lieu thereof required.
16.32.070	Requirements for park land dedications.
16.32.080	Requirements for school site dedication.
16.32.090	Criteria for requiring a cash contribution in lieu of park and school land.
16.32.100	Amount of cash contribution.
16.32.110	Criteria for requiring land and cash.
16.32.120	Calculation of estimated population.
16.32.130	Reservation of additional land.
16.32.140	Condition of park and school sites.
16.32.150	Time of conveyance.
16.32.160	Payment of general real estate taxes and agricultural rollback taxes.
16.32.170	Real estate conveyance requirements.
16.32.180	Real covenant/sale of public land.
16.32.190	Private recreational areas in lieu of dedicated park land.

16.32.010 Definitions.

Whenever the following words are used in this chapter, such words shall be deemed to have the following meanings:

- A. "Improved land" means land located within a development which has been improved by installation of the required land improvements.
- B. "Demographic study" means a study of the estimated ultimate population expected to be generated by a proposed development, based upon empirical historical data from similar developments. Such a study shall take into consideration demographic changes over time, dwelling types, number of bedrooms, and the number of pre-school children, school age (grades K-12) children, and adults.
- C. "Park District" means the St. Charles Park District, Kane and DuPage Counties, Illinois, or any public park district within which a development or part of a development is located.
- D. "Public land" is defined as real estate to be conveyed pursuant to the provisions hereof and to be utilized by the city, school district, and/or park district for uses including, but not limited to, parks, recreational sites, lakes, storm water retention and detention areas, public forest areas, municipal service areas, public utility substations, storage areas and well sites, public natural resource areas, public golf course areas, school building sites, playgrounds and other similar uses.

DEDICATIONS

- E. "School District" means Community Unit School District No. 303, Kane and DuPage Counties, Illinois, or any public school district within which a development or part of a development is located.

(Ord. 1989-M-58 § 1; Ord. 1973-Z-6 § 1.)

16.32.020 Applicability.

If any subdivision subject to the terms hereof is located outside of the corporate limits of the city of St. Charles, Illinois, and if the county in which the property is located has an ordinance which is more restrictive, or which would require a greater dedication or contribution than this chapter, as determined by the city, the ordinance of the county in which the property is located shall prevail where inconsistent with the less restrictive provisions hereof. (Ord. 1989-M-58 § 1.)

16.32.030 Amendments to preliminary plan.

When a preliminary plan of a subdivision is amended, the required contribution of land or cash shall be recalculated for that portion of the subdivision which is amended, based on the estimated ultimate population thereof. (Ord. 1989-M-58 § 1.)

16.32.040 Indemnification of city required by school and park district.

By their acceptance of land or cash, or both, pursuant to the provisions hereof, the school district and the park district as the case may be shall indemnify the city against any loss, cost or expense, including reasonable attorney's fees, arising out of, or on account of, any land or payments designated for said school district or park district under the provisions of this chapter. Prior to the actual transfer of land or funds, the school district and the park district each shall make the foregoing indemnity to the city in writing. (Ord. 1989-M-58 § 1.)

16.32.050 Payment - Expenses.

By acceptance of land or cash, or both, pursuant to the provisions hereof, the school district or park district as the case may be shall reimburse the city for all costs and expenses it incurs in connection with obtaining the land or cash required by this chapter. Payment of said amount shall be made to the city within 30 days of the park or school district's a) receipt of the land or cash as provided herein, or b) the receipt of an invoice from the city, whichever occurs later. (Ord. 1989-M-58 § 1.)

16.32.060 Dedication of park lands and school sites, or contribution of fees in lieu thereof required.

As a condition of approval of a final plat of subdivision, the subdivider shall dedicate land for park purposes, and for school sites, or shall agree, in writing, to contribute cash in lieu of actual land dedications, or a combination of both at the option of the City, in accordance with the requirements hereof. (Ord. 2009-Z-11 § 1; Ord. 1989-M-58 § 1.)

16.32.070 Requirements for park land dedications.

- A. Calculation of requirement. The estimated ultimate population of a proposed subdivision shall bear directly upon the amount of land required to be dedicated for park purposes. The minimum requirement shall be ten (10) acres of land per one thousand (1,000) of ultimate population in accordance with the standards hereinafter set forth.

