

Chapter 155: Subdivision Regulations

CHAPTER 155: SUBDIVISION REGULATIONS

Section

General Provisions

- 155.01 Jurisdiction; Submission of Subdivision Plans Required
- 155.02 Approval of Subdivision Plat; Proof of Performance
- 155.03 Compliance Required
- 155.04 Definitions
- 155.05 Water Supply and Sanitary Sewerage Systems; Compliance Required
- 155.06 Installation of Street Signs
- 155.07 Landscaping Requirements Within Subdivision
- 155.08 Buildings of Similar Architectural Design

Plan and Plat Procedure; Requirements

- 155.20 Tentative Plan
- 155.21 Applicant to Notify Neighboring Land Owners
- 155.22 Action by Subdivider; Submission Requirements
- 155.23 Final Plat
- 155.24 Fees; Deposit of Escrow Requirements
- 155.25 Conditions of Final Acceptance; Return of Funds

Subdivision Design Standards

- 155.35 Conformance to Comprehensive Plan
- 155.36 Rights-of-Way of Streets
- 155.37 Street Arrangement
- 155.38 Lot Standards
- 155.39 Reserved for Future Use
- 155.40 Street Improvements

Permits

- 155.55 Requirements for Issuance of Building Permits
- 155.56 Occupancy Permits

Dedication of School Grounds, Fire/Rescue Sites or Capital Facilities, and Park Lands and Library Lands, or Payment of Cash Contributions in Lieu Thereof

- 155.60.00 Legislative Intent
- 155.60.01 Criteria for Requiring School Grounds Dedications
- 155.60.02 Criteria for Requiring Park and Recreational Land Dedications
- 155.60.03 Fire/Rescue Capital Facilities Contributions and Site Dedication
- 155.60.04 Criteria for Requiring Library Site Dedication

Title XV: Land Usage

- 155.60.05 Criteria for Requiring a Cash Contribution in Lieu of Dedication of School, Park, Library and Fire/Rescue Sites
- 155.60.06 Adjustment to Fair Market Value
- 155.60.07 Density Formula
- 155.60.08 Reservation of Additional Land
- 155.60.09 Combining With Adjoining Developments
- 155.60.10 Topography and Grading
- 155.60.11 Improved Sites
- 155.60.12 Environmental Risk Audit
- 155.60.13 Suitability of Soils at Site
- 155.60.14 Title Insurance, Survey, Assessment Plats
- 155.60.15 Real Estate Tax Escrow
- 155.60.16 Objections
- 155.60.17 Condition to Annexation
- 155.60.18 Indemnification
- 155.60.19 Distribution
- 155.60.20 Needs Assessment; Land and Capital Facilities Acquisition Plan
- 155.60.21 Time of Payment
- 155.60.22 Miscellaneous

Administration and Enforcement

- 155.70 Approval of Plan Commission Required
- 155.71 Inspection at Subdivider's Expense
- 155.72 Variations

- 155.99 Penalty

Appendix A: New Road Construction

GENERAL PROVISIONS

§ 155.01 JURISDICTION; SUBMISSION OF SUBDIVISION PLANS REQUIRED.

Whenever any subdivision of land shall be laid out after March 21, 1960 within the corporate limits of the Village or within contiguous territory not more than one and one-half miles beyond the incorporated boundaries of the Village as reflected by the official plan, the subdivider thereof or his agent shall submit a tentative and a final subdivision plan to the Plan Commission of the Village. Plans shall in all respects be in full compliance with the regulations hereinafter set forth, it being the purpose of this chapter to safeguard the health and public welfare, in particular, to preserve the Village as a residential community.

(‘77 Code, § 23.01)

Chapter 155: Subdivision Regulations

§ 155.02 APPROVAL OF SUBDIVISION PLAT; PROOF OF PERFORMANCE.

(A) A subdivider or his agent shall submit for approval by the Plan Commission and/or Village Board a plat of the whole subdivision proposed. All public improvements must be stipulated on the plat. When the subdivision is to be developed in sections, those sections must be so stipulated on the plat and conform with requirements below.

(B) Upon approval of the whole plat a subdivider or his agent may develop the subdivision and construct the public improvements in stages or sections as follows:

<i>Total Subdivision Area</i>	<i>Maximum Number of Sections</i>
100 acres and more	3 sections minimum of 30 acres at a time
50 - 99 acres	2 sections minimum of 20 acres at a time
Less than 50 acres	All public improvements must be constructed for total subdivisions as one section

(C) Public improvements shall include:

- (1) Roads;
- (2) Drainage facilities;
- (3) Sanitary and water facilities; and
- (4) All other work related to public improvements that maybe required.

(D) Proof of performance shall consist of the following:

(1) An owner, subdivider or his agent shall post an acceptable performance bond or irrevocable letter of credit from a reputable financial institution in favor of the Village equal to 125% of the estimated cost of any and all improvements to be constructed as provided herein and the estimate shall be determined by the Village Engineer in connection with the submission of any and all plans and specifications, and plats of subdivision filed in connection with this chapter and the 125% bond shall be posted prior to approval of the final plat of subdivision, and shall automatically be forfeitable if the work covered by the bond is not fully performed within three years from the approval by the Village of the final plat of subdivision.

(2) If the subdivision is to be developed in two or more sections, the Village Board may in its discretion allow the subdivider to post a performance bond or irrevocable letter of credit in an amount equal to 125% of the estimated cost of improvements for the first section only of the subdivision. However, the amount of such performance bond or irrevocable letter of credit shall not be reduced or cancelled until all improvements for the

Title XV: Land Usage

entire subdivision which are secured thereby are constructed, except for reductions which may be approved in the discretion of the Village Board upon the review and recommendation of the Village Engineer where such reduction does not impair the security of the Village for the uncompleted improvements, and provided further that the amount of such performance bond or irrevocable letter of credit shall be increased as necessary for any subsequent section of the subdivision to an amount equal to 125% of the estimated cost of improvements for such section.

(E) Before construction of public improvements can be started in another section of the same subdivision, all public improvements must be completed in the previous section. The sole exception to this is the final blacktopping of the roads where proper time must be allowed for settling.

(F) The Village shall require that all work on public improvements by the subdivider shall be inspected and reviewed, on a periodic basis, by the Village Engineer. All expense for this inspection and review shall be charged to the subdivider. After the improvements are complete, the subdivider shall at its own expense provide "as built" drawings which shall be a prerequisite for release of the subdivider's performance bond referred to in division (D) of this section. All subdividers shall be notified of these requirements upon submission of a plat of subdivision to the Village Plan Commission.

