



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: IIC1

Title: Motion to approve an Ordinance Amending Title 16, “Subdivisions and Land Improvement”, Chapter 16.02 “General Provisions” and Chapter 16.10 “Dedications” of the St. Charles Municipal Code (School and Park Dedications)

Presenter: Mark Koenen

Meeting: City Council Date: July 16, 2018

Proposed Cost: Budgeted Amount: N/A Not Budgeted:

**Executive Summary** (if not budgeted please explain):

On January 16, 2018, Planning & Development Committee unanimously recommended approval of an update to the City’s School and Park Dedications Ordinance (Title 16, “Subdivisions and Land Improvement”, Chapter 16.02 “General Provisions” and Chapter 16.10 “Dedications” of the St. Charles Municipal Code). A summary of the amendment is provided below.

On February 5, 2018, the City Council tabled the item to allow for further communication with School District #303 regarding the population formulas used in the calculation of the land-cash fees.

Subsequently, the Mayor and City Administrator met with School District #303 Superintendent Pearson and School Board President Hewell to discuss population formulas. As a follow-up to this meeting, D303 researched whether there were additional reports or studies, either conducted or underway, that might provide updated data for this purpose. D303 informed the City that no new sources of this data are currently available or forthcoming.

When researching the ordinance update last fall, City staff found that most communities in the area continue to use the same, or very similar, population generation formulas to our current City Code.

The ordinance as presented in February is attached for your consideration.

**For your information, the following is a summary of significant changes to the School and Park Dedication ordinance as presented to the P&D Committee in January:**

- Per Acre Land Value: No change to the current per acre land value (\$240,500 per acre).
- Significant changes to the City Code chapter:
  1. Add criteria for districts to refuse a land donation. Currently, if the City approves of a school or park land donation, and that land donation is refused by the school or park district, then the City “may” require a cash donation. Under the proposed changes, the school or park district would need to base a refusal of a land donation on specific criteria listed in the code. If the donation is refused based on the code criteria, then the City would require the cash donation. (16.10.080.1)
  2. Remove limitations on where park donations can be spent. The current code requires that 50% of a park cash donation either be spent within the subdivision, within the nearest park site, or to purchase land near the subdivision. The Park District agreed that this is no longer practical given the small size of park sites anticipated in future subdivisions and the limited availability of land for new or expanded park sites. (16.10.080.3)

3. Provide districts a 90 day period to respond to developer objections. For a developer objection to either the *per-acre land value* or the *subdivision population estimate*, the school and park districts would have 90 days to respond with their own appraisal or demographic study, or otherwise respond to the City. (This 90 days response time period would be listed in the code so that developers are aware of this early in the process and can plan accordingly). (16.10.090.2 & 16.10.110.B)
  4. Regularly update the Per-Acre Land Value. The City and districts would cooperatively obtain a new per acre land value appraisal every 3 to 5 years, and determine whether it is appropriate to adjust the per acre land value, considering whether the value set by the city code is within the range of values set by other area municipalities, including those served by the park and school districts. (Having a record of a recent appraisal report will provide the City with a stronger basis to enforce the per acre value and may reduce interest in a developer objection.)(16.10.090.4)
  5. Eliminate the Park Private Recreational Areas credit. Although this credit is common in other land-cash ordinances, it is rarely considered or granted, except for very unique situations. Listing this credit in the ordinance can be misleading to developers, as it implies that the credit will be considered in all situations. Removing the credit from the code would still allow a developer to request a reduction through the PUD process; however the onus would be on the developer to work with the Park District and obtain their support before requesting this credit from the City through a PUD. (16.10.180)
- Misc. changes proposed by City staff:
    1. Update the approval process and conveyance procedures to match current practices.
    2. Clarify that subdivisions involving existing lots and dwellings receive a land-cash fee credit.
    3. Clarify that institutional uses (nursing home and assisted living facilities) are not dwellings and therefore are not subject to the land-cash ordinance. (A waiver of school fees for senior housing could be considered on a case-by-case basis as a developer objection to the population estimate.)
    4. Administrative changes to update Chapter 16.02.