DEDICATIONS

B. Park site size and location standards.

<u>Types of Park Sites</u>	<u>Minimum Desirable Site Area</u>	<u>Minimum Acreage per 1,000</u>
Mini-Parks	1.0 acre	0.5 acres
Neighborhood Parks	5.0 to 10.0 acres	2.0 acres
Community Parks	25 acres or more	7.5 acres
TOTAL		10.0 acres

The size, location and shape of the park land to be dedicated shall be subject to the approval of the city council as part of the preliminary plan. Prior to city council approval of the preliminary plan, the city shall have received a resolution of the park district governing board approving the location and acreage of any park land to be dedicated. The suitability of land to be dedicated for park sites shall be evaluated by the plan commission and city council according to the following standards:

1. The site should be essentially regular in shape to facilitate maintenance and to provide the optimum opportunity for recreational use.
2. The site should not be located on a major road when such a location would present a traffic hazard to park users.
3. The site should not be subject to frequent flooding.
4. The site should have soil and topographic conditions suitable to accommodate the anticipated facilities, including but not limited to parking areas, play fields, tennis courts, playground equipment, or other recreational facilities.
5. The site should be located in the approximate center of the residential area to be served wherever possible, and adjacent to a school site where consistent with the school site requirements hereof.

(Ord. 1997-M-54 § 1; Ord. 1989-M-58 § 1.)

16.32.080 Requirements for school site dedication.

- A. Calculation of requirement. The estimated ultimate student population for grades K through 12 of the proposed subdivision shall bear directly on the amount of land required to be dedicated for school sites. The minimum requirement shall be .025 acres of land per elementary student, .0389 acres of land per middle school student, and .072 acres of land per high school student in accordance with the following standards:
- B. School site size and location standards.

Type of School Site	Maximum Students per School Site	Minimum Acres/Site
Elementary K - 5	600	15 acres
Middle School	900	35 acres
High School	1500	108 acres

The location and shape of the school land to be dedicated shall be subject to the approval of the City Council as part of the preliminary plan. Prior to City Council approval of the preliminary

DEDICATIONS

plan, the City shall have received a resolution of the school district board of education approving the location and acreage of any school land to be dedicated. The suitability of land to be dedicated for school sites shall be evaluated by the Plan Commission and City Council according to the following standards:

1. The site should be essentially regular in shape, to allow the proper design of the school building, playgrounds, and parking areas.
2. The site should not be located on a major road when such a location would present a traffic hazard to school children.
3. The site should not include storm water retention or detention facilities except those provided to serve the school site.
4. The site should have suitable soil and topographic conditions for the construction of a school building, parking lot, and other necessary facilities.
5. The site should be located in the approximate center of the residential area to be served wherever possible.

(Ord. 2008-M-41 § 1; Ord. 2003-M-37 § 1; Ord. 1991-M-78 § 1; Ord. 1989-M-58 § 1.)

16.32.090 Criteria for requiring a cash contribution in lieu of park and school land.

- A. When cash contribution required. When the subdivision is small and the resulting site is too small to be practical, or when available land is inappropriate for park or school sites, or when park or school sites have already been provided, the city council may require the payment of cash contributions in lieu of the required land. The city council shall determine whether land or cash will be required when it approves the preliminary plan, and may consider the recommendation of the appropriate park or school district in making such determinations. When the park district or school district has refused to accept a land contribution, the city council may require a cash contribution.
- B. Payment of park contribution. For subdivisions platted in multiple phases, the per dwelling unit cash contribution in lieu of, or in addition to, park land, as may be applicable, shall be paid for the entire phase to be developed, prior to issuance of the first building permit for the applicable phase. For subdivisions platted in a single phase, the per dwelling unit cash contribution in lieu of, or in addition to, park land, as may be applicable, shall be paid for the entire subdivision prior to issuance of the first building permit. The applicable per dwelling unit cash contribution shall be paid directly to the Park District and held in trust. All such payments made to the Park District under this Section are to be spent solely in accordance with paragraph C below. The City shall not issue a building permit until it receives an original receipt of payment executed by the treasurer of the Park District. (Ord. 2009-Z-5 § 1.)
- C. Use of contribution by park district.
 1. The cash contribution in lieu of park land shall be used solely for the acquisition of park land which will serve the immediate or future needs of the residents of the subdivision for which the contribution was received, or the improvement of existing park land which will serve such needs; provided, however, any expenditure of funds for land or improvements shall satisfy all applicable statutory criteria and specifically the provisions of 65 ILCS 5/11-12-4 et seq., as amended.