("77 Code, § 23.02) (Am. Ord. 85-3, passed 3-18-85) Penalty, see § 155.99

§ 155.03 COMPLIANCE REQUIRED.

No person shall subdivide any tract of land which is within the Village or within the unincorporated jurisdiction area of one and one-half miles closest to the then existing boundary line of the Village, except in conformity with the provisions of this chapter.

("77 Code, § 23.03) Penalty, see § 155.99

§ 155.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ARTERIAL STREET. A street designed to provide for heavy traffic of considerable continuity and used primarily as a traffic artery for intercommunication between the several areas of the Village and its surrounding territory.

LOT. A parcel of land in a subdivision separated from other parcels by virtue of a graphic division on the subdivision plat. The area of a lot is not to include any part of a road or street whether dedicated or not.

OFFICIAL PLAN. The comprehensive plan adopted by the corporate authorities, including its official map together with all changes and amendments officially adopted from time to time by the Village Board.

Chapter 155: Subdivision Regulations

OWNER. The individual, association, syndicate, co-partnership, corporation, trust, or any other legal entity having a proprietary interest in the land sought to be subdivided.

STREET. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right for the purpose of travel and transportation.

SUBDIVISION. The division of a parcel of land into two or more lots for the purpose of building development and for which a plat of subdivision shall be recorded with the Lake County, Illinois, Recorder of Deeds.

(‘77 Code, § 23.04) (Am. Ord. 88-2, passed 2-15-88)

§ 155.05 WATER SUPPLY AND SANITARY SEWERAGE SYSTEMS; COMPLIANCE REQUIRED.

(A) Public water supply and/or sewerage systems shall comply with the requirements of the Illinois Sanitary Water Board. All construction work shall be subject to inspection by representatives of the Board and by the Building Inspector. The Building Inspector shall be notified in writing of the start of construction work at least 48 hours prior to its beginning.

(B) Private water supply and sanitary sewerage systems (all systems not under the jurisdiction of the Illinois Sanitary Water Board) shall comply with the all relevant Federal, Illinois, Lake County and Village laws, ordinances and regulations.

(C) For certain properties in the area bounded by Quentin, Lake Cook and Rand Roads (the “Triangle”), there is a Lake Michigan water allocation assigned, with a further allocation reserved to the Village to be allocated in its discretion, as determined by an Intergovernmental Agreement with the Village of Palatine entered into on August 9, 1999. Therefore, for all properties being subdivided within the Triangle area, the following process must be followed:

(1) The owner or subdivider must apply to the Village to allocate water rights in accordance with the Intergovernmental Agreement with the Village of Palatine entered into on August 9, 1999 and with the relevant ordinances of the Village.

(2) Upon application for subdivision, the owner or subdivider should refer to relevant sections of the Water Allocation Ordinance, contained in Chapter 52 of the Municipal Code.

(3) Once the final plat of subdivision is approved, the Village will certify the memorandum of division of water allocation and record with the Lake County Recorder of Deeds against all properties affected by the division.

(4) If necessary, the Village will then notify the Village of Palatine in writing to memorialize the water allocation division as an amendment to Exhibit 9 of the Intergovernmental Agreement with the Village of Palatine entered into on August 9, 1999.

Title XV: Land Usage

(‘77 Code, § 23.07) Penalty, see § 155.99

(Ord. 00-15, passed 7-17-00)

§ 155.06 INSTALLATION OF STREET SIGNS.

After completion of any and all improvements within a subdivision and after the improvements have been accepted by the Village, the Village shall cause to be constructed certain street signs at all intersections within the subdivision. However, the expense of construction of the signs shall be borne by the subdivider and shall be done at the subdivider’s expense. In connection herewith, the subdivider shall deposit the sum of \$200 per intersection to be used by the Village for the construction, and the sums shall be deposited prior to approval of the final plat of subdivision and in all such cases the funds deposited shall be nonrefundable.

(‘77 Code, § 23.16)

§ 155.07 LANDSCAPING REQUIREMENTS WITHIN SUBDIVISION.

The following requirements are made for the planting of new trees within a subdivision:

(A) The developer shall be required to plant a minimum of two trees on each subdivided lot that contains less than two existing trees of two and one-half inches or more in diameter. In the case of a corner lot, three trees shall be required. (Some examples: Oak-Burr, White, Red, Black, Pin; Hickory, Black Walnut, Basswood, Ash; Conifers; Russian Olive; Flowering Crabs; Locust and others when approved.)

(B) All trees shall be of a caliper of not less than two and one-half inches and the developer shall furnish certification that the trees are free from disease.

(C) All trees shall be transplanted stock; the transplanting shall be done prior to the Village’s acceptance of the public improvements of the subdivision.

(D) All trees shall be planted outside of the area where a septic field is to be situated.

(E) Trees shall be planted at least four feet from any paved area on or adjacent to any subdivided lot.

(F) Proper maintenance and care shall be given to all newly planted trees and shall be replaced by the developer if not healthy within one year following the date of planting.

(G) The following trees due to their undesirable traits, that is, subject to disease, insects, root structures nuisance, litter, and reseeding problems, are not acceptable within the Village: Elms, Poplars, Box Elders, Soft Maples and Hackberry.

(‘77 Code, § 23.20) (Ord. 78-2, passed 2-18-78) Penalty, see § 155.99

Cross-reference:

Chapter 155: Subdivision Regulations

Trees and shrubs, see Chapter 95

§ 155.08 BUILDINGS OF SIMILAR ARCHITECTURAL DESIGN.

(A) No building permit shall be issued for any new building or for remodeling or alteration of an existing building which, if erected, remodeled, or altered would result in single family homes of similar design defined herein as having substantially identical facades or floor plans, existing within 1,000 feet of each other.

(B) Whenever the Building Inspector or the Zoning Officer of the Village finds that the erection, remodeling or alteration of a single-family residence for which application for a building permit has been made, may result in buildings of similar design existing within 1,000 feet of each other he shall refer the application to the Zoning Board of Appeals. Within 20 days of receiving the referral of any application, the Zoning Board of Appeals shall hold a hearing which shall be open to the public. The Chairperson shall give written notice of the time and place of the hearing. The applicant shall be given the opportunity of submitting oral and written testimony at such hearing.

