

LOCAL LAW 9 OF THE YEAR 2024

A LOCAL LAW OF THE TOWN OF CICERO to amend Chapter 185 of the Town Code, in relation to parkland, fees in lieu of parkland, and the subdivision process.

BE IT ENACTED by the Town Board of the Town of Cicero, Onondaga County, New York, as follows: That Town of Cicero Local Law Number ___ of the year 2024 is hereby enacted. Said Local Law reads as follows:

SECTION 1. Authority

This Local Law is adopted pursuant authority granted by the following:

- A. New York State Constitution Article IX §2(c)(8) and §2(c)(10);
- B. Statute of Local Governments §10(1), §10(3), §10(5), and §10(6);
- C. Municipal Home Rule Law §10(1)(i), §10(1)(ii), §10(1)(ii)(a)(9-a), §10(1)(ii)(a)(11), §10(1)(ii)(a)(12), and §10(1)(ii)(a)(14);
- D. The Town's supersession power as set forth in Municipal Home Rule Law §10(1)(ii)(d)(3);
- E. Town Law §64(1), §64(3), and §64(23);
- F. Article 16 of the Town Law;
- G. The Town of Cicero's inherent police powers; and
- H. The laws of the State of New York.

SECTION 2. Legislative Intent

This Local Law is intended to modify Chapter 185 of the Town Code to remove the requirement that the Planning Board, as part of subdivision review for a parcel containing residential units, perform an analysis of Cicero's park needs and enter findings that a fee should be paid in lieu of the establishment of new parkland; the new procedure will make the payment of such fees the default, while preserving the ability of the Town to accept new parkland under certain circumstances should it so choose.

As more fully set forth in the Local Law, it is the express intent of the Town Board to use its supersession powers pursuant to General Municipal Law §10(1)(ii)(d)(3) to supersede the procedures set forth in Town Law §277(4).

SECTION 3. Legislative Findings

The Cicero Town Board hereby finds as follows:

1. Cicero has a growing population which is expected to grow at an even greater rate in the near future, and parks are a vital source of recreation for said population. Many existing amenities at Cicero's parks are being used at or near their capacity, and the increased population will result in concomitant increased wear and tear on existing amenities and facilities, which will likely necessitate replacements, upgrades, increased maintenance, the construction of new amenities, and the addition of new parking and restroom facilities at some of Cicero's parks. This will result in significant expense over and above that which the Town already pays.
2. While ultimately the maintenance of and improvements to parks and park facilities are the responsibility of all Town residents, it is appropriate that a suitable fee be assessed to the developers of new residential housing, given that the future residents of said housing will be the major driving force behind the need to improve and expand Cicero's parks.
3. To address the loss of undeveloped land and the need for recreation space and facilities that accompany new residential developments, Town Law §277(4) sets forth procedures whereby the Planning Board may require an applicant for a subdivision containing residential units to set aside a park or parks if certain findings with regard for the present and future needs of the Town are made. If such a finding is made along with an additional finding that a suitable park or parks of adequate size to meet the Town's requirements cannot be located on the site plan, the Planning Board may require fees in lieu of such park or parks to be collected.
4. Cicero has an adequate number of parks and an adequate amount of park space; the Town does not anticipate a need to acquire and maintain additional parkland, nor would parkland or green space under private ownership meet the Town's needs as described herein.
5. Because Cicero has adequate parks and park space, the provisions of Town Law §277(4) should be superseded such that the default remedy for the harm addressed by that subsection is a recreation fee in lieu of parkland, rather than new parkland itself. However, in the event that Cicero is in need of additional parks or park space in the future, a provision allowing the Town to accept a dedication of land in lieu of the recreation fee should be enacted.
6. Given the high rate of inflation at the time of adoption hereof, it is appropriate for said fees to be set by resolution rather than local law so that they may be adjusted more easily and frequently in response to economic conditions and the needs of the Town.

SECTION 4. Chapter 185 of the Town Code is hereby amended:

By retitling §185-36, which is currently reserved, as "Fee established" and adding the following text:

In order to ensure appropriate recreation facilities and amenities within the Town of Cicero, there shall be imposed a recreation fee per lot for any approved subdivision plat. This fee, which shall be set by resolution of the Town Board, shall be due and payable prior to the final approval of any subdivision plat.

By retitling §185-37 as "Proposal of land dedication", striking the text, and replacing it with the following:

An applicant for subdivision plat approval may propose the dedication of a parcel of land within or without the area for which approval is being sought for recreation purposes in lieu of the payment of the fees herein established. If the Planning Board determines that the land offered for dedication to the Town is suitable for recreation purposes, addresses an actual or imminent need of the Town, and

that the value thereof is at least equal to the amount of the recreation fees which would otherwise be due, it can recommend to the Town Board that it accept an offer of dedication. If the Town Board accepts the offer of dedication, the recreation fees otherwise required shall be waived. The Planning Board may recommend to the Town Board the establishment of conditions in connection with the acceptance of the offer of dedication. Notwithstanding the Planning Board's recommendations, or lack thereof, the Town Board shall have the right to establish conditions in connection with such dedication as it deems appropriate.

By retitling §185-40 as "Supersession," striking the text, and replacing it with the following:

Pursuant to the power granted in Municipal Home Rule Law §10(1)(ii)(d)(3), this section supersedes the following provisions of the Town Law:

- (1) Town Law §277(4)(a) to the extent that it authorizes the Planning Board to require a subdivision plat containing residential units to show a park or parks suitably located for playground or other recreational purposes;
- (2) Town Law §277(4)(b) in its entirety; and
- (3) Town Law §277(4)(c) to the extent that it requires a finding pursuant to §277(4)(b) that a proper case exists for requiring a park or parks suitably located for playgrounds or other recreational purposes, and that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, for a fee in lieu of parkland to be required.

SECTION 5. Severability

The provisions of this Local Law are severable and if any provision, clause, sentence, subsection, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

SECTION 6. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law.