Annexation agreements entered by the city pursuant to 65 ILCS 5/11-15.1-1, as amended, with respect to land to be zoned to include residential uses for which Chapter 16.32 of the St. Charles Municipal Code as amended applies, shall include a provision that all cash received for the park district may be used by the park district for land acquisition, building construction, site improvements, capital improvements, equipment, operations, or any other purpose which will serve the immediate or future needs of the residents of the subdivision for which the contribution was received.

DEDICATIONS

2. Further, the park district shall spend a minimum of fifty percent (50%) of the contribution a) within the subdivision from which it was received, or if no park land exists within said subdivision, b) within park district real estate nearest said subdivision or for the purchase of park land within one and one-half miles of said subdivision. For subdivisions platted within the city limits, the park district shall spend one hundred percent (100%) of the contribution within the city limits; for subdivision platted outside the city limits but within the planning jurisdiction of the city, the park district shall spend one hundred percent (100%) of the contribution within the planning jurisdiction of the city. The city council may vary the requirements of this paragraph 2 if it finds that, based upon facts presented by the park district, such variance will result in park facilities which will serve the immediate or future needs of the residents of the subdivision from which the contribution was received.

(Ord. 1996-M-53 § 35.)

- D. Payment of school contribution. For subdivisions platted in multiple phases, the per dwelling unit cash contribution in lieu of, or in addition to, school land, as may be applicable, shall be paid for the entire phase to be developed, prior to issuance of the first building permit for the applicable phase. For subdivisions platted in a single phase, the per dwelling unit cash contribution in lieu of, or in addition to, school land, as may be applicable, shall be paid for the entire subdivision prior to issuance of the first building permit. The applicable per dwelling unit cash contribution shall be paid directly to the School District and held in trust. All such payments made to the School District under this Section are to be spent solely in accordance with paragraph C above. The City shall not issue a building permit until it receives an original receipt of payment executed by the treasure of the School District. (Ord. 2009-Z-5 § 2.)
- E. Use of contribution by school district. The cash contribution in lieu of school land shall be used solely for the acquisition of land for a school site to serve the immediate or future needs of the residents from the subdivision for which the contribution was received, or for the improvement of any existing school site which will serve such needs, but not for the construction of any school buildings, or additions thereto; provided, however, any expenditure of funds for school sites or improvements shall satisfy all applicable statutory criteria and specifically the provisions of Chapter 24 Paragraph 11-12-1, et. seq. of the Illinois Revised Statutes, 1987, as amended.

Annexation agreements entered by the city pursuant to Chapter 24 Paragraph 11-15.1-1 et. seq. of the Illinois Revised Statutes, 1987, as amended, with respect to land to be zoned to include residential uses for which chapter 16.32 of the St. Charles Municipal Code as amended applies, shall include a provision that all cash received for the school district may be used by the school district for land acquisition, building construction, site improvements, capital improvements, equipment, operations, or any other purpose which will serve the immediate or future needs of the residents of the subdivision for which the contribution was received.
- F. Return of contribution if not expended. If any portion of a cash contribution in lieu of park or school site land is not expended for the purposes set forth herein within ten (10) years from the date of receipt, it shall be refunded, together with accrued interest thereon, to the owners of record of all lots, except public land, in the subdivision for which such contribution is made. The refund shall be paid to the person who is the owner of record on the day which is the tenth anniversary of the receipt of such contribution. The amount of the refund due to each lot owner shall be equal to the amount of the original contribution, together with accrued interest thereon, divided by the total number of lots in the subdivision (excluding public land) for which the contribution was made. The city council may permit one-year extensions of the ten-year restriction if the park district or school district demonstrates that such funds have been allocated for an acquisition or improvement allowed herein, but have not been spent due to additional funds being necessary to complete such acquisition or improvement.

