

A. SCHEDULE OF EDUCATIONAL USE TRANSITION FEE: An Educational Use Transition Fee established pursuant to this Section shall be in the amount set forth herein. The Board of Trustees may, but shall have no obligation to, adjust the amount of the educational use transition fees set forth herein based on the Board of Trustees' review and consideration of future triennial needs assessments filed by the school districts. Unless and until an adjustment has been made, the schedule set forth herein shall be deemed to be the current and appropriate schedule of educational use transition fee.

B. TIME OF PAYMENT: All educational use transition fees imposed by this Section shall be due and payable upon Board of Trustees approval of any final plat of subdivision or planned development ("Development Approval"). For any lot which received Development Approval prior to the enactment of this Section, and which remains vacant at the time this Section was enacted, all fees imposed by this Section shall be calculated and shall be due and payable at the time an occupancy permit is issued. At the time of payment, the subdivider or developer shall receive a copy of this Section and shall execute an acknowledgment that a copy of the Educational Use Transition Fee Section has been received. The executed acknowledgment shall be maintained and filed along with documents evidencing proof of payment of the educational use transition fees by each subdivider or developer.

1. Payment at Time of Development Approval. In calculating the educational use transition fees to be paid at the time of Development Approval, the Village will assume the maximum density permitted under the zoning classification approved. For example, if the subdivision in question is zoned single family, the Village will assume for purposes of calculating educational use transition fees payable, pursuant to this Section, that all houses will have four bedrooms. The Village will then hold sufficient funds pending issuance of the occupancy permit to enable it to refund any overpayments resulting from the fact that houses with other than four bedrooms are constructed. Refunds shall be made at time of issuance of the occupancy permit.
2. Payment at Time of Occupancy Permit Issuance. The Village may agree that the payment of the educational use transition fees may be made at the time of occupancy permit issuance in consideration of which the subdivider or developer shall execute an Agreement (the "Agreement") which is Exhibit A to Section 22.13 of this Section. The Agreement essentially provides that the developer agrees: (a) that the educational use transition fees payable will be adjusted in accordance with the requirements herein; (b) that the educational use transition fees may be expended for the purposes contained in this Section and (c) to accept the validity of the Educational Use Transition Fee and the educational use transition fees as calculated. The Agreement shall be recorded along with the Plat of Subdivision upon approval by the Board of Trustees.

In the event the Village agrees to delay the payment of fees required herein to the time of occupancy permit issuance, the fees owed shall be those that are in effect at the time the occupancy permit is issued.

C. USE OF EDUCATIONAL USE TRANSITION FEE: The school districts shall have the sole authority to determine the use of such fees for expenses commonly paid by such school districts for the operation and maintenance of its facilities and property.

D. CALCULATION OF EDUCATIONAL USE TRANSITION FEE: The required educational use transition fee shall be calculated by using each school district's audited figures contained in the State Estimated Operating Expenditures Per Pupil and Per Capita Tuition Charge Computation divided by the Average Daily Attendance for the school district, which is then multiplied by the number of students anticipated from the dwelling as derived by the number of bedrooms per dwelling unit based upon the 1996 version of the Table of Estimated Ultimate Population Per Dwelling Unit, as shown on Exhibit B to Section 22.13 of this Section or such other updated or amended version of such Table as may be available from time to time. A credit to the educational use transition fee, if applicable, shall be determined using the average EAV for dwelling units under the Prairie Grove Impact Fee formula after deducting the Homestead Exemption then multiplied by the school district tax rate (less the bond and interest tax rate). This result shall then be multiplied by .34, and given as a credit to determine the educational use transition fee.