(C) All decisions and findings of the Zoning Board of Appeals will be referred to the Village Board with report and recommendations per the procedures stated in §§ 157.090 through 157.101.

(‘77 Code, § 23.21) (Ord. 78-1, passed 1-16-78)

PLAN AND PLAT PROCEDURE; REQUIREMENTS

§ 155.20 TENTATIVE PLAN.

(A) Any person owning land within the limits of the Village or within one and one-half miles of such limits, wishing to divide the same into lots for the purpose of sale, or wishing to resubdivide land previously subdivided, or to change the boundaries of any lots or parcels thereof, shall first submit to the Village, 15 days prior to the regular monthly meeting of the Village Plan Commission, ten copies of a tentative sketch plan and a written application for preliminary approval accompanied by an application fee in accordance with § 155.24 which fee will be deductible from the general subdivision fees when and if the final plat is approved or not approved by the Village Board. Such application shall be made to the Plan Commission in accordance with all statutory laws, local ordinances and state and local regulations and all rules, regulations and standards heretofore adopted by the Plan Commission or Board of Trustees of the Village.

(B) The tentative plan shall be drawn to a scale of not more than 100 feet to the inch and shall show:

(1) The boundaries of the property to be subdivided and/or dedicated indicating the section and half section lines if any, including significant topography showing creeks, streams, natural ponds, lakes, marshes, swamps and sloughs.

(2) Sizes of lots (can be approximate pending final engineering surveys).

Title XV: Land Usage

- (3) Street widths and corner radii, and a profile map of streets shown on map.
- (4) All existing easements or rights-of-way.
- (5) Tentative grades of streets.
- (6) Existing sewers, water mains, wells, springs, seeps, culverts, septic systems (including filter fields) or other underground facilities within the tract or adjacent to the tract, indicating pipe sizes, grades, manholes and exact locations, and storm and sanitary sewer outfalls.
- (7) Position of existing and proposed monuments.
- (8) Location of available public service (gas, water, electricity).
- (9) Contour lines at intervals of not more than ten feet.
- (10) Open spaces, if any, to be dedicated for public parks or playgrounds or other public uses and location and use of all property reserved for the common use of all property owners.
- (11) The flowlines of streams and other flood water runoff channels and their normal shorelines.
- (12) The shorelines of all established flood crest elevations as established by the Deer Park Flood Plain Map.
- (13) Normal shorelines of lakes, ponds, swamps, and other detention basins.
- (14) Lines of inflow and outflow, if any.
- (15) Farm drains, inlets and outfalls, if any.
- (16) Profile drawings of each stream, channel, pond and basin showing elevations of the following:
 - (a) Stream bed or flow line.
 - (b) Channel banks, if any.
 - (c) Waterway openings of existing culverts and bridges within and near the tract.
 - (d) Size and elevation of outlets at the lakes or water course into which sewers and drains outfall.
 - (e) Flood crest elevations.

Chapter 155: Subdivision Regulations

1. Where, in the opinion of the Village, the number of flood crest observations or determinations which have been established on a stream or channel are inadequate to provide the data necessary to determine possible future flooding, the profiles shall extend or project the established flood crest elevation upstream or downstream from a single elevation approximately parallel to the stream bed or flowline as surveyed.

2. If a subdivider believes that the established flood crest elevation or profile unreasonably restricts the layout of his proposed subdivision or its development or that an error has been made in its establishment, he may appeal to the Plan Commission for a review thereof which shall make its recommendation to the Board of Trustees. Such appeal on the proposed amendment shall be heard by the Plan Commission only after notice thereof has been given in the manner provided for zoning ordinance amendments (rezoning).

(f) *Comprehensive drainage plan.* A comprehensive drainage plan, first in preliminary form, designed to handle safely the floodwater runoff following the heavier rainstorms.

(17) Location and design of subdivision signs.

(18) For subdivisions containing five acres or more, a soil map of the property prepared by a soil scientist; for subdivisions of less than five acres, a plat showing the location of soil test holes dug to determine septic suitability.

(C) A decision on any tentative sketch plan by the Plan Commission shall be made known to the applicant within five days after the monthly meeting of the trustees of the Village and the tentative approval of any tentative plan by the Plan Commission shall not constitute an acceptance of any final plat of any subdivision or redivision of land.

(D) The tentative sketch plans shall be accompanied by a written statement from the applicant which shall include agreement to pay to the Village such inspection fees incurred by it in connection with proper inspection by its designated official of the construction of roads, drainage structures and other improvements installed.

(‘77 Code, § 23.09) (Am. Ord. 93-5, passed 10-1-93) Penalty, see § 155.99

§ 155.21 APPLICANT TO NOTIFY NEIGHBORING LAND OWNERS.

(A) Not less than 15 nor more than 30 days prior to the Plan Commission hearing on the application for tentative approval of a plat of subdivision, the applicant shall give notice, by certified mail, to the owners of all parcels of land within 500 feet of the perimeter of the property being considered. The notices shall state:

(1) The substance of the application;

Title XV: Land Usage

- (2) The general location by address or other identifiable geographic characteristics of the subject property;
- (3) The name of the applicant and/or developer;
- (4) The time and place the application has been set for hearing; and
- (5) That the application on file may be examined in the Village Office.

This requirement shall not apply to those applicants applying for approval of a plat of subdivision for property for which the Village has already granted a special use as a Planned Development, which is in effect and applicable at the time the subdivision application is filed with the Village.

(Ord. 00-6, passed 3-20-00)

(B) The applicant or his representative shall furnish evidence of compliance with the above notice requirements by filing an affidavit of notice with the Village listing the names and addresses of property owners to whom notice was sent by certified mail. Such affidavit shall be filed with the Village at or prior to the hearing. If the matter is continued by the Plan Commission it shall be the responsibility of the applicant to renotify and submit a new affidavit for each continued date as was required prior to the first hearing, as set forth above, unless such continued date was announced at a duly noticed hearing on the application. The applicant shall have the sole responsibility for complying with the notification procedures.

(Ord. 93-5, passed 10-18-93)

§ 155.22 ACTION BY SUBDIVIDER; SUBMISSION REQUIREMENTS.

