

VILLAGE OF DEERFIELD

ORDINANCE NO. 2019-_____

**AN ORDINANCE APPROVING AN AMENDMENT TO A SPECIAL USE PERMIT
TO PERMIT THE INSTALLATION OF A NEW DIGITAL SCOREBOARD AT
DEERFIELD HIGH SCHOOL**

WHEREAS, Township High School District 113 ("**Owner**") is the owner of the property commonly known as Deerfield High School ("**High School**") located at 1959 Waukegan Road ("**Property**"), which Property is legally described in **Exhibit A** attached and, by this reference, made a part of the this Ordinance; and

WHEREAS, the High School is located in the P-1 Public Lands District ("**P-1 District**"); and

WHEREAS, pursuant to Section 7.02-A of the "Deerfield Zoning Ordinance 1978," as amended ("**Zoning Ordinance**"), public high schools may be operated in the P-1 District only upon the issuance of a special use permit; and

WHEREAS, the Village Board approved a special use permit to permit the Owner to operate the High School on the Property, which special use permit was amended on November 11, 2011 pursuant to Ordinance No. O-11-41, and on March 15, 2003 pursuant to Ordinance No. 0-04-14 (collectively, "**Special Use Permit**"); and

WHEREAS, the Owner desires to install a new digital scoreboard with a 600 square foot screen to be used in conjunction with the athletic field on the Property ("**Proposed Scoreboard**"); and

WHEREAS, pursuant to Section 13.11 of the Zoning Ordinance, the Owner has filed an application with the Village for an amendment to the Special Use Permit to install the Proposed Scoreboard ("**Special Use Amendment**"); and

WHEREAS, the Owner also filed an application for an amendment to the Zoning Ordinance to allow for the Proposed Scoreboard to be used for community events up to six times per calendar year ("**Community Events**"); and

WHEREAS, a public hearing of the Plan Commission of the Village of Deerfield to consider the Application was duly advertised in the *Deerfield Review* on February 7, 2019 and held on February 28, 2019; and

WHEREAS, on February 28, 2019, the Plan Commission adopted Findings of Fact, recommending that the Village Board approve the Application; and

WHEREAS, the Village Board has determined that the Special Use Amendment complies with the required standards for special use permits set forth in Articles 13 of the Zoning Ordinance; and

WHEREAS, consistent with the Plan Commission recommendation, the Village Board has determined that it will serve and be in the best interests of the Village and its residents to approve the Special Use Amendment for the Property, in accordance with, and subject to, the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, as follows:

SECTION ONE: RECITALS. The foregoing recitals are incorporated into, and made a part of, this Ordinance as the findings of the Village Board.

SECTION TWO: APPROVAL OF AMENDMENT TO SPECIAL USE PERMIT. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section Three of this Ordinance, the Village Board hereby approves the Special Use Amendment for the Property to allow for the installation of the Proposed Scoreboard, in accordance with, and pursuant to, Article 13 of the Zoning Ordinance and the home rule powers of the Village.

SECTION THREE: CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Village Code or the Zoning Ordinance, or any other rights the Owner may have, the approvals granted in Section Two of this Ordinance are hereby expressly subject to and contingent upon the redevelopment, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. The redevelopment, use, operation, and maintenance of the Property must comply with all applicable Village codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically provided otherwise in this Ordinance.
- B. Compliance with Plans. The redevelopment, use, operation, and maintenance of the Property must comply with the plans in **Exhibit B** attached to and, by this reference, made a part of this Ordinance, except for minor changes and site work approved by the Village Principal Planner in accordance with all applicable Village standards.
- C. Other Conditions. The redevelopment, use, operation, and maintenance of the Property must comply with the following additional conditions:
 1. Within 90 days after the installation of the Proposed Scoreboard, the Owner must install ~~and maintain~~ landscaping on or adjacent to the Property to screen the view of the scoreboard ~~and to mitigate the glare from scoreboard from nearby properties pursuant to a landscape plan approved of by the Village Manager after consultation with the North Trail Homeowners' Association. To address the adjacent North Trail Homes abutting the South property line of Deerfield High School.~~ **COMMENT: The installation will have an associated warranty, do not want to have intended maintenance into perpetuity. "Glare" is not measurable. The open ended "nearby property"**

needs tight definition. There could be legacy issues that could be brought up that the District would have no way to know when or how the issue arose and now being asked to fix.

2. All Community Events that involve the use of the Scoreboard must end by sundown.
3. The Scoreboard shall not be used for more than six Community Events per year. For purposes of this Ordinance, a “*Community Event*” shall mean events other than athletic events. ~~involving a Deerfield High School athletic team.~~ COMMENT: This aligns with the language in the ord. reflecting in section 9.02-F.3 allowing the score board to be used for community events.
4. The Proposed Scoreboard shall not display commercial advertisements or Commercial messaging during Community Events. COMMENT: Looking to make clear that messaging can be displayed during events, just not commercial ones.
5. The volume of the public address system and any other amplified sound used in conjunction with athletic events or Community Events on the Property must not be increased from the volume used on the Property as of the effective date of this Ordinance.

