



**VILLAGE OF MONTGOMERY**

**ORDINANCE NO. 1503**

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**AN ORDINANCE REPEALING ORDINANCE 1449 AND REESTABLISHING FEES AND DEPOSITS FOR ADMINISTRATIVE AND CONSULTANT EXPENSES RELATED TO THE ZONING, SUBDIVIDING, DEVELOPMENT, RECORDING AND ANNEXATION OF LANDS OF THE VILLAGE OF MONTGOMERY**

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PASSED BY THE PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS  
THIS 22ND DAY OF AUGUST, 2011.

PUBLISHED IN PAMPHLET FORM BY AUTHORITY  
OF THE PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES,  
ILLINOIS, THIS 22ND DAY OF AUGUST, 2011.

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**BE IT ORDAINED** by the Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois as follows:

**WHEREAS**, the Village of Montgomery is not a home rule municipality within Article VII, Section 6A of the 1970 Constitution of the State of Illinois and therefore pursuant to those powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

**WHEREAS**, costs to the Village of Montgomery (herein "Village") and the extent of involvement of Village personnel and consultants in zoning, annexation site development and subdivision matters has greatly increased in recent years; and

**WHEREAS**, the review, analysis and drafting of annexation agreements, ordinances, site plans, subdivision plats, planned unit developments, and zoning documents and related matters requires the technical skills of retained outside personnel; and

**WHEREAS**, the Plan Commission, Board of Appeals, and the President and Village Board of the Village (herein collectively "Village Officials") recognize that the Village's expenses are greatly increased by the services rendered by its Village Engineer, Village Attorney and other technicians, professionals, and experts who must review these various land development requests; and

**WHEREAS**, the Village Officials further recognize that the compensation of the retained professionals of said Village should not be an expense that burdens Village residents and taxpayers because the projects and plans, when evaluated, approved and accepted by the Village will lead to monetary benefits to the zoning petitioner, annexing party, Developer, Builder, Owner, Subdivider or party seeking a variation or filing an appeal (herein collectively "Developer"); and

**WHEREAS**, the Village Officials further recognize that the expenses to the Village often greatly outweigh the benefits to be received by Village residents and taxpayers; and

**WHEREAS**, the Village officials also recognize that some improvements made as a consequence of the Developer's request, when required by the Village in a specified area, would be constructed, installed and paid for by special assessment or by a special taxing district and therefore such expenses are paid for only by those citizens, residents and taxpayers directly and specifically benefiting from such improvements, which expenses include engineering, legal, planning and other technical, professional or expert assistance required by the Village to construct, install and pay for said improvements; and

**WHEREAS**, the actual costs to review, analyze, and provide advice and assistance to Village Officials on land development plans presented by Developers cannot be determined in advance.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

## **SECTION ONE – REPEALING ORDINANCE #1449**

Ordinance 1449 of the Village of Montgomery is hereby repealed in its entirety and is from this date forward replaced by this ordinance.

## **SECTION TWO – ESTABLISHING FEES, DEPOSITS AND PROCEDURES**

### **I. OBLIGATION OF APPLICANT UNDER THIS ORDINANCE**

It is the obligation of the Developer or Owner to pay all administrative, professional consulting, recording and public hearing expenses (including re-hearings or re-republications and signage), including court reporter fees, incurred by the Village in processing and acting upon petitions or requests for land development or expansion. The deposit for those fees and expenses as hereinafter set forth is intended to insure to the Village that adequate funds will be available to the Village to pay those fees and expenses, but the deposit required is based upon an estimate only of what those fees may be and by making the deposit the applicant is not relieved of the obligation to pay those fees in full if in fact those fees and expenses exceed the deposit amount.

### **II. DEPOSIT FOR FEES AND EXPENSES TO BE PAID TO THE VILLAGE**

#### **A. ZONING REQUESTS**

At the time an application for a zoning change is presented to the Village and prior to any action thereon, funds shall be deposited with the Village of Montgomery in accordance with the following schedule:

1. Variations to the Zoning Ordinance - \$500.00
2. Appeal of a Decision of the Zoning Administrator \$500.00
3. Rezoning of Property or Zoning Text Amendment - \$2,000.00
4. Special Use Permit (not as part of Planned Unit Development)
  - a. Project for which the assistance of the Village's consultants is required - \$5,000.00
  - b. Project for which minimal or no assistance by the consultants is required - \$1,000.00
5. Special Use/Planned Unit Development - \$10,000.00

#### **B. SUBDIVISION PLATS**

At the time a request to subdivide or resubdivide lands is presented to the Village, and prior to any action thereon, funds shall be deposited with the Village in accordance with the following schedule which relates to the size of the proposed subdivision or resubdivision:

1. One (1) acre or any fraction thereof - \$2,000.00.
2. In excess of one (1) acre but not over ten (10) acres \$5,000.00.
3. In excess of ten (10) acres but not over thirty-five (35) acres - \$10,000.00.
4. In excess of thirty-five (35) acres - \$20,000.00.