Prior to the filing of an application for a final plat, the subdivider shall submit the following to the Village Clerk:

- (A) *Statement of agreement.* A statement of agreement that:
 - (1) The land improvements required by the Village shall be completed by the owner or subdivider in accordance with this chapter and plans as approved by the Village Engineer.
 - (2) All improvements and the as-built plans of the improvements shall be completed by the owner or subdivider within two years following approval of the final plat by the President and Board of Trustees.
- (B) *Public liability and property damage insurance.*
 - (1) The owner or subdivider shall provide that the Village and its agents are named under the contractor's public liability and property damage insurance policy. The policy shall protect the Village and its agents against loss from liability for damages on

Chapter 155: Subdivision Regulations

account of injury or death suffered by any person or persons by reason of performance of the work required to be performed by the contractor. The policy shall further provide for legal defense against any claim on the policy. The contractor's insurance shall be in an amount not less than \$1,000,000 combined single limit for each occurrence.

(2) The certificate evidencing the insurance coverage required hereunder shall be provided to the Village and shall have a clause requiring that the Village be notified of any cancellations with 30 days notice.

(C) *Memorandum of Water Allocation Division.* For all property to be subdivided within the area bounded by Quentin, Lake Cook, and Rand Roads (the "Triangle"), the owner or subdivider of said property must provide a memorandum of the proposed division of the water allocation.

(Ord. 00-15, passed 7-17-00)

(‘77 Code, § 23.10) (Ord. 80-5, passed 11-17-80) Penalty, see § 155.99

§ 155.23 FINAL PLAT.

(A) After approval of the tentative plan, the applicant shall prepare and submit for approval four copies of the final plan on which shall appear all data shown on the tentative plan. However, the final date shall be based on correct engineering surveys and the following shall be shown on the final plan:

(1) The width of lots, dimension of lots and blocks, the full width of streets bounding the proposed subdivision (with their names) and the widths and names of intersecting streets in the property immediately adjacent, the name of the proposed subdivision, the name of the owner, a correct survey of the property with the legal description thereof, building lines, easements and all necessary dimensions, both linear and angular shall be shown.

(2) Linear dimensions in feet and decimals of a foot and all deflection angles, radii, arcs and central angles of all corners along the property line of each street.

(3) Location of all drains and relation to existing underground structures and water bodies or streams must be shown and proof of legal right to discharge such drainage on or through abutting property or properties with no damage to such properties or other highways.

(4) The final disposition of all drainage to a natural water course.

(5) Summary of all restrictions applicable to any part of the subdivision relating to buildings, use, building lines or otherwise.

(6) Certification by a licensed engineer preparing the map and acknowledged by the owner.

Title XV: Land Usage

(7) Date plat drawn.

(B) The final plat shall be in substantial conformance with the approved tentative plat. Minor variations from the approved tentative plat shall be permitted without the necessity of receiving tentative approval of such variations.

(C) It shall be unlawful to file any plat of subdivision with the respective Recorder of Deeds or Registrar of Titles unless the same contains in writing the approval of the Village Plan Commission.

(D) The final plat shall be submitted to the Plan Commission for its consideration within one year from the time the tentative plan is approved or the applicant shall renew the tentative plan after the period of one year. The Final Plat shall be submitted to the Chairperson of the Plan Commission at least 25 days prior to the regular monthly meeting of the Village Board of Trustees and a decision on the final plat shall be made known to the applicant within five days after the monthly meeting of the Board of Trustees, and in default hereof the tentative plan approval shall be void.

(E) In the event of approval, the final plat shall be signed by the Chairperson of the Plan Commission and the President of the Board of Trustees and their seal attached.

(‘77 Code, § 23.11) Penalty, see § 155.99

§ 155.24 FEES; DEPOSIT OF ESCROW REQUIREMENTS.

(A) The filing fee for a subdivision plat is \$500.

(B) In addition to the above fees, the proposed subdivider shall be obligated to reimburse the Village for all expenses incurred by the Village relative to the request for approval of the plat of subdivision, including but not limited to charges for publication of notices, fees for consulting engineers, planners, traffic experts, attorneys, surveyors, soil analysis, laboratory testing, recording secretary and/or court reporter. The estimated expenses of the Village shall be determined by the Village Treasurer and deposited by the proposed subdivider in an escrow account to be used by the Village for the payment of such expenses, but the obligation of the proposed subdivider to reimburse the Village shall not be limited by the amount on deposit from time to time. Unless otherwise designated by the Village Treasurer, the amount of such deposit shall be \$5,000. Upon expiration of thirty (30) days after the deposit is made, and upon each subsequent thirty (30) day period thereafter, the proposed subdivider shall be required to deposit such amounts necessary to restore the deposit amount back up to \$5,000 and/or to pay any outstanding invoices incurred by the Village on the proposed subdivider’s behalf. At the expiration of any thirty (30) day period, if the proposed subdivider fails to restore the deposit funds to \$5,000, and/or fails to pay any outstanding invoices incurred by the Village on the proposed subdivider’s behalf, in addition to the proposed subdivider’s obligation to restore the deposit funds and/or pay the outstanding invoice amounts, the proposed subdivider shall be obligated to pay interest at 10% per year on any outstanding deposit funds and/or invoices for which the Village has not been reimbursed.

(Am. Ord. 05-08, passed 8-15-05)

Chapter 155: Subdivision Regulations

(C) Processing of the proposed plat of subdivision shall cease until the deposit escrow requirements have been satisfied and, in addition to the foregoing and not by way of limitation, the Village may bring any action at law to collect any amounts due under any of the foregoing provisions.

(D) Within 30 days following the final approval of the plat of subdivision, or the denial of such approval or other similar final action, the Village shall itemize all expenses involved, including estimated expenses not yet paid by the Village, and refund either the balance of the escrow deposit to the proposed subdivider or indicate the amount to be paid to the Village. The refund check shall be accompanied by a statement of expenses incurred. No interest shall be paid on the deposit escrow or any additional deposit escrow as required.

(‘77 Code, § 23.14) (Ord. 85-4, passed 6-17-85; Am. Ord. 93-5, passed 10-18-93)

§ 155.25 CONDITIONS OF FINAL ACCEPTANCE; RETURN OF FUNDS.

(A) *As-built plans.* After completion of all public improvements and prior to final acceptance of the improvements, the subdivider shall make, or cause to be made, “as-built” drawings for the improvements constructed. These as-built plans shall be submitted to the Village in the following formats: (i) black (India) ink on .004-inch mylar, or materials of equal permanence and durability, bearing the seal and signature of the engineer (ii) reproducible (intermediate copies) and (iii) digitally on a diskette, cd-rom or other permanent format as prescribed by the Village Engineer. The submission of these as built plans, in all required formats shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. All as-built plans required hereunder shall become the property of the Village.