DEDICATIONS

- G. All building permits issued shall be subject to the cash contributions applicable pursuant to Title 16 at the time of payment of the cash contributions, unless otherwise previously granted by the City Council through a planned unit development or annexation agreement. Any amendment to an approved preliminary plan, final plat of subdivision, or final plat or plan of planned unit development shall require compliance with the then applicable cash in-lieu fees, to the extent that such amendment results in the calculation of a greater cash payment to the Park District and School District. (Ord. 2009-Z-5 § 3.)
(Ord. 1989-M-58 § 1.)

16.32.100 Amount of cash contribution.

The cash contribution in lieu of land shall be based on the fair market value of improved land within the subdivision. The fair market value of improved land for subdivisions to be developed within the City is hereby determined to be two hundred forty thousand five hundred dollars (\$240,500.00) per acre, which shall be used in the calculation of the required cash contributions, except as follows:

- A. The fair market value for subdivisions to be developed outside the corporate limits of the City of St. Charles but within the City's 1 ½ mile jurisdictional area is hereby determined to be one hundred seventy-five thousand dollars (\$175,000);
- B. If the City Council determines that the specifics of the subdivision so warrant, it may require a formal appraisal; if the subdivider files a written objection to the use of the per acre value established herein, he shall submit a formal appraisal. Such appraisal shall show the fair market value of improved land in the area of the subdivision.
- C. Final determination of the fair market value per acre of land shall be made by the City Council, based upon the appraisal or appraisals, and upon other information which may be submitted by the park district, school district, or others. The subdivider shall pay all appraisal fees.

(Ord. 2008-M-41 § 2; Ord. 2003-M-37 § 2; Ord. 1997-M-54 § 2; Ord. 1991-M-78 § 1; Ord. 1989-M-58 § 1.)

16.32.110 Criteria for requiring land and cash.

There may be situations when a combination of land and a cash contribution in lieu of land are both necessary. At the time of preliminary plan approval, the city council may require a combination of land and cash in any of the following situations:

- A. When a previously designated park or school site lies partly within and partly outside of a proposed subdivision and the acreage of the designated park or school site within the subdivision is less than the park or school site acreage required herein, the subdivider shall contribute all of the designated park or school site lying within the proposed subdivision, and cash in lieu of the additional acreage needed to fulfill the requirements hereof.
- B. When part of a designated park or school site has already been acquired, and the land needed to complete it is less than the land required from the subdivision, then the subdivider shall contribute the amount of land needed from the subdivision to complete the park or school site and cash in lieu of the additional acreage needed to fulfill the requirements hereof.
- C. When the subdivider will be contributing certain park or school sites, and the balance of the required park or school site acreage would be too small or otherwise unsuitable for park or school sites, then the subdivider shall contribute cash in lieu of the balance of the required school or park site acreage.

(Ord. 1989-M-58 § 1.)

16.32.120 Calculation of estimated population.

The "Table of estimated ultimate population per dwelling unit," attached hereto as Exhibit A, shall be used to calculate the amount of required park and school site land and cash contributions in lieu thereof. A written objection to Exhibit A may be filed by the subdivider, or by the school or park district, prior to city council approval of the preliminary plan. Such objection shall include a demographic study showing the

DEDICATIONS

estimated ultimate population to be generated by the subdivision. Final determination of the estimated ultimate population shall be made by the city council at the time of preliminary plan approval. It is recognized that population density, age distribution, and local conditions change over time, and that, therefore, Exhibit A is subject to periodic review and amendment as necessary. (Ord. 1989-M-58 § 1; Ord. 1989-Z-6 § 1.)

