

**BOUNDARY AND PLANNING AGREEMENT BETWEEN THE
VILLAGE OF LINCOLNSHIRE AND
VILLAGE OF BUFFALO GROVE**

THIS AGREEMENT is entered into by and between the Village of Buffalo Grove, Cook and Lake Counties, a municipal corporation (“Buffalo Grove”) and the Village of Lincolnshire, Lake County, Illinois a municipal corporation (“Lincolnshire”).

WHEREAS, this Agreement is being created in order to establish a consensus defining logical municipal boundaries and areas of municipal authority as well as clarifying planning concepts between both municipalities for the purpose of insuring the development of certain territory in a manner consistent with the Comprehensive Plans of both communities; and

WHEREAS, the purpose of this Agreement is to define those areas which might be annexed to each of the municipalities at such time as annexation becomes feasible; and

WHEREAS, it is further the purpose of this Agreement to set forth a consistent and compatible approach toward land use, zoning and development planning within those areas which might be annexed by either Village so as to create a uniform sense of community; and

WHEREAS, the municipalities have consulted and have determined that the establishment of a proper boundary delineation as herein set forth would be in the best interests of each Village as well as the citizens and property owners of the area generally; and

WHEREAS, each Village has determined that it shall not seek annexation as between each other beyond the boundaries hereinafter defined; and

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois of 1970 authorizes units of local government, including municipalities, to contract, to exercise, combine, or transfer any power or function not prohibited to them by law or ordinance; and

WHEREAS, in arriving at this Agreement, Buffalo Grove and Lincolnshire have given consideration to the natural flow of stormwater drainage and, when practical, have included all of a single tract of land having common ownership within the jurisdiction of only one municipality; and

WHEREAS, the Intergovernmental Cooperation Act of 1973 (5 ILCS, 220/1 et seq.) authorizes municipalities to exercise jointly with any public agency of the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities, and undertakings; and

WHEREAS, The Village of Lincolnshire and the Village of Buffalo Grove are both home rule units of government pursuant to Article VII of the Constitution of the State of Illinois; and

WHEREAS, Section 6 of Article VII of the Constitution of the State of Illinois of 1970 provides that a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety morals and welfare; and

WHEREAS, the Illinois Courts have held that a municipality has a legitimate interest in regulating the development of land near its borders to protect the health and safety of its people [*City of Urbana v. County of Champaign*, 76 Ill. 2d 63 (1979) and *Village of Lake Bluff v. City of North Chicago*, 224 Ill.App.3d 866 (1992)] and to provide uniformity and continuity [*Petterson v. City of Naperville*, 9 Ill. 2d 233 (1956) and *Village of South Elgin v. City of Elgin*, 203 Ill.App.3d at 364 (1990)]; and

WHEREAS, unincorporated territory lies within one and one-half miles of the boundaries of Buffalo Grove and Lincolnshire; and

WHEREAS, Buffalo Grove and Lincolnshire have authorized, by ordinance, the execution of this Agreement as an exercise of their home rule powers and authority under the Constitution of the State of Illinois of 1970.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed by and between the Buffalo Grove and Lincolnshire as follows:

Section 1. Incorporation of Preambles

The foregoing Preambles are hereby incorporated herein as if fully set forth hereby.

Section 2. Boundary Line

Buffalo Grove and Lincolnshire agree that in the unincorporated area lying between and near the two municipalities, the boundary line for annexation, governmental planning, subdivision control, official map, ordinances, utility services and other municipal purposes and services shall be as is depicted on the Map attached hereto and made a part hereof as Exhibit "A" and as described on the Area Description and Land Use attached hereto and made a part hereof as Exhibit "B". Neither Village will allow the extension of utilities into any area designated to the other Village without the express written consent of that Village.

Section 3. Disconnection

A. The Villages acknowledge that Area "H" is currently within the incorporated boundary of Lincolnshire. It is agreed that for zoning, planning, and municipal services purposes that Area "H" would be better served by being disconnected from Lincolnshire and annexed to Buffalo Grove. Both Villages shall take what ever actions may be deemed necessary to disconnect Area "H" from Lincolnshire and to have it annexed to Buffalo Grove.

