



# Office of the City Clerk

City Hall  
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## Legislation Text

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OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

February 28, 2018

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY  
OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing acquisition of properties and associated expenditures of Open Space Impact Fee funds.

Your favorable consideration of these ordinances will be appreciated.

Mayor

Very truly yours,

> ORDINANCE

WHEREAS, the City of Chicago (the "City") is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City wishes to acquire for public open space purposes the property commonly known as 4546 N. Kedvale Avenue, Chicago, Illinois, as further described in Exhibit A (the "Property"); and

WHEREAS, the Chicago Plan Commission, the Chicago Park District and the City Council of the City (the "City Council") have previously prepared and approved that certain planning document entitled, "City Space: An Open Space Plan For Chicago", dated January 1998 (the "Open Space Plan"), which sets forth certain goals and objectives for increasing open space in the City; and

WHEREAS, the acquisition of the Property for public open space is consistent with the purposes and objectives of the Open Space Plan; and

WHEREAS, the City Council finds that the establishment of additional public open space and parkland is essential to the general health, safety and welfare of the City; and

WHEREAS, on April 1, 1998, the City Council adopted the Open Space Impact Fee Ordinance codified at Chapter 18 of Title 16 (the "Open Space Ordinance") of the Municipal Code of Chicago to address the need for additional public space and recreational facilities for the benefit of the residents of newly created residential developments in the City; and

WHEREAS, the Open Space Ordinance authorizes, among other things, the collection of fees from residential developments that create new dwelling units without contributing a proportionate share of open space and recreational facilities for the benefit of their residents as part of the overall development (the "Fee-Paying Developments"); and

WHEREAS, pursuant to the Open Space Ordinance, the City's Department of Finance ("DOF") has collected fees derived from the Fee-Paying Developments (the "Open Space Fees") and has deposited those fees in separate funds, each fund corresponding to the Community Area (as defined in the Open Space Ordinance) in which each of the Fee-Paying Developments is located and from which the Open Space Fees were collected; and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees be expended within the same or a contiguous Community Area from which they were collected after a legislative finding by the City Council that the expenditure of the Open Space Fees will directly and materially benefit the developments from which the Open Space Fees were collected; and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition or capital improvements, or both, which provide a direct and material benefit to the new development from which the fees are collected; and

WHEREAS, the City's Department of Planning and Development ("DPD") wishes to use proceeds from the Open Space Fees collected by DOF, in an amount not to exceed Forty-Eight Thousand Five Hundred Fifty-Two Dollars (\$48,552), for the purpose of partially funding the acquisition of the Property, which Property will be used to provide open space and recreational facilities for the benefit of the residents of the Albany Park Community Area; and

WHEREAS, DPD has determined that the use of the Open Space Fees to fund the City's acquisition of the Property will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected in that the Open Space Fees used for the acquisition of the Property will come from the specific fund set up by DOF for the corresponding Community Area in which a Fee-Paying Development is located and from which the Open Space Fees were collected; and

WHEREAS, DPD has recommended that the City Council: (i) make a finding that the expenditure of the Open Space Fees as described herein will directly and materially benefit the Fee-Paying Developments from which the Open Space Fees were collected; (ii) approve the use of the Open Space Fees for the purposes set forth in this ordinance; and (iii) authorize the City's acquisition of the Property; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. The City Council hereby finds that the expenditure of the Open Space Fees for the acquisition of the Property will directly and materially benefit the residents of those Fee-Paying Developments from which the Open Space Fees were collected.

SECTION 3. The City Council hereby approves the use of the Open Space Fees, in an amount not to exceed Forty-Eight Thousand Five Hundred Fifty-Two Dollars (\$48,552), for the acquisition of the Property.

SECTION 4. The City Council hereby further finds that it is useful, desirable and necessary that the City acquire the Property for public purposes, including the purpose of implementing the objectives of the Open Space Plan.

SECTION 5. The Corporation Counsel is authorized to negotiate with the owner(s) for the purchase of the Property. If the Corporation Counsel and the owner(s) are able to agree on the terms of the purchase, the Corporation Counsel is authorized to purchase the Property on behalf of the City for the agreed price. If the Corporation Counsel is unable to agree with the owner(s) of the Property on the terms of the purchase, or if the owner(s) is or are incapable of entering into such a transaction with the City, or if the owner(s) cannot be located, then the Corporation Counsel is authorized to institute and prosecute condemnation proceedings on behalf of the City for the purpose of acquiring fee simple title to the Property under the City's power of eminent domain. If the City acquires the Property from the Corporation For Open Lands, an Illinois not-for-profit corporation ("Corlands"),

the City shall also be authorized to use Open Space Fees, in an amount not to exceed a total of Forty-Eight Thousand Five Hundred Fifty-Two Dollars (\$48,552), to pay for the acquisition cost of the Property from Corlands and to reimburse Corlands for the following acquisition-related costs incurred by Corlands: phase I environmental report and appraisal; demolition and site preparation costs; and legal and holding fees as part of the City's acquisition costs for the Property. Such acquisition efforts shall commence with respect to Property within ten (10) years of the date of the publication of this ordinance. Commencement shall be deemed to have occurred upon the City's delivery of an offer letter to the owner(s) of the Property.

SECTION 6. The Commissioner of DPD is authorized to execute such documents as may be necessary to implement the provisions of this ordinance, subject to the approval of the Corporation Counsel.

SECTION 7. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 8. This ordinance takes effect upon its passage and approval.

EXHIBIT A

PROPERTY (Subject to Final Title Commitment and Survey)

Address: 4546 North Kedvale Avenue

Chicago, Illinois

PIN: 13-15-228-001, -002, -003 and -004

Current status: Vacant