SECTION FOUR: RECORDATION; BINDING EFFECT. A copy of this Ordinance shall be recorded in the Office of the Lake County Recorder of Deeds against the Property. This Ordinance and the privileges, obligations, and provisions contained herein run with the Property and inure to the benefit of, and are binding upon, the Owner and its personal representatives, successors, and permitted assigns.

SECTION FIVE: FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, in addition to all other remedies available to the Village, the approvals granted in Section Two of this Ordinance (“*Approval*”) may, at the sole discretion of the Village Board, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Board may not so revoke the Approval unless it first provides the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village Board. In the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. Notwithstanding the foregoing or anything else contained in this Ordinance, neither the Owner’s failure to comply with this Ordinance, nor anything else contained herein, shall effect or restrict Owner’s rights to use the Property as otherwise permitted by the Zoning Ordinance.

SECTION SIX: AMENDMENTS. Any amendment to any provision of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance for the granting of special use permits.

SECTION SEVEN: EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
1. Passage by the Village Board by a majority vote in the manner required by law;
 2. Publication in pamphlet form in the manner required by law;
 3. The filing by the Owner with the Village Clerk of a fully executed Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance; and
 4. Recordation of this Ordinance, together with such exhibits as the Village Clerk deems appropriate for recordation, with the office of the Recorder of Lake County.
- B. In the event the Owner does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 7.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village Board will have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

AYES:

NAYS:

ABSTAIN:

ABSENT:

PASSED:

APPROVED:

ORDINANCE NO.

ATTEST:

Harriet Rosenthal, Mayor

Kent S. Street, Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THAT PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES EAST OF THE EASTERLY RIGHT OF WAY LINE OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILWAY COMPANY, AND EAST OF WAUKEGAN ROAD, ALSO KNOWN AS ROUTE 42A, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 20; THENCE WESTERLY ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SECTION 20, 2,838.30 FEET TO THE EASTERLY BOUNDARY OF WAUKEGAN ROAD (ROUTE 42A); THENCE SOUTH EASTERLY ALONG THE EAST BOUNDARY OF WAUKEGAN ROAD (ROUTE 42A), 1,436.11 FEET; THENCE EASTERLY PARALLEL WITH THE NORTH LINE OF THE SOUTH HALF OF SECTION 20, 2,333.73 FEET TO THE EAST LINE OF THE SOUTH HALF OF SECTION 20, 1,347.59 FEET TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

P.I.N. 16-20-400-009-0000 AND 16-20-400-002-0000.

EXHIBIT B

PLANS

EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Deerfield, Illinois ("**Village**");

WHEREAS, Township High School District 113 ("**Owner**") is the owner of the property commonly known as Deerfield High School ("**High School**"), 1959 Waukegan Road ("**Property**"), which Property is legally described in **Exhibit A** attached and, by this reference, made a part of the this Ordinance; and

WHEREAS, the High School is located in the P-1 Public Lands District ("**P-1 District**"); and

WHEREAS, pursuant to Section 7.02-A of the "Deerfield Zoning Ordinance 1978," as amended ("**Zoning Ordinance**"), public high schools may be operated in the P-1 District only upon the issuance of a special use permit; and

WHEREAS, the Village Board approved a special use permit to permit the Owner to operate the High School on the Property, which special use permit was amended on November 11, 2011 pursuant to Ordinance No. O-11-41 and on March 15, 2003 pursuant to Ordinance No. 0-04-14 (collectively, "**Special Use Permit**"); and

WHEREAS, the Owner desires to install a new 600-square-foot digital scoreboard to be used in conjunction with the athletic field at the Property ("**Proposed Scoreboard**"); and

WHEREAS, pursuant to Section 13.11 of the Zoning Ordinance, the Owner has filed an application with the Village for an amendment to the Special Use Permit to install the Proposed Scoreboard ("**Special Use Amendment**"); and

WHEREAS, the Owner also filed an application for an amendment to the Zoning Ordinance to allow the Proposed Scoreboard to be used for up to six community events ("**Community Events**") on the Property; and

WHEREAS, Ordinance No. _____, adopted by the Village Board on _____, 2019 ("**Ordinance**"), grants the Special Use Amendment; and

WHEREAS, Section 7.A.3 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner has filed, within 30 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Owner does hereby agree and covenant as follows:

1. The Owner hereby unconditionally agrees to, accept, consent to, and will abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Owner acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility

of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Owner acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting the Special Use Amendment or adoption of the Ordinance, and that the Village's approval of the Special Use Amendment does not, and will not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time.

4. The Owner hereby agrees to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the Special Use Amendment.

Dated: _____, 2019.

ATTEST:

**TOWNSHIP HIGH SCHOOL DISTRICT
113**

By: _____

By: _____

Its: _____

Its: _____