In the event any owner or several owners of Area “H” shall request disconnection from Lincolnshire and shall have entered into an annexation agreement with Buffalo Grove which is not inconsistent with the Land Uses permitted herein, as described in Exhibit “B”, Lincolnshire shall act to disconnect the subject property. In the event that during the term of this Agreement any owner or the several owners of all or any portion of Area “H” fail or refuse to file a petition for disconnection from Lincolnshire, or otherwise frustrate the intent of this Section 3, the Villages hereby agree that this Section 3 shall be severable from the remainder of this Agreement and such failure, refusal or frustration shall not be cause for termination or cancellation of this Agreement.

B. Both parties hereto shall take all necessary action, to include but not by way of limitation Buffalo Grove instituting a *Quo Warranto* action, to disconnect Area I from Lincolnshire. If Buffalo institutes a *Quo Warranto* action regarding Area I, Lincolnshire shall not contest or object to such action and shall consent to a judgment finding Lincolnshire’s annexation of Area I as invalid.

Section 4. Land Planning and Zoning

Buffalo Grove and Lincolnshire acknowledge that each has a legitimate interest in regulating the development and/or redevelopment of land near their borders to protect the health and safety of their residents and to provide uniformity and continuity. In furtherance of said interest, both municipalities further acknowledge that certain uses of property may be incompatible to their interests.

Therefore, Buffalo Grove and Lincolnshire agree that land uses for the designated Areas shall be in accordance with the Land Use as depicted on Exhibit “B” hereto.

The Villages shall not have breached this Agreement if a court orders other uses or development. Both municipalities shall contest any application or litigation requesting permission to conduct, operate or improve a use not described as a Land Use in Exhibit “B” to this Agreement.

Modifications of existing land uses in the designated Areas may be made by mutual consent of the Villages.

Section 5. Jurisdiction

A. With respect to the property located within the area assigned to Buffalo Grove, identified on Exhibit “A” as Areas “C”, “F”, “G”, “H”, “I”, “K” and “L”, Lincolnshire agrees that it shall not annex any unincorporated territory nor shall it exercise or attempt to exercise or enforce any zoning ordinance, subdivision control, official map, or other municipal authority or ordinances, except as may be hereinafter provided in this Agreement.

B. With respect to the property located within the area assigned to Lincolnshire, identified on Exhibit “A” as Areas “A”, “B”, “D”, “E”, and “J”, Buffalo

Grove agrees that it shall not annex any unincorporated territory nor shall it exercise or attempt to exercise or enforce any zoning ordinance, subdivision control, official map, or other municipal authority or ordinances, except as may be hereinafter provided in this Agreement.

C. Notwithstanding anything herein to the contrary, in the event the properties identified above and depicted on Exhibit "A" as Areas M-1 and M-2 come under common ownership during the term of this Agreement, both Area M-1 and Area M-2 shall be annexed to the same municipality according to the following direction:

- (i) If the owner(s) of M-1 purchases M-2, the combined M-1 and M-2 shall not be annexed to Buffalo Grove; and
- (ii) If the owner of M-2 purchases M-1, the combined M-1 and M-2 shall not be annexed to Lincolnshire.
- (iii) If another owner purchases both M-1 and M-2, that owner may elect to annex to either Lincolnshire or Buffalo Grove, unless such owner owns another Area identified on Exhibit "A", in which case both M-1 and M-2 shall be treated in the same manner as the owner's other Areas subject to this Agreement, provided that such treatment would not affect contiguity of other Areas described herein.

Nothing in this Subsection C. is intended to affect the land uses for Areas M-1 and M-2 described in Exhibit B.

Section 6. Prohibited Annexations or Disconnections

Each municipality shall actively oppose any attempt to effectuate a voluntary or involuntary annexation or disconnection initiated by a third party to have territory annexed to its respective municipality which annexation would have the effect of changing the boundaries established under this Agreement.