(Am. Ord. 03-13, passed 9-15-03)

(B) *Acceptance of required land improvements.* Upon the completion of construction of any public improvements required by this section, in conformance with approved engineering plans and specifications, the subdivider shall prepare and submit to the Village Engineer four sets, plus one reproducible set on mylar, of the as-built plans and certification by the Village Engineer that such public improvements have been satisfactorily completed in accordance with the approved engineering plans and specifications. The developer’s engineer must certify to the Village Engineer that the improvements are complete and as per the approved plans. The Village Board will enact a resolution accepting the improvements.

(C) *Maintenance guarantee.* The developer shall guarantee public improvements against defects in materials and workmanship for a period of one-year from the date of acceptance of the public improvements by the Village. The developer agrees to repair or replace any of the public improvements which, during the one-year period after acceptance, shall become damaged or deficient due to defective materials or workmanship.

(1) *Conditions of guarantee.* The developer shall establish a cash escrow account or provide a letter of credit in the amount of 5% of the final construction costs of the improvements. The escrow account or letter of credit shall remain in force for the aforesaid

Title XV: Land Usage

one-year maintenance period and shall be for use by the Village to effect such repairs deemed necessary for public safety and which the developer has neglected to repair for a 48-hour period after notification. Disbursement from the cash escrow account or pursuant to the letter of credit shall be made solely upon the direction of the Village and shall not be subject to approval or disapproval by the developer or escrowee or the financial institution issuing the letter of credit or their agents.

(2) *Return of funds.* Within 45 days following the one-year maintenance period, the escrowee or the financial institution issuing the letter of credit shall pay over to the owner, without further demand or notice, any balance of funds then remaining undisbursed under the letter of credit or escrow account.

(‘77 Code, § 23.19) (Ord. 80-5, passed 11-17-80)

SUBDIVISION DESIGN STANDARDS

§ 155.35 CONFORMANCE TO COMPREHENSIVE PLAN.

The proposed subdivision shall conform to the Comprehensive Plan. Consideration in the design of a street plan shall be given to arrangement, extension, width, grade and location of all streets in the proposed subdivision and in the relation to the existing and previously planned streets adjacent to or in the vicinity of the proposed subdivision. Because of the topographical and geological condition of the area comprising the Village and its environs, special consideration shall be given to the natural storm water drainage and sewer disposal systems. The Plan Commission shall, and is hereby empowered to request adequate proof for the sewer and drainage facilities in preventing floods, overflows, or retarding drainage detrimental to human health and plant life.

(‘77 Code, § 23.06) Penalty, see § 155.99

§ 155.36 RIGHTS-OF-WAY OF STREETS.

(A) All rights-of-way shall conform to the following minimum dimensions:

Primary streets	100 feet
Secondary streets	80 feet
Minor streets	66 feet
Cul-de-sacs	140 feet diameter at end

(B) Alleys are not permitted except where expressly deemed necessary by the Plan Commission.

(‘77 Code, § 23.06(a)) Penalty, see § 155.99

Chapter 155: Subdivision Regulations

§ 155.37 STREET ARRANGEMENT.

The arrangement of streets in subdivisions shall make provision for continuation of the existing local streets in adjoining areas. Where adjoining areas are subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new streets shall be carried to the boundaries of the tract proposed to be subdivided.

(‘77 Code, § 23.06(b)) Penalty, see § 155.99

§ 155.38 LOT STANDARDS.

(A) Single-family residence subdivisions where the smallest lot is 40,000 square feet exclusive of road easements, and lots smaller than 40,000 square feet exclusive of road easements shall be prohibited.

(1) Width at front building setback shall be 130 feet. Depth shall be not less than 150 feet.

(2) Setback from front line shall be 50 feet from the road easement at the point at which the easement is contiguous to the lot line.

(3) Setback from side and rear lot lines shall be 30 feet.

(B) Not more than 10% of the residences in any one development shall have, in the estimation of the Plan Commission, identifiably the same floor plan, or elevation.

(C) Side lines of lots shall be at right angles or radial to the street line or substantially so and along curvilinear street lines. Side lines or lots formed by radial projections shall form a lot having not less than 20 feet across the rear property line.

(D) Double frontage lots are not permitted, except where lots back upon a thoroughfare and in such instances, vehicular and pedestrian access between the lots and the thoroughfare is prohibited.

(E) Lots abutting upon a water course, drainage way, channel, or stream shall have an additional depth or width as required to provide an acceptable building site.

(‘77 Code, § 23.06(c)) Penalty, see § 155.99

§ 155.39 RESERVED FOR FUTURE USE.

(Am. Ord. 03-4, passed 1-20-03)

§ 155.40 STREET IMPROVEMENTS.

Street improvements shall conform to the following requirements:

Title XV: Land Usage

(A) For residential subdivisions where the smallest lot is one acre or more.

(1) Primary and secondary street pavement 24 feet wide with an eight-foot wide shoulder on both sides of the pavement of which the first three feet bordering the pavement shall be eight-inch thick compacted gravel or crushed stone, and the remainder shall be compacted earth or better.

(a) *Minor streets and cul-de-sac streets.* Pavement 22 feet wide with compacted three-foot wide gravel or crushed stone shoulder on both sides of the pavement.

(b) *Marginal access streets.* Pavement 22 feet wide, compacted six-foot wide gravel or crushed stone shoulder on subdivision side of street.

(2) For half streets the pavement shall be 18 feet wide, outside edge of pavement to center line of the street.

(3) Pavements in cul-de-sac turnabouts in all developments shall have a minimum radius of 50 feet. Where landscaped center islands are installed, the adjacent paving shall have permanent edging.

(B) Public streets shall be required in all subdivisions, except that private streets may be approved by action of the Village Board where the lot size is two acres or more and the public interest is best served thereby.

(C) Drainage swales on both sides of the pavement in accordance with Village standard design shall be required.

(D) All unpaved areas within the dedicated street areas shall be graded and seeded or sodded in accordance with Village standard design and specifications.

(‘77 Code, § 23.06(e)) Penalty, see § 155.99

PERMITS

§ 155.55 REQUIREMENTS FOR ISSUANCE OF BUILDING PERMITS.

(A) No building permit shall be issued providing for the improvement of any lot in the subdivision until there has been filed with the Building Department a copy of the plat bearing the approval of the Plan Commission and the approval of the President and the Village Board of Trustees, certified to by the Recorder of Deeds of Lake County or the Recorder of Deeds of Cook County that the plat has been recorded or registered in his office.

