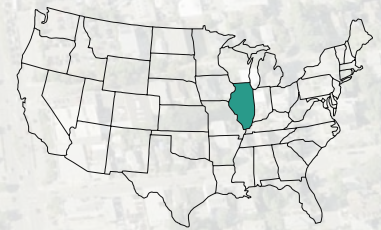




A Tool for Towns and Counties to Promote Walkable Schools

Understanding the Illinois Model Land Cash Ordinance



School locations can have a major impact on children's health. Although school districts generally make the key decisions about where schools are located, local governments can play an important role, and land cash ordinances are a powerful tool for influencing school location. By crafting these laws to encourage smart school siting, local governments can promote children's health and advance local planning goals.

What's a Land Cash Ordinance?

Local governments in Illinois can use what are known as *land cash ordinances* to require developers to dedicate land (or contribute cash) to provide public services for residents of the new development.¹ These laws let local governments require that developers provide a school site to serve new residents as a condition of approving the development. Land cash ordinances provide an ideal opportunity for local governments to consider the role that the size, location, and intended uses of school property play in creating healthier and safer communities.

Currently, the land that Illinois subdivision developers dedicate for school sites is often composed of large, peripherally located tracts that are not readily accessible to students and the rest of the community. Students can't easily walk or bicycle to sprawling school sites located on the edge of town, and community members can't easily access distant school facilities for recreation and other activities. This model land cash ordinance encourages local governments to promote the development of schools that are conveniently located and the right size to serve the community's needs.



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Benefits of Smaller, Walkable Schools

Walkable, centrally located schools built on a smaller scale mean students can walk and bike to school safely and use school facilities for recreational activities after school hours. Physical activity not only promotes student health² but also has been shown to improve academic performance.³ What's more, walking or bicycling to school contributes to efforts to reduce greenhouse gas emissions.⁴

Walkable sites also allow schools to provide for additional non-educational needs of a new development. As community anchors, neighborhood schools can serve as meeting halls, recreational facilities, and emergency centers, and they can provide a site for public activities ranging from farmers' markets to community gardens. Indeed, the public use of school sites can be a central component of communities' efforts to use government resources efficiently to improve public health and meet community needs.



Land Cash Ordinances: Part of a Larger Strategy to Improve School Siting

Our model ordinance is one piece of a larger effort to improve decisions in Illinois about how and where to locate public schools. In addition to this model ordinance, which is meant to be adopted by counties and municipalities, we have also developed Model School Siting Policies for School Districts.⁵ Both of these sets of policies highlight the need for greater intergovernmental collaboration in decisions about school locations. The model policy documents also point out the need for a substantive commitment to developing smaller, walkable schools that are designed to secure the safety and health of the entire community.

How the Model Ordinance Differs from Existing Ordinances

The model ordinance differs from most existing Illinois land cash ordinances in several ways. First, the model ordinance does not require that a developer dedicate a specific amount of land for school sites. Instead, the ordinance encourages the parties to negotiate to find the best size for a school site based on local needs, while also providing a maximum dedication size so that developers know the most they'll be expected to contribute.⁶ Second, the ordinance requires that land dedications not only support school districts' needs but also consider the local government's planning goals.

The model ordinance also encourages municipalities and school districts to consider potential joint uses of the site as part of the process of determining the appropriate amount of acreage to be dedicated.⁷ A *joint use agreement* refers to a written agreement between a school district and one or more public entities that sets forth the terms and conditions for sharing use of the district's facilities. In this way, local governments can work together with school districts to use public lands more efficiently and avoid creating sprawling school campuses. ChangeLab Solutions has many additional resources on joint use.⁸



Using the Model Land Cash Ordinance

Our model land cash ordinance for public school sites provides a comprehensive ordinance that local governments can adopt as a whole. Alternatively, a local government with an existing land cash ordinance can selectively adopt individual provisions to improve the policy's approach to school siting.

As with all of our model laws, the model is designed so that each community can tailor the law to its own needs. The model notes where a local community should make a decision regarding policy options. Annotations ("comments") following the legal provisions present alternatives or provide more explanation of legal or policy considerations that relate to a given provision. In considering which options to choose, drafters should balance public health benefits against practical political considerations and other local conditions in the particular jurisdiction.





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¹ Land cash ordinances are a type of development exaction, which are broadly defined as “the concessions local governments require of property owners as a condition on the approval of the intensified use of real property.” Fenster M. “Takings Formalism and Regulatory Formulas: Exactions and the Consequences of Clarity,” *California Law Review* 92: 609-81, 2004. See also Zizka M, Hollister T, Larsen M, et al. *State and Local Government Land Use Liability* § 18:2. 2011.

² Centers for Disease Control and Prevention. *Adolescent and School Health*. 2012. Available at: www.cdc.gov/healthyyouth/physicalactivity/facts.htm. See also U.S. Department of Health and Human Services. *Physical Activity Guidelines Advisory Committee report*. Washington, DC: U.S. Department of Health and Human Services, 2008.

³ *Id.*; see also Sibley BA and Etnier JL. “The Relationship Between Physical Activity and Cognition in Children: A Meta-Analysis.” *Pediatric Exercise Science*, 15: 243-56, 2003. See also Centers for Disease Control and Prevention. “The Association Between School-Based Physical Activity, Including Physical Education, and Academic Performance.” Atlanta, GA: U.S. Department of Health and Human Services; 2010. Available at www.cdc.gov/healthyyouth/health_and_academics/pdf/pa-pe_paper.pdf.

⁴ *Travel and Environmental Implications of School Siting*. Washington, D.C.: U.S. Environmental Protection Agency, 2003. Available at: www.epa.gov/smartgrowth/pdf/school_travel.pdf.

⁵ *Policy Package: Model School Siting Policies for Illinois School Districts*. 2011. Available at: www.changelabsolutions.org/publications/smart-school-siting.

⁶ The Supreme Court has ruled that the Due Process Clause of the U.S. Constitution places both qualitative and quantitative restrictions on development exactions imposed by local governments. *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825 (1987) (holding exaction conditions imposed must be related in nature to a legitimate public purpose for regulation); *Dolan v. City of Tigard*, 512 U.S. 374 (1994) (requiring “rough proportionality,” supported by individually quantified findings, between the extent of an exaction demanded and the extent of a proposed development’s impact). The Illinois Constitution places even more demanding restrictions on the use of development exactions. See *Raintree Homes, Inc. v. Vill. of Long Grove*, 389 Ill. App. 3d 836, 852 (Ill. App. Ct. 2009) (citing *Pioneer Trust & Sav. Bank v. Vill. of Mount Prospect*, 22 Ill. 2nd 375 (Ill. 1961)). ChangeLab Solutions’ *Model Land Cash Ordinance* ensures that the maximum amount of the exaction complies with both federal and state constitutional standards.

⁷ The ordinance incorporates the LEED Rating System, which specifically considers the amount of land subject to a joint use agreement in calculating the amount of land needed for each school classification. See U.S. Green Building Council. *Rating Systems: Schools*. 2011. Available at: www.usgbc.org/DisplayPage.aspx?CMSPageID=1586.

⁸ ChangeLab Solutions. *Joint Use*. 2012. Available at: www.changelabsolutions.org/childhood-obesity/joint-use.