If a Subdivision Plat requires a zoning amendment, variation, special use permit or planned unit development zoning pursuant to the provisions of the Montgomery Zoning Ordinance, the sum

deposited shall be in accordance with this Section rather than the provisions contained within Paragraph A of this Ordinance.

**C. ANNEXATION AND ANNEXATION AGREEMENTS**

At the time a request for annexation or annexation agreement is presented to the Village and prior to any action thereon, funds shall be deposited with the Village in accordance with the following schedule relating to the size of the proposed annexation:

1. One (1) acre or any fraction thereof - \$2,000.00.
2. In excess of one (1) acre but not over ten (10) acres 5,000.00.
3. In excess of ten (10) acres but not over thirty-five (35) acres - \$10,000.00.
4. In excess of thirty-five (35) acres - \$20,000.00.

If a petition for annexation or annexation agreement requires a zoning amendment, variation, special use permit or planned unit development zoning pursuant to the provisions of the Montgomery Zoning Ordinance, the sum deposited shall be in accordance with this Section rather than the provisions contained within Paragraph A of this Ordinance.

**D. SUBDIVISION AND ANNEXATION**

If an application is presented to the Village for both annexation and subdivision or planned unit development review, then the sum deposited shall be in accordance with Paragraph C above., and at the time such application is presented to the Village and prior to any action thereon, funds shall be deposited with the Village.

**E. SITE PLAN REVIEW OR OTHER DEVELOPMENT**

At the time of application for Site Plan approval and prior to any action thereon, funds shall be deposited with the Village of Montgomery in accordance with the following schedule:

1. One (1) acre or any fraction thereof - \$2,000.00
2. In excess of one (1) acre but not over ten (10) acres \$5,000.00.
3. c) In excess of ten (10) acres but not over thirty-five (35) acres - \$10,000.00.
4. d) In excess of thirty-five (35) acres - \$20,000.00.

If a Site Plan Review requires a zoning amendment, variation, special use permit or planned unit development zoning pursuant to the provisions of the Montgomery Zoning Ordinance, the sum deposited shall be in accordance with this Section rather than the provisions contained within Paragraph A of this Ordinance.

**F. ADMINISTRATIVE FEE**

1. The Developer shall pay an administrative fee to the Village which shall be equal to five percent (5%) of the amount invoiced for all items of expense from Section I hereof (whether characterized as fees, costs or otherwise).
2. The Developer shall pay an additional administrative fee (in addition to Section F-1) which shall

be equal to eight percent (8%) of any invoice for engineering services incurred under Section I hereof.

**G. PUBLICATION AND PUBLIC HEARING EXPENSES**

The Developer shall pay all publication expenses and public hearing expenses (Including any re-hearings or re-publication of hearings and signage), including court reporter fees.

**H. RECORDING OF PLATS AND DOCUMENTS**

The Developer shall pay recording fees for all plats, ordinances and documents recorded by the Village. The Village shall take responsibility for recording and retain the original, and shall provide the Developer with one (1) complimentary copy. Any additional copies requested by the Developer will be at the Developer's cost.

**I. DEPOSIT AMOUNTS**

The deposit amounts set forth herein shall be deposited in an escrow account maintained by the Finance Department. Interest on the account shall accrue to the Village of Montgomery.

**II. INSPECTION AT DEVELOPER'S EXPENSE**

- A.** All public and private improvements proposed to be made under the provisions of this Ordinance shall be inspected during the course of construction by the Village consultants.
- B.** During the course of construction of the improvements, the Developer shall be required to notify the Village Engineer forty-eight (48) hours before the inspection of all utilities.
- C.** The Developer shall pay the cost of all inspection and testing services. The fee shall be invoiced by the Village, based on current rates and standard industry practice.