(B) Further, it shall be required on any property abutting or requiring a driveway or entrance on a road that is under the jurisdiction of the Illinois Department of Transportation, the Lake County Highway Department or the Townships of Cuba or Ela that an entrance and driveway

Chapter 155: Subdivision Regulations

permit be obtained from the Department before any improvement or construction begins and where applicable, the agency has executed the final plat of subdivision.

(C) No building permit shall be issued for the improvement of any lot in the subdivision until all public improvements provided for in the final plat of the subdivision are satisfactorily and substantially completed and accepted by the Village. There shall be a notation to this effect made on each final plat of subdivision prior to approval by the Village.

(‘77 Code, § 23.12) (Ord. 85-3, passed 3-18-85) Penalty, see § 155.99

§ 155.56 OCCUPANCY PERMITS.

No occupancy permit shall be issued in connection with any improvements of any lot in the subdivision until all improvements provided for in the final plat of subdivision are satisfactorily completed and accepted by the Village.

(‘77 Code, § 23.15)

DEDICATION OF SCHOOL GROUNDS, FIRE/RESCUE SITES OR CAPITAL FACILITIES, AND PARK LANDS AND LIBRARY LANDS, OR PAYMENT OF CASH CONTRIBUTIONS IN LIEU THEREOF

§ 155.60.00 LEGISLATIVE INTENT.

As a condition of approval of a final plat of a residential subdivision or of a final plat of a residential planned development, each subdivider or developer, its successors and assigns, shall be required to dedicate land for library, park, recreational, fire/rescue and school purposes to serve the immediate and future needs of the residents of the development, or shall be required to make a cash contribution in lieu of actual land dedication, or a combination of both, at the option of the Village with the concurrence of the affected district or districts, which concurrence shall be obtained in writing. However, the Village shall have the final decision making power in this regard. Land dedication sites may be made to the Village or to the applicable district at the discretion of the Village Board. The dedications and cash contributions required hereunder shall be made in accordance with the criteria and formulas herein. Sections 155.60.00 through 155.60.22 of the Subdivision Regulations are collectively referred to and may be cited as the Impact Fee Ordinance.

§ 155.60.01 CRITERIA FOR REQUIRING SCHOOL GROUNDS DEDICATIONS.

1. Requirement and Population Ratio: The ultimate number of students to be generated by a residential subdivision or planned development shall bear directly on the amount of land required to be dedicated for school grounds. “School grounds” shall include land or site improvements, which include school buildings or other infrastructure necessitated and specifically and uniquely attributable to the residential subdivision or planned development. The land dedication

Title XV: Land Usage

requirement shall be determined by obtaining the ratio of (a) estimated children to be served in each such school classification over the (b) maximum recommended number of students to be served in each such school classification as stated herein, and then applying such ratio to (c) the appropriate number of acres for school grounds for each such school classification as stated herein. The product thereof shall be the acres of land deemed needed to have sufficient land for school grounds to serve the estimated increase in number of students for each such school classification.

2. School Classifications and Size of School Grounds: These requirements for acreage are based upon a review of available data studies and literature on the subject, including but not limited to, information provided by the State Superintendent of Education and the unique characteristics of the Village, including its general rural character and open spaces, and the desire of the residents to maintain this character and open space in future school grounds. These requirements for acreage shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash contribution in lieu of land dedication herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 155.60.16 herein to the Plan Commission. Failure to timely object to these acreage requirements in strict accordance with Section 155.60.16 herein shall constitute a waiver of any right to raise an objection at a later time.

School classifications and size of school grounds within the Village shall be determined in accordance with the following criteria:

SCHOOL DISTRICT 95		
SCHOOL CLASSIFICATION BY GRADES	MAXIMUM NUMBER OF STUDENTS FOR EACH SUCH SCHOOL CLASSIFICATION	APPROPRIATE NUMBER OF ACRES OF LAND FOR EACH SCHOOL SITE OF SUCH CLASSIFICATION
ELEMENTARY SCHOOLS GRADES K-5 or K-6	600 Students	11 acres
JUNIOR HIGH SCHOOLS GRADES 6-8 or 7-8	900 Students	29 acres
HIGH SCHOOLS GRADES 9-12	1,500 Students	45 acres

SCHOOL DISTRICT 220		
SCHOOL CLASSIFICATION BY GRADES	MAXIMUM NUMBER OF STUDENTS FOR EACH SUCH SCHOOL CLASSIFICATION	APPROPRIATE NUMBER OF ACRES OF LAND FOR EACH SCHOOL SITE OF SUCH CLASSIFICATION
ELEMENTARY SCHOOLS GRADES K-5 or K-6	500 Students	15 acres
JUNIOR HIGH SCHOOLS GRADES 6-8 or 7-8	800 Students	25 acres
HIGH SCHOOLS GRADES 9-12	3,000 Students Total	87 acres total

Chapter 155: Subdivision Regulations

3. Location: The Comprehensive School Plan anchor the standards adopted by the affected School District shall be used as a guideline in locating sites. School grounds shall be located in the Village in accordance with plans heretofore or hereafter adopted by the school district. If the school district has not planned school grounds within the Village or the proposed subdivision or planned development, or in the neighborhood in which such subdivision or planned development is located, the school grounds shall be so located as to be readily accessible to the greatest number of children projected for such neighborhood.

§ 155.60.02 CRITERIA FOR REQUIRING PARK AND RECREATIONAL LAND DEDICATIONS.

1. Suitability: The land for park and recreational dedications shall be suitable for the purpose for which it is intended. Land set aside by developers for parks, recreation and conservation purposes shall not be what has been ‘left over’ after residential, commercial and industrial development.

2. Requirement and Population Ratio: The ultimate density of a proposed residential development shall bear directly on the amount of land required for dedication for park and recreational purposes. The total requirement shall be 10 acres of land per 1,000 of ultimate population and may be allocated by the Village Board at its discretion based upon the following criteria:

TYPE OF RECREATION AREA	MINIMUM SIZE	PARK ACREAGE PER 1,000 PERSONS
Play Lot	8,000 square feet	<1
Neighborhood Park	3 acres	2 acres
Village-Wide Park for Active Sports	10 acres	4 acres
Village-Wide Community Park	15 acres	4 acres

These requirements for acreage are based upon a review of available data studies and literature on the subject, including but not limited to, the National Recreation and Park Association’s *Recreation, Park and Open Space Standards and Guidelines*, 1990. These requirements shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash contribution in lieu of land dedication herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 155.60.16 herein to the Plan Commission. Failure to timely object to these acreage requirements in strict accordance with Section 155.60.16 herein shall constitute a waiver of any right to raise an objection at a later time.