**Attachments** *(please list):*  
Ordinance

**Recommendation/Suggested Action** *(briefly explain):*  
Motion to approve an Ordinance Amending Title 16, “Subdivisions and Land Improvement”, Chapter 16.02 “General Provisions” and Chapter 16.10 “Dedications” of the St. Charles Municipal Code (School and Park Dedications)

# City of St. Charles

## Ordinance No. 2018-M-\_\_\_\_\_

### **An Ordinance Amending Title 16, “Subdivisions and Land Improvement”, Chapter 16.02 “General Provisions” and Chapter 16.10 “Dedications” of the St. Charles Municipal Code (School and Park Dedications)**

WHEREAS, the Mayor and City Council of the City of St. Charles deems it is in the best interest of the City to amend the provisions of Chapter 16.02 “General Provisions” and Chapter 16.32 “Dedications” of Title 16, “Subdivisions and Land Improvements” of the St. Charles Municipal Code; and,

WHEREAS, the Planning and Development Committee of the City Council recommended approval of the amendment on or about January 16, 2018; and,

WHEREAS, the City Council of the City of St. Charles has received the recommendation of the Planning and Development Committee and has considered the same.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois as follows:

1. That Title 16, “Subdivisions and Land Improvement”, Chapter 16.02 “General Provisions” of the St. Charles Municipal Code be and is hereby deleted in its entirety and replaced by the attached Exhibit “A”.

2. That Title 16, “Subdivisions and Land Improvement”, Chapter 16.10 “Dedications” of the St. Charles Municipal Code be and is hereby deleted in its entirety and replaced by the attached Exhibit “B”.

3. That after the adoption and approval hereof this Ordinance shall be (i) printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this \_\_\_\_\_ of \_\_\_\_\_, 2018.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this \_\_\_\_\_ of \_\_\_\_\_, 2018.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this \_\_\_\_\_ of \_\_\_\_\_, 2018.

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Raymond P. Rogina, Mayor

Attest:

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City Clerk/

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:

APPROVED AS TO FORM:

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City Attorney

DATE: \_\_\_\_\_

## Exhibit "A"

### **Chapter 16.02, "General Provisions"**

#### 16.02.010 – Purpose

The purpose of this Title and subsequent regulation is as follows:

- A. To provide one of several means for carrying out the intent of the Comprehensive Plan, thus helping to insure sound, harmonious subdivision development and community growth, and to safeguard the interest of the homeowner, the Subdivider, the investor, and the City.
- B. To provide permanent assets to the City.
- C. To prevent scattered development beyond existing public utilities and prevent excessive development costs.
- D. To assure the development of land for optimum use with the highest possible standards of design and necessary protection against deterioration and obsolescence.
- E. To assure the orderly development of all land within the City.
- F. To limit and control the pollution of the environment that can be caused by inadequate or incomplete urban development.
- G. To provide common grounds of understanding and a sound working relationship between the City and the Subdivider.
- H. To lessen congestion of streets and highways.
- I. To provide for adequate light and air.
- J. To facilitate adequate provisions for transportation, water, storm water management, sewerage, schools, and other public necessities.
- K. To ensure proper legal description and proper monumenting of subdivided land.
- L. To coordinate new subdivision design within the design of the City as a whole.

#### 16.02.020 – Validity and Applicability

- A. No plat of any subdivision shall be entitled to record in the recorder's office, or have any validity, until it has been approved in the manner prescribed in this Title.

- B. No parcel of land may be conveyed for the purpose of creating a new residential dwelling lot without said parcel being established as a lot pursuant to approval of a plat of subdivision in the manner prescribed in this Title, unless said parcel was previously subdivided, pursuant to a Subdivision Plat approved by the City of St. Charles and recorded with the County Recorder of Deeds.
- C. Lots of Record that were lawfully conveyed prior to September 17, 2012 that meet the minimum lot width and area requirements of the applicable zoning district in which it is located shall be considered valid lots for purposes of this title.
- D. Parcels of land may be conveyed for the purpose of modifying lot size or configuration, provided the conveyance does not create a greater number of buildable residential lots, based on the applicable zoning district in which it is located, than currently exist within the boundary of the subdivision (either as existing subdivided lots or valid Lots of Record under Item C. above.)

#### 16.02.030 – Comprehensive Plan

- A. Adopted.  
An official Comprehensive Plan, containing an official map, dated September 3, 2013 has been adopted by the City, pursuant to the powers granted by the Illinois Municipal Code, and shall be known as "the Comprehensive Plan of the City of St. Charles, Illinois." The comprehensive plan may be amended from time to time, pursuant to 65 ILCS 5/11-12-7.
- B. Copies Available Upon Payment of Fee.  
Said official Comprehensive Plan shall be made available to all interested parties on the City website. A printed copy may be purchased for the cost of printing the document.