16.32.130 Reservation of additional land.

Whenever the St. Charles Comprehensive Plan, or the standards of the city, school district, or park district call for a school or park site within a subdivision larger than the required land contribution, the land needed in addition to the required contribution shall be reserved on the final plat for subsequent purchase by the city, park district, or school district. The city, park district, or school district shall acquire the land so designated by purchase or commence proceedings to acquire such land by condemnation within one year from the date of recording of the final plat; if the land is not so acquired or condemnation proceedings are not so commenced within said one year period, the land so designated may then be used by the owners thereof in any other manner consistent with the St. Charles Municipal Code and compatible with said subdivision. (Ord. 1989-M-58 § 1.)

16.32.140 Condition of park and school sites.

Land improvements within the subdivision adjoining park and school sites shall be provided and paid for by the subdivider. In addition, park and school sites shall be fine graded, provided with a minimum of six (6) inches of topsoil, and seeded as part of the required land improvements, unless otherwise permitted by the city council. Prior to commencing such work or any land improvements within a park or school site, the subdivider shall furnish a policy or policies of insurance insuring both city and the park or school district, as the case may be, with coverages as approved by the city council and park district governing body or school district board of education, as the case may be. The subdivider shall provide certificates to city and the school or park district, as the case may be, showing city and such school or park district as additional insureds. Such certificates shall provide for at least 30 days notice to city and such district prior to cancellation or modification in any respect. The failure to provide or maintain the insurance coverages or certificates as mentioned above shall be cause to stop construction and shall be cause for the refusal of issuance of construction and building permits or certificates of occupancy. (Ord. 1989-M-58 § 1.)

16.32.150 Time of conveyance.

The park and school sites required herein shall be conveyed to the appropriate park or school district grantee, as designated by the city, after city council approval of the final plat and prior to the execution of the final plat of subdivision. The final plat shall not be executed by the mayor or recorded until the governing body of the park district or school district, as the case may be, executes a written acceptance of the conveyance. Such acceptance of the conveyance shall not be deemed to constitute acceptance for purposes of maintenance. The subdivider shall be responsible for maintaining the park and school sites until the land improvements upon and adjoining such sites are accepted by the city council. (Ord. 1989-M-58 § 1.)

16.32.160 Payment of general real estate taxes and agricultural rollback taxes.

General real estate taxes and agricultural rollback taxes levied or which become due because of any conveyance, against the park or school site which is conveyed, shall be the responsibility and obligation of the grantor. Grantor shall furnish evidence of payment of these taxes or deposit the amount of those taxes in escrow with the title company furnishing the preliminary report of title, requiring payment of the taxes when they become due. After payment of the taxes, evidence of such payment shall be furnished to the city and the grantee. The amount of any general real estate taxes and/or agricultural rollback taxes for the year of conveyance shall be pro-rated to the date of the delivery of deed. The amount of the general real estate and

DEDICATIONS

agricultural rollback taxes shall be based on the assessor's latest known rate, value, and equalizer, if any, for the land being conveyed. (Ord. 1989-M-58 § 1.)

16.32.170 Real estate conveyance requirements.

All real estate conveyed to the school district or park district pursuant to the provisions of this chapter is hereby designated "public land." The subdivider shall furnish the city and the grantee with a survey of the public land to be conveyed and a commitment for title insurance from a title company licensed to do business in the state of Illinois, in the amount of the fair market value of such public land. If within thirty (30) days of receipt of the commitment, the city or grantee objects in writing to defects in the title, the subdivider shall have thirty (30) additional days from the date of delivery of such written objections to cure such defects. All deeds of conveyance pursuant to this ordinance shall be recorded, at the subdivider's sole expense, in the office of the recorder of deeds of the county in question. All conveyances pursuant to this chapter shall be by warranty or trustee's deed subject only to the following:

- A. Acts done or suffered by, or judgments against the grantee, its successors, and assigns;
- B. General taxes for the year of conveyance, and subsequent years;
- C. Zoning and building laws and/or ordinances;
- D. Public and utility easements of record which are reasonably acceptable to city and grantee;
- E. Conditions and covenants of record as contained only in plats of subdivision approved by the city;
- F. Rights-of-way for drainage ditches, feeders, laterals, and underground tile, pipe or other conduit;
- G. Such other exceptions to title that city and grantee shall find acceptable.

Each conveyance shall be accompanied by an appropriate affidavit of title.

