



Village of Downers Grove

Official Village Policy Approved by Village Council

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| Description: | Easements over Property Owned by Others, Acceptance of | |
| Res. or Ord. #: | Res. 95-34 | Effective Date: 7/17/95 |
| Category: | Legislative and General Management | |
| | <input type="checkbox"/> New Council Policy | |
| | <input checked="" type="checkbox"/> | Amends Previous Policy Dated: 9/3/85 |
| | Description of Previous Policy (if different from above): | |
| | <u>Acceptance of Easement</u> | |

RESOLUTION NO. 95-34

A RESOLUTION AMENDING THE VILLAGE COUNCIL POLICY AUTHORIZING THE VILLAGE MANAGER TO ACCEPT CERTAIN EASEMENTS OVER PROPERTY OWNED BY OTHERS

WHEREAS, the Subdivision Control Ordinance and the Storm Water and Flood Plain Ordinance of the Village of Downers Grove require that the Village be granted easements over those portions of private property containing facilities designed to control storm water release from the property in order to assure the Village's right to perform maintenance work on such facilities in the event that the owner's failure to maintain the facilities endangers the welfare of other property in the Village; and

WHEREAS, it is from time to time necessary and desirable for the Village to be granted easements over property on which sidewalks, mains or other appurtenances of the Village's water distribution or storm water control systems, or other Village-owned facilities have been installed, either by design or error, or across which access to Village-owned facilities may be gained; and,

WHEREAS, on September 3, 1985, the Village Council adopted Resolution 85-28 entitled "A Resolution Authorizing the Village Manager to Accept Certain Easements Over Property Owned by Others".

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That subject to the condition established in paragraph 3 hereof, the Village Manager of the Village of Downers Grove is hereby authorized to execute and accept on behalf of the Village from time to time as he may deem necessary, easements over privately-owned property, or property owned by public bodies other than the Village, on which are located or across which access may be gained to storm water detention and drainage facilities, sidewalks, portions of the Village's water distribution or storm water control systems, or other Village-owned facilities. In connection with acceptance of such easements, the Village Manager is authorized to execute on behalf of the Village, covenants, if any, related to maintenance of the facilities located

within such easements; provided, however, that such covenants do not create any obligation of the Village to maintain in any particular facilities, but merely allow the Village to perform such maintenance on Village-owned facilities. The foregoing notwithstanding, the Village may be made responsible by such covenants for restoration of any damage done to the property in the course of such maintenance by the Village.

2. That subject to the condition established in paragraph 3 hereof, the Village Manager is further authorized to release easements such as those described above at such time, and only at such time, as he has accepted on behalf of the Village substitute easements over the subject property which are located so as to more adequately serve the purposes for which such easements are intended. The Village Council retains the authority to release or vacate easements in the event that it has been determined that an easement over the property is no longer needed by the Village.

3. That no easements shall be accepted or released by the Village Manager unless he has given written notice of his intent to take such action to the Village Council at least forty-eight hours prior to a regularly scheduled Council meeting. At such meeting the Village Council may direct the Village Manager to take some other action appropriate to the particular situation.

4. That the Village Clerk is hereby authorized to attest, seal and deliver grants of easements and covenants relevant thereto executed by the Village Manager pursuant to the authority granted by this resolution, and the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform the obligation of the Village in connection therewith.

5. This policy is not intended nor shall it impose or create any liability or obligation on the Village to undertake any acceptance of an easement. No liability shall be imposed on the Village, its officers, agents or employees, as a result of the existence of this policy, or any actions or inactions taken with respect to this policy. It is further expressly acknowledged that any acceptance of easements or activities undertaken by the Village in relation to this policy shall be within budgetary limitations as may from time to time be set by the Village Council. The validity of any action otherwise taken by the Council in accordance with applicable law shall not be invalidated, impaired, or otherwise affected by noncompliance with any part of the policy set forth herein. It is expressly understood that this policy is a general guideline and shall not place any mandatory obligations upon the Village, its officers, agents or employees.

6. That all resolutions or parts of resolutions in conflict with the provisions of this resolution, and in particular Resolution 85-28, are hereby repealed.

7. That this resolution shall be in full force and effect from and after its passage as required by law.

Betty M. Cheever, Mayor

Passed: July 17, 1995
Published: July 18, 1995
Attest: Barbara Waldner, Village Clerk