**III. AGREEMENT TO PAY VILLAGE FEES IN FULL**

Developers shall execute and file with the Village Clerk the "Developer's Agreement With Respect to Land Development Fees and Deposits" which is marked Exhibit A and is attached hereto.

**IV. AGREEMENT TO PAY EXPENSE**

Invoices for professional services received on behalf of the applicant shall be submitted to the applicant on a timely basis and paid within 20 days of the date thereof. Unpaid invoices by any applicant may be satisfied by any funds on deposit per Paragraph H for said applicant. The Village will put the application on hold until the original deposit amount is replenished.

**V. REFUNDS**

The fee schedule set forth herein is based upon an estimate of the costs and fees that will be incurred by the Village in reviewing and acting upon the applications described. At the time of final action (or thereafter, if not at time of final action) by the Village Officials or the written request by an applicant that further action on the application terminate, an itemization of consultants' costs and publication fees and public hearing expenses shall be sent to the Developer. Refunds of unexpended deposits shall be paid by the Village to the Developer when final action has been taken by Village Officials or after a termination of the proceedings by the Developer.

**VI. ADDITIONAL DEPOSIT REQUIRED**

The amounts required herein above are estimates only. The Village may request an additional deposit (or deposits) during the course of the review of land development plans if the deposit (or deposits) paid

by the Developer to the Village has been exhausted. In such event, the Developer shall redeposit a sum in an amount determined by the Village Engineer. The Village reserves the right to delay any further action on the application until this additional deposit is paid.

**VII. OTHER FEES**

This ordinance does not affect the amount of nor the manner of payment of other Village fees, such as building permit fees, connection fees, and the like.

**VIII. DEFINITION OF ACRE**

An "acre" is defined as an area of land consisting of 43,560 square feet.

**IX. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

In the event deposited funds have been exhausted and an additional deposit has not yet been made, building permits shall not be issued until all administrative, professional consulting and public hearing expenses have been paid.

Certificates of Occupancy may not be issued until all outstanding invoices have been paid.

**SECTION THREE: PUBLICATION**

This ordinance shall be published in pamphlet form by and under the authority of the Village Officials of the village, Kane and Kendall County, Illinois.

**SECTION FOUR: REPEALER**

All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance shall be and are hereby repealed to the extent of such conflict.

This Ordinance shall become effective from and after its passage, approval and publication in the manner prescribed by law.

**SECTION FIVE: SEVERABILITY**

Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision has not been a part of this ordinance.

**SECTION SIX: EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois this 22<sup>nd</sup> day of August, 2011.

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Marilyn Michelini,  
President of the Board of Trustees of the Village of Montgomery

ATTEST:

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Carla Cooper, Clerk of the Village of Montgomery

	Aye	Nay	Absent	Abstain
Trustee Stan Bond	___	___	___	___
Trustee Matt Brolley	___	___	___	___
Trustee Pete Heinz	___	___	___	___
Trustee Andrew Kaczmarek	___	___	___	___
Trustee William Keck	___	___	___	___
Trustee Dennis Lee	___	___	___	___
Village President Marilyn Michelini	___	___	___	___

**EXHIBIT A**

**DEVELOPER'S AGREEMENT WITH RESPECT TO  
LAND DEVELOPMENT FEES AND DEPOSITS**

The undersigned Developer acknowledges that he/she has filed a \_\_\_\_\_  
(type of action requested) and acknowledges he has received a copy of Ordinance No. 1503 and accepts  
the terms thereof. The Developer, in consideration of the Village undertaking review of the Developer's  
request, agrees to be bound by the terms of such Ordinance and herewith submits an initial deposit of  
\_\_\_\_\_ (\$ \_\_\_\_\_) Dollars.

Developer further acknowledges that said amount is an estimated amount only, and is to be held a  
security for monthly payments of invoiced expenses and shall only be drawn upon if the Developer fails  
to pay invoices when due. If invoices are not paid, or said deposit is exhausted, the Developer  
acknowledges that his/her application shall be held and not processed further until said amounts are  
satisfied or brought current. Developer may be required to replenish said amount if it becomes  
exhausted.

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Dated

Billing Attn: \_\_\_\_\_

Billing Company Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

For Staff Use:  
Project Name: \_\_\_\_\_

RECEIPT OF INITIAL FEE DEPOSIT ACKNOWLEDGED  
BY VILLAGE COLLECTOR.

\_\_\_\_\_  
Village Collector

***This form must be executed and accompany all Development Applications. No Application will be  
accepted or processed without this completed form.***