E. DISTRIBUTION OF EDUCATIONAL USE TRANSITION FEES: The educational use transition fees shall be collected by the Village and shall be held by the Village solely for the purposes set forth in this Section. Provided the Village has in its her possession, an intergovernmental agreement between the Village and each school district receiving such funds, annually executed by each party, governing certain aspects of the implementation of this Section. The form of the intergovernmental agreement shall be provided by the Village. The educational use transition fees shall be distributed to the school districts quarterly. At the time of disbursement of the educational use transition fees to a school district, the Village shall deduct an administrative fee of three percent of the funds to be disbursed.

F. OBJECTIONS: All objections relating to presumptions as to the calculations, or any other application of this Section to a particular development, shall first be referred to the Plan Commission for a hearing. An objection must be made, if at all, prior to the final Development Approval by the Village. A failure to object by such time shall constitute a waiver of the right to object to the provisions of this Section. All developers submitting a request for Development Approval to the Village shall be given a copy of this entire Educational Use Transition Fee Section, including the procedures for objecting to such an assessment as prescribed by this Section. Upon receipt, the developer must sign an accompanying document acknowledging that the developer has received notice of the existence of such a procedure for objections. This document entitled *Acknowledgment of Notification of Rights* is attached as Exhibit C to Section 22.13 of this Section and is incorporated herein by reference. The procedure for a hearing before the Plan Commission shall be as follows:

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 calculations or any other application of this Section to a particular development.

- b. The Village may adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this Section.
2. Information and Services to be Used: The Village shall make available to the Plan Commission all professional reports relating to the calculations used in calculating the educational use transition fees. The Plan Commission may also retain the services of professionals to assist in its review of issues raised by any objection.
3. Procedure for Resolving an Objection.
  - a. Upon receipt of an objection, the Village Hall staff shall place the same on the next available regular meeting agenda of the Board of Trustees. Thereafter the Board of Trustees shall refer the objection to the Plan Commission, which shall by resolution establish a hearing date.
  - b. The Plan Commission shall select a hearing date to consider the objection and shall notify the School Districts of the filing of the objection and of any hearing regarding the objection.
  - c. The Objector shall publish notice of the hearing date once each week for three consecutive weeks, at least 30 days before but no more than 60 days before the scheduled date of the hearing. Notice shall be published in a newspaper of general circulation within the corporate limits of the Village. 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 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 THE EDUCATIONAL USE TRANSITION FEE."
    - (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 Educational Use Transition Fee.
    - (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 Educational Use Transition Fee applies, and any other available information about the objection.
  - (6) A statement that any member of the public affected by the Educational Use Transition Fee 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, the Districts 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 Board of Trustees, within 60 days after the hearing. The Board of Trustees 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 Section as it pertains to the development in question.
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, Village attorney's fees and any other expenses of the Village.

**G. CONDITION TO ANNEXATION:** The educational use transition fees required by this Section 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 an educational use transition fee greater than those set forth herein. Further, any requirements with respect to educational use transition fees shall be incorporated into any subdivision declaration of covenants running with the land.

**H. PHASE-IN OF EDUCATIONAL USE TRANSITION FEE:** The educational use transition fees due and payable pursuant to this Section shall be phased in over a 3-year time period according to the following schedule:

1. First year after passage of this Section: 40 percent of fees due.
2. Second year after passage of this Section: 75 percent of fees due.
3. Third year after passage of this Section and each subsequent year: 100 percent of fees due.

Based on this schedule, the educational use transition fees are as follows:

	2005	2006	2007
Attached Dwelling Units			
2 bedrooms	\$ 135.08	\$ 253.27	\$ 337.69
3 bedrooms	\$ 552.04	\$1,035.07	\$1,380.09
4 bedrooms	\$1,135.17	\$2,503.45	\$3,337.93
Detached Dwelling Units			
3 bedrooms	\$ 980.08	\$1,837.66	\$2,450.21
4 bedrooms	\$2,106.20	\$3,949.12	\$5,265.49
5 bedrooms	\$1,085.46	\$2,035.24	\$2,713.65

I. INDEMNIFICATION: As a condition to any affected school district receiving any transition fees imposed hereunder, the affected school district shall execute an indemnification agreement on a form provided by the Village largely similar in form and content to that required to be executed in the Village's Educational Facilities Impact Fee Section. This agreement shall be executed on or before June 1st of each year. Following execution of this agreement by the affected school district, this indemnification agreement shall be furnished to the Village. In the event the affected school district fails to execute and/or furnish the executed agreement, the Village reserves the right to refuse to impose transition fees on behalf of the affected school district.