#### 16.04.010 – Applicability

The provisions hereof shall be applicable to all subdivisions in the City of St. Charles and within all unincorporated areas lying within one and one-half miles of the corporate limits of the City of St. Charles, to the extent permitted by law. Subdivisions located within the future planning area jurisdiction of another municipality, pursuant to a Boundary Line Agreement with the City of St. Charles, shall not be subject to the provisions hereof.

## Exhibit “B”

### **16.10, “Dedications”**

#### 16.10.010- 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.

#### 16.10.020- Amendments to Preliminary Plat

When a Preliminary Plat 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.

#### 16.10.030- 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.

#### 16.10.040 - Payment- Expense

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.

#### 16.10.050- Dedication of park lands and school sites, or contribution of fees in lieu thereof required

The Subdivider shall dedicate land for park and school sites on the Final Plat of Subdivision, or shall contribute cash in lieu of actual land dedications, or a combination of both at the option of the City, and School District or Park District, as applicable, in accordance with the requirements hereof.

#### 16.10.060 - 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.

B. Park Site Size and Location Standards

<b>Types of Park Sites</b>	<b>Minimum Desirable Site Area</b>	<b>Minimum Acreage per 1,000</b>
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
	<b>TOTAL</b>	<b>10.0 acres</b>

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 Plat. Prior to City Council approval of the Preliminary Plat, the City shall have received a letter from the Park District 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 include storm water retention or detention facilities except those provided to serve the park site and shall 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.

16.10.070 - 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 standards hereinafter set forth.

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 Plat. Prior to City Council approval of the Preliminary Plat, the City shall have received a letter from 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 and shall not be subject to frequent flooding.
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.

16.10.080- 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 Plat, and shall consider the recommendation of the appropriate Park or School District in making such determinations. The Park or School District may refuse a land donation based upon the following criteria:

1. The land is not needed in the proposed location for the type of dedication site being proposed.
2. The configuration of the site, location within the development, size of the site, or

function of the property (wetland, rolling topography, detention, retention) is not appropriate, based on the district's needs for site or facilities in the area of the subdivision.

3. Access to the site is not conducive to use of the site as public land.

When the Park District or School District has refused a land contribution based on these criteria, the City Council shall 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 a segregated account. All such payments made to the Park District under this Section are to be spent solely in accordance with paragraph 3 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.

#### 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.
2. For subdivisions for which a combination of land dedication and cash contribution has been received, the Park District shall spend a portion of the cash contribution to improve the land dedication site within the subdivision, with the improvements to be determined by the Park District. 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.

#### 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 a segregated account. All such payments made to the School District under this Section are to be spent solely in accordance with paragraph 5 below. The City shall not issue a building permit until it receives an original receipt of payment executed by the treasurer of the School District.

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 provided, however, any expenditure of funds for school sites or improvements shall satisfy all applicable statutory criteria.

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.

G. Amount Applicable at Payment

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 Plat, Final Plat of Subdivision, or 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.

16.10.090 - 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, which shall be defined as the value of land with roads, curbs, gutters, sidewalks, storm and sanitary sewer, water and other utilities. 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 1/2 mile jurisdictional area is hereby determined to be one hundred seventy-five thousand dollars (\$175,000).
- B. If the Subdivider files a written objection to the use of the per acre value established herein, he shall submit an appraisal. Such appraisal shall show the fair market value of improved land in the area of the subdivision. The City shall notify the School District and the Park District of any objection and shall provide the School District and the Park District at least ninety (90) days to file their own appraisal or other response as they determine appropriate.

- C. If the City Council determines that the specifics of the subdivision so warrant, it may require an appraisal. 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.
- D. At least once every five (5) years, but not more often than every three (3) years, the City, in cooperation with the Park District and School District shall obtain an appraisal and review and if appropriate, adjust the value of land under this Ordinance. The City shall notify the School District and the Park District at the commencement of the process. In determining whether it is appropriate to adjust the value of land under this ordinance, the City shall consider whether the land value is within the range of values set by other area municipalities, including those municipalities served by the Park and School Districts.
- E. Any appraisal submitted under this section shall be prepared by a licensed Illinois State Real Estate Appraiser and shall be in the form of a report that conforms to the applicable requirements of the Uniform Standards of Professional Practice.

16.10.100- 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 Plat 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.