3. Location: The park and recreation plans as adopted by the Village’s Comprehensive Plan shall be used as a guideline in locating sites. A central location that will serve equally the entire development or a location that is adjacent to existing park and recreational land is most desirable. In large developments, these sites can be located throughout the development according to established standards for park area distances.

Title XV: Land Usage

§ 155.60.03 FIRE/RESCUE CAPITAL FACILITIES CONTRIBUTIONS AND SITE DEDICATION.

1. Requirement and Population Ratio: Requirement and Population Ratio: The development of new residential subdivisions and planned developments increases the demands upon the existing fire/rescue protection services provided by the Village in a proportionate and ascertainable manner and creates the need for additional fire/rescue, firehouse and training sites. Studies reveal the need to develop additional fire/rescue protection services. Therefore, as a condition of approval of a final plat of subdivision or of a final plat of a planned development containing residential uses, each developer or subdivider shall be required to dedicate land for fire/rescue facilities to serve the immediate and future needs of the residents of the development or shall be required to make a cash contribution in lieu of actual land dedication.

The ultimate density of a proposed residential development shall bear directly on the amount of land required for a fire/rescue site dedication. The Village hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the fire/rescue districts' own internal examination of fire/rescue utilization and needs.

This contribution and/or dedication is based upon a review of available data, studies and literature including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section 155.60.03 shall be made in strict accordance with Section 155.60.16 herein. Failure to timely object to these requirements in strict accordance with Section 155.60.16 herein shall constitute a waiver of any right to raise an objection at a later time.

The Fire/Rescue Capital Facilities Contribution shall be held in trust by the Village or other public body designated by the Village and shall be used for the purpose of assisting in providing additional facilities for municipal purposes. The Village may contract with other units of local government for the provision of fire/rescue services. Funds obtained pursuant to this Section 155.60.03 may be transferred to those entities for the purpose of assisting in the provision of additional facilities which will benefit the Village.

2. Location: The location of any new fire/rescue facility and/or training site shall be determined by the appropriate fire district in consultation with the Village.

§ 155.60.04 CRITERIA FOR REQUIRING LIBRARY SITE DEDICATION.

1. Requirement and Population Ratio: The ultimate density of a proposed residential development shall bear directly on the amount of land required for dedication. New development and increased population create greater demands for adequate and efficient library services to meet the educational, cultural and recreational needs of the citizenry. They create the need for additional library facilities. The Village hereby finds that the total requirement shall be 2.5 acres of land per 10,000 of ultimate population.

Chapter 155: Subdivision Regulations

These requirements are based upon a review of available data, studies and literature on the subject, as well as the Library District's own internal examination of library utilization and needs. They shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash contribution in lieu of land contribution herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 155.60.16 herein. Failure to timely object to these acreage requirements in strict accordance with Section 155.60.16 herein shall constitute a waiver of any right to raise an objection at a later time.

2. Location: The location of any new library facility shall be determined by the Library after consultation with the Village.

§ 155.60.05 CRITERIA FOR REQUIRING A CASH CONTRIBUTION IN LIEU OF DEDICATION OF SCHOOL, PARK, LIBRARY AND FIRE/RESCUE SITES.

When the residential development is small and the resulting site is too small to be practical, or when the available land is inappropriate for park and recreational purposes or school, fire/rescue or library sites or is in conflict with the approved Comprehensive School Plan, the Village, with the concurrence of the affected district, shall require the subdivider or developer to pay a cash contribution in lieu of the land dedication.

The cash contribution in lieu of dedication of school grounds shall be held in trust by the Village or other public body designated by the benefiting School District and shall be used solely for the acquisition of land for school grounds to serve the immediate or future needs of children from that subdivision or development or for the expansion of any existing school grounds that already serves such needs.

The cash contribution in lieu of park and recreation land dedication shall be held in trust by the Village and shall be used solely for the acquisition of park and recreation land as classified above, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the expansion of other existing local park and recreation lands that already serve such needs or for any other lawful park purpose or for any park purpose agreed to by the subdivider or developer at the time of platting.

The cash contribution in lieu of a library site dedication shall be held in trust by the benefiting Library District or other public body as designated by the Village and shall be used for the acquisition of library land as required herein, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the t of existing or proposed library facilities that already serve or will serve such needs or for any other lawful purpose agreed to by the subdivider or developer at the time of platting.

The cash contribution in lieu of fire/rescue site dedication shall be held in trust by the benefiting Fire Protection District or Fire Department or other public body as designated by the Village and shall be used for the acquisition of land for fire/rescue facilities or training sites to serve the immediate and future needs of the residents of that subdivision or development or for the

Title XV: Land Usage

expansion of any other existing fire station or training site that already serves such needs or for any other lawful fire/rescue purpose.

If any portion of a cash contribution in lieu of park and recreation or fire/rescue land dedication or dedication of library and/or school grounds is not expended for the purposes set forth herein within 13 years from the date of receipt, it shall be refunded by the entity holding the contribution to the record owner of the subdivided land at the time of the refund. If there is more than one record owner of the subdivided land or of the land that comprises the planned development, as applicable, such record owners shall share in the refund pro rata based on the cash contributions originally paid by each property.

1. Fair Market Value: The cash contributions in lieu of land dedication shall be based on the “fair market value” of the acres of land in the area that otherwise would have been dedicated as park and recreation sites, library sites, fire/rescue sites and school grounds. The fair market value, on a per acre basis, shall assume, unless determined otherwise pursuant to Section 155.60.16 herein, that the land is zoned in a one-family dwelling residential zoning district subdivided with appropriate frontage on a dedicated street or road, has all appropriate utilities available, is improved as set forth in Section 155.60.11 herein, and is otherwise property capable of being used for residential development. Based upon a study of comparable real estate transactions, it has been determined that the present “fair market value” of such improved land in and surrounding the Village is, as of January 20, 2003, as follows:

- A. \$196,000.00 per acre for purposes of locating an elementary or junior high school within School Districts 95 or 220.
- B. \$350,000.00 per acre for purposes of adding on to the existing high schools.
- C. \$98,000.00 per acre for purposes of locating a park. ¹
- D. \$196,000.00 per acre for purposes of locating a fire station. ²
- E. \$350,000.00 per acre for purposes of locating and/or adding on to the existing Library. ³

These figures shall be adjusted by the Village Board from time to time with appropriate study and documentation. The “fair market value” as defined above shall be used in calculating any cash contribution in lieu of land dedication herein unless timely objected to as provided in Section 155.60.16 herein. Objections to the fair market value as defined above shall be made in accordance with Section 155.60.16 to the Plan Commission. Failure to timely object to the “fair market value” as defined above in strict accordance with Section 155.60.16 herein shall constitute a waiver of any right to raise an objection at a later time.