*pjh:PrairieGrove.Code\Chapter.022.Sect13.doc*

**EXHIBIT A TO SECTION 22.13**

**AGREEMENT BETWEEN DEVELOPER AND THE VILLAGE OF PRAIRIE GROVE TO DELAY PAYMENT OF EDUCATIONAL USE TRANSITION FEES**

This agreement (“Agreement”) is entered into between the Village of Prairie Grove (the “Village”) and \_\_\_\_\_ and (“Developer”).

*WHEREAS*, the Village has approved a final plat of subdivision or a final plat of a planned development at the request of Developer for the real estate legally described in Exhibit A.1 attached hereto and made a part hereof (the “Land”). Accordingly, pursuant to the Educational Use Transition Fee Section of the Prairie Grove Municipal Code, (“Ordinance”), certain fees are immediately due the Village from the Developer; and

*WHEREAS*, Developer has, however, requested that the payment of the aforesaid educational use transition fees be delayed and that the same become due and payable on a per dwelling unit basis at the time the Village issues an occupancy permit for the particular dwelling unit.

*NOW, THEREFORE*, in consideration for the Village agreeing to delay its receipt of the educational use transition fees, Developer hereby agrees as follows:

1. The amount of educational use transition fees owed shall be calculated based upon the Ordinance or as provided for in such other future ordinance amending or replacing the Ordinance that is in effect at the time of the issuance of an occupancy permit; and

2. Notwithstanding any present or future law, regulation and/or legal precedent to the contrary, the unit of local government 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 Developer's subdivision or planned development: expenses commonly paid by such school district for the operation and maintenance of its facilities and property.

3. Developer has reviewed the Ordinance, including but not limited to, all of the methodology, formulae, calculations, projections, assumptions, numbers and other factors used to arrive at the educational use transition fees that are the subject of the 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 Plan Commission, any objections relating to the calculations, 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 Developer shall provide satisfactory evidence to the Village that this Agreement or a memorandum thereof has been recorded against legal title to the Land.

5. Developer represents and warrants to the Village that it is the sole holder of record fee title to the Land.

IN WITNESS WHEREOF, the Village and the Developer have caused this Agreement to be duly authorized, executed and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Village Clerk

**EXHIBIT A.1 TO SECTION 22.13**

Legal Description of Property



**EXHIBIT B TO SECTION 22.13**

TABLE OF ESTIMATED ULTIMATE SCHOOL POPULATION PER DWELLING UNIT							
Type of unit	Children per Unit					Adults 18 years +	Total per Dwelling Unit
	Preschool 0-4 years	Elementary Grades K-5 5-10 years	Middle Grades 6-8 11-13 years	Total Grades K-8 5-13 years	High School Grades 9-12 14-17 years		
<b>Detached Single-Family:</b>							
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
<b>Attached Single-Family:</b>							
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
<b>Apartments:</b>							
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

Source: Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, IL 1996

**EXHIBIT C TO SECTION 22.13**

**Acknowledgement of Notification Rights**

Developer hereby acknowledges receipt of a copy of the Educational Use Transition Fee Section of the Prairie Grove Municipal Code referenced in Section 22.13-F, the developer's right to object to the calculations or any other application of the Section.

Developer further acknowledges that if it has any objection to such matters, that it must follow the procedure set forth in said Section F. Failure to do so by the developer shall constitute a waiver of the developer's right to object to such matters. Payment of the fees pursuant to the Section shall constitute a waiver of any right to such a hearing.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_