16.10.110- Calculation of estimated population

- A. Calculation of Requirement

<b>Table of Estimated Ultimate Population Per Dwelling Unit</b>
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Type of Unit	Elementary Grades K-5 5-10 years	Middle Grades 6-8 11-13 years	High School Grades 9-12 14-17 years	Total Population
<u>Detached Single Family</u>				
• 2 bedroom	0.136	0.048	0.020	2.017
• 3 bedroom	0.369	0.173	0.184	2.899
• 4 bedroom	0.530	0.298	0.360	3.764
• 5 bedroom	0.345	0.248	0.300	3.770
<u>Attached Single Family (Townhomes)</u>				
• 1 bedroom	0.000	0.000	0.000	1.193
• 2 bedroom	0.088	0.048	0.038	1.990
• 3 bedroom	0.234	0.058	0.059	2.392
• 4 bedroom	0.322	0.154	0.173	3.145
<u>Multi Family (Condo/Apartment)</u>				
• Efficiency	0.000	0.000	0.000	1.294
• 1 bedroom	0.002	0.001	0.001	1.758
• 2 bedroom	0.086	0.042	0.046	1.914
• 3 bedroom	0.234	0.123	0.118	3.053
Source: Illinois School Consulting Service/Associated Municipal Consultants Inc., 1996				

The “Table of Estimated Ultimate Population Per Dwelling Unit” shall be used to calculate the amount of required park and school site land and cash contributions in lieu thereof. It is recognized that population density, age distribution, and local conditions change over time, and that, therefore, the table is subject to periodic review and amendment as necessary.

**B. Objection**

A written objection to “The Table of Estimated Ultimate Population Per Dwelling Unit” may be filed by the Subdivider, or by the School or Park District, prior to City Council approval of the Preliminary Plat. The City shall notify the School District and the Park District of any objection and shall provide the School District and Park District at least ninety (90) days to file their own response. Such objection shall include a demographic study showing the 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 Plat approval.

C. Credit for Existing Lots and Dwellings

A credit to the estimated population shall be granted as follows:

1. Existing Subdivided Lots: Lots previously subdivided for residential use, pursuant to a Subdivision Plat previously approved by the City of St. Charles and previously recorded with the County Recorder of Deeds, shall receive a credit calculated as a reduction of one residential unit per existing subdivided lot located wholly within the proposed subdivision.
2. Existing Lots of Record: Portions of previously subdivided lots that were lawfully conveyed as Lots of Record prior to September 17, 2012, provided said Lots of Record meet the minimum lot width and area requirements of the applicable zoning district in which it is located, shall receive a credit calculated as a reduction of one residential unit per existing Lot of Record located wholly within the proposed subdivision.
3. Existing Residential Dwellings: Existing residential dwellings shall receive a credit calculated as a reduction of the estimated population for the dwelling based upon the formulas within this chapter. A credit shall not be granted under sections 1 and 2 above for any lot receiving a credit for an existing dwelling under this section.

D. Institutional Uses

A “Nursing Home” or “Assisted Living Facility”, as defined in Title 17 of the City Code, and similar institutional uses, shall not be considered residential dwellings, and therefore units or rooms within such facilities shall not be included in the calculation of estimated population.

16.10.120- Reservation of land

- A. Park or school dedication sites shall be considered public land for purposes of this chapter. All dedication sites shall be designated as a lot on the Final Plat of Subdivision. The lot shall be identified as a park or school site, with a notation that the property is to be conveyed as public land in accordance with this Title.
- B. 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.

16.10.130- 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. All land improvements within the boundaries of park and school sites shall be completed prior to conveyance of the site. Installation of adjacent parkway improvements (including sidewalks, parkway trees, and street lighting) may be deferred until construction of the adjacent street is completed.

#### 16.10.140 - Time of conveyance

The park and school sites required herein shall be conveyed to the appropriate park or School District grantee following the recording of the Final Plat of Subdivision. The timing of the conveyance shall be mutually agreed to by the City, School or Park District, and the Subdivider, with due consideration for the project phasing and construction activity to occur on properties adjacent to the school or park site. In the event the Subdivider has not conveyed the school or park site in accordance with the agreed to timing of conveyance, the City may withhold the issuance of building permits for residential units within the subdivision.

#### 16.10.150 - 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 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 agricultural rollback taxes shall be based on the assessor's latest known rate, value, and equalizer, if any, for the land being conveyed.

#### 16.10.160 - 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 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 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 accompanied by an appropriate affidavit of title, and 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 grantee shall find acceptable.

16.10.170 - Sale of public land

- A. 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 non-selling 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 non-selling 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 non-selling 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 non-selling 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 property shall thereafter not be designated as "public land".
- D. The cash received by the School District as a result of the sale of public land shall be held in a separate account, and shall be used solely in accordance with the provisions Section 16.08 above.
- E. The cash received by the Park District as a result of the sale of public land shall be held in a separate account, and shall be used solely in accordance with the provisions of Section 16.08 above.