Section 7. Statutory Objections

This Agreement shall not be construed so as to limit or adversely affect the right of either municipality to file a statutory objection to proposed rezonings that have been presented to the corporate authorities of Lake County and that are within one and one-half miles of its corporate limits.

Section 8 Notification

Upon receipt by either Village of an annexation, disconnection or zoning petition or proposal or inquiry on the properties included herein, that Village shall as early as possible, notify the other Village, in writing, of said proposal/petition, but in no event later than two (2) business days before the first meeting of said Village when the petition/proposal is discussed or within seven (7) days of an inquiry, whichever occurs earlier.

Section 9. Annexation of Roadways

For territory that has been annexed by either municipality prior to the date of this Agreement, then the roadway shall be deemed to be located within the municipality to which the roadway has been annexed either by ordinance or by operation of state law (Chapter 65, ILCS, Section 5/7-1-1). For unincorporated territory that is located on either side of the boundary line and that will be annexed to the designated municipality in the future, the roadway shall be deemed to be located within the municipality that first annexes its respective territory adjacent to the roadway. The boundary line set by this Agreement shall be deemed to have been amended accordingly without further action by either municipality.

Section 10. Waiver of Annexation Challenges

Each municipality agrees that it waives any right to challenge or otherwise contest the validity of any annexation the other municipality has effected, is effecting, or will effect in the future for territory located within the other municipality's designated areas as depicted in Exhibit "A" and Exhibit "B".

Section 11. Amendment of Agreement

Neither Buffalo Grove nor Lincolnshire shall either directly or indirectly seek any modification of this Agreement through court action, and this Agreement shall remain in full force and effect until amended or changed by the mutual agreement of the corporate authorities of both municipalities.

Section 12. Severability

If any provisions of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and to this end the provisions of this Agreement are to be severable.

Section 13. Duration of Agreement

This Agreement shall be in full force and effect for a period of twenty (20) years from the date hereof and shall be automatically renewed thereafter for successive five (5) year terms unless either party serves written notice upon the other party not less than 180 days prior to the scheduled expiration of the initial term or renewal thereof of its desire that this Agreement not be so renewed.

Section 14. Applicable Law and Recording Requirements

This Agreement shall be construed in accordance with the laws of the State of Illinois and shall be published by the respective municipalities and recorded or filed with the Lake County Recorder and the Cook County Recorder.

Section 15. Litigation

If either Village successfully enforces the provisions of this Agreement against the other Village by judicial proceedings, the prevailing party shall be reimbursed for all costs of litigation, including reasonable attorneys' fees and court costs, by the losing Village. If litigation should be initiated by any third party challenging this Agreement, or any application thereof to any person or territory, the expenses of defending such litigation shall be shared equally by the two Villages.

The defense of such litigation and the choice of attorneys shall be controlled by the Village whose annexation is being challenged or from whose territory land is to be disconnected. In the event the other Village desires to engage additional counsel to defend such litigation it shall be at its own expense. Venue for all litigation related to or arising out of this Agreement shall be in Lake County, Illinois.

Section 16. Notice and Service

Any notice hereunder from either party hereto to the other party shall be in writing and shall be served by certified mail, postage prepaid, return receipt requested addressed as follows:

To Buffalo Grove: Village of Buffalo Grove
50 Raupp Boulevard
Buffalo Grove, Illinois 60089
Attn: Village Manager

To Lincolnshire: Village of Lincolnshire
One Olde Half Day Road
Lincolnshire, Illinois 60069
Attn: Village Manager

or to such persons or entities and at such address as either party may from time to time designate by notice to the other party. Notice shall be deemed received on the third business day following deposit in the U.S. Mail in accordance with this Section.

Section 17. Adoption of Ordinances

The parties agree that this Agreement shall be adopted by ordinance approved by the corporate authorities of each municipality.

IN WITNESS WHEREOF, the parties hereto have caused the execution of this Agreement by their duly authorized officers as of the ____ day of _____, 2005.

Village of Lincolnshire

Village of Buffalo Grove

BY: _____
Mayor

BY: _____
Village President

Attest: _____
Village Clerk

Attest: _____
Village Clerk