(Ord. 1989-M-58 § 1.)

16.32.180 Real covenant/sale of public land.

- A. All conveyances of public land shall contain a restrictive covenant, in form approved by the city council, running with and binding the public land conveyed, providing for the sole and continued use of said real estate as public land, subject to the provisions hereof, in perpetuity, unless the city council approves the removal of said covenant. The owner of the public land and the city of St. Charles, their successors and assigns, shall have the right to enforce said restrictive covenant. In the event either the school district or park district desires to sell any public land obtained under the provisions hereof, it shall first direct written notice, certified mail, return receipt requested, to the nonselling district and city. The written notice shall contain a legal description and plat of the public land and statement that the owner thereof desires to sell the public land described. Upon receipt of the written notice, the following options are provided and granted:
 - 1. The nonselling district shall have the exclusive option to purchase the public land described, for the thirty-day period next following receipt of the notice;
 - 2. In the event the nonselling district fails to exercise its option within the thirty-day time period, the city shall have exclusive option to purchase the public land described, at no cost, for the thirty-day period next following expiration of the initial thirty-day period.
- B. Any option shall be exercised by directing written notice to the owner of the public land, certified mail, return receipt requested. In the event both the nonselling district and the city fail to exercise their options, the owner of the public land may, for a one-year period thereafter, sell the public land described in the written notice to any third party, subject to the requirements of law.
- C. In the event any public land is sold to a third party pursuant to the terms of this chapter, the restrictive covenant which binds the public land shall be released and removed by the city.
- D. The cash received by the school district as a result of the sale of public land shall be held in a separate trust account, and shall be used solely in accordance with the provisions of Paragraph 16.32.090 (E) above.

DEDICATIONS

- E. The cash received by the park district as a result of the sale of public land shall be held in a separate trust account, and shall be used solely in accordance with the provisions of Paragraph 16.32.090(C) above.

(Ord. 1989-M-58 § 1.)

16.32.190 Private recreational areas in lieu of dedicated park land.

- A. Private recreation areas and facilities may reduce the demand for local public recreational services. At the option of the city council, a portion of the public park site requirement may be provided in the form of private recreation areas. The extent of same shall be determined by the city council, based upon the needs of the projected residents, the extent to which the private recreation areas are available for use by the residents of the subdivision, and available park land in the general area.
- B. In general, a substitution of private recreational areas for public park sites will require a substantially higher degree of improvement, such as the installation of recreational facilities and equipment by the subdivider. Detailed plans of facilities to be installed shall be submitted with the preliminary plan and shall be subject to the review and approval of the city council. Before any credit is given for private recreation areas, the subdivider shall provide such guarantee that the private recreation areas will be permanently maintained for such use by the execution of such legal documents and the provision of such sureties as city shall request.

(Ord. 1989-M-58 § 1.)

DEDICATIONS

EXHIBIT A
TABLE OF ESTIMATED ULTIMATE POPULATION PER DWELLING UNIT
CHILDREN PER UNIT

Type of Unit	Pre-School 0-4 Years	Elementary Grades K-5 5-10 Years	Junior High Grades 6-8 11-13 Years	Total Grades K-8 5-13 Years	High School Grades 9-12 14-17 Years	Adults 18 Years +	Total Per DU
<u>Detached Single Family</u>							
2 Bedroom	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 Bedroom	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 Bedroom	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 Bedroom	0.283	0.345	0.248	0.593	0.300	2.594	3.770
<u>Attached Single Family</u>							
1 Bedroom	0.000	0.000	0.000	0.000	0.000	1.193	1.193
2 Bedroom	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 Bedroom	0.212	0.234	0.058	0.292	0.059	1.829	2.392
4 Bedroom	0.323	0.322	0.154	0.476	0.173	2.173	3.145
<u>Apartments</u>							
Efficiency	0.000	0.000	0.000	0.000	0.000	1.294	1.294
1 Bedroom	0.000	0.002	0.001	0.003	0.001	1.754	1.758
2 Bedroom	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 Bedroom	0.052	0.234	0.123	0.357	0.118	2.526	3.053

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(Ord. 1998-M-2 § 1.)