2. Criteria for Requiring Dedication and a Contribution: There shall be situations in subdivisions or planned developments when a combination of land dedication and a cash contribution in lieu of land are both necessary. These occasions shall arise when (a) only a portion of the land to be developed is proposed as the location for a library, park, fire/rescue site or school grounds (that portion of the land within the subdivision failing within the library, park, fire/rescue

Chapter 155: Subdivision Regulations

or school location shall be dedicated as a site as stated above, and a cash contribution in lieu thereof shall be required for any additional land that would have been required to be dedicated); or (b) a major part of the local library, park, fire/rescue site or school grounds has already been acquired by the particular district or Village and only a small portion of land is needed from the development to complete the site (the remaining portion shall be required by dedication, and a cash contribution in lieu thereof for the rest of the required land shall be required).

FOOTNOTES AS TO VALUATION

- ¹ Land suitable for park and recreational purposes may have a lesser value depending upon location, buildability, and whether the site is used as an active or passive park site.
- ² Fire stations must be strategically located to maximize response time and have access to major arterial roads. This fair market value reflects these considerations.
- ³ An addition to the existing library would entail purchase of property adjoining the existing library. A second library must be strategically located to accommodate the maximum number of patrons, and in the tradition of the existing library, be on a major thoroughfare.

§ 155.60.06 ADJUSTMENT TO FAIR MARKET VALUE.

The fair market value identified in Section 155.60.05 above shall be subject to an adjustment every three years, based upon a study of comparable real estate transactions. The study of comparable sites shall be provided to the Village by each district; and the study of park or recreational sites shall be undertaken by the Village. These figures shall be due to the Village on February 1, 2006, and every three years thereafter. At that time, the Village shall both update Exhibit C as described in Section 155.60.08 herein and shall determine whether to amend the criteria used in the tables in Sections 155.60.01 and 155.60.02; or the criteria used in Sections 155.60.03 and 155.60.04. In the event that any of the districts do not provide updated figures for fair market value, the Village will continue to use the dollar amounts as most recently provided.

§ 155.60.07 DENSITY FORMULA.

The *Table of Estimated Ultimate Population Per Dwelling Unit*, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time, constitutes projections of anticipated population density and is generally indicative of current and short range projected trends in family size for new construction and shall be used in calculating the amount of required dedication of acres of land or the cash contributions in lieu thereof unless a written objection is filed thereto by the subdivider or developer pursuant to Section 155.60.16 herein.

A bedroom as used in this Section 155.60.07 shall include any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and is not clearly identified for some other specific

Title XV: Land Usage

purpose such as a kitchen (one per unit), dining room (one per unit), living room (one per unit), bathroom(s) and family room (one per unit).

The most recent version of the *Table of Estimated Ultimate Population Per Dwelling Unit* shall be used in calculating any cash contribution in lieu of land dedication herein unless timely objected to as provided in Section 155.60.16 herein. Objections to the *Table of Estimated Ultimate Population Per Dwelling Unit* shall be made in accordance with Section 155.60.16 to the Plan Commission. Failure to timely object to the *Table of Estimated Ultimate Population Per Dwelling Unit* in strict accordance with Section 155.60.16 herein shall thereafter waive any right to raise an objection at a later time.

In the event a subdivider or developer files a written objection to the *Table of Estimated Ultimate Population Per Dwelling Unit* listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 155.60.16 herein.

§ 155.60.08 RESERVATION OF ADDITIONAL LAND.

When the Comprehensive Plan or the standards of the Village call for a larger amount of park and recreational land or library or school grounds in a particular subdivision or planned development than the developer is required to dedicate pursuant to Sections 155.60.01, 155.60.02, 155.60.03 and/or 155.60.04 the land needed beyond the developer's dedication shall be set aside and reserved by the developer for subsequent purchase by the Village (at a price determined at the time of reservation) or other public body designated by the Village, provided that such acquisition is made within five years from the date of approval of the final plat.

§ 155.60.09 COMBINING WITH ADJOINING DEVELOPMENTS.

Where appropriate, a public open space or a school ground that is to be dedicated should, if possible, be combined with dedications from adjoining developments in order to produce usable recreation areas and/or school grounds without undue hardship on a particular developer.

§ 155.60.10 TOPOGRAPHY AND GRADING.

The slope, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purpose. Wetlands and flood plains may be accepted for Village ownership and maintenance, but shall not serve as a credit toward the required park site dedication. Storm water detention areas shall not be accepted for Village ownership and maintenance, and the portion of a detention area designed to function primarily as a component of the storm water control system shall not serve as a credit toward the required park site dedication. A park site shall be not less than one acre in area. The Village Board reserves the right, however, in its sole discretion, to accept in whole or in part, certain areas such as, but not limited to, tree massings, prairie remnants, high quality or unique wetlands, or other natural features as all or part of the required park site dedication in furtherance of open space preservation that may be unique to a given parcel or development. Wetlands, flood plains, detention areas, retention areas and areas of steep slope shall not be accepted

Chapter 155: Subdivision Regulations

as school, park, fire/rescue or library sites and shall not serve as a credit toward the required school, park, fire/rescue or library site cash contribution in lieu of land dedication.

In addition, the following site conditions and preparation standards shall be met:

1. Slope:
 - a. Should not vary greatly in appearance from existing and adjacent slopes;
 - b. Optimum slopes range from two percent minimum to five percent maximum. No less than two percent slope is acceptable under any circumstances;
 - c. Maximum allowable slope is 10 percent, except under special conditions where greater slopes are desirable to enhance the use of the site; and
 - d. On-site drainage patterns shall be designated and constructed to:
 - i. Ensure flow toward swales; and
 - ii. Ensure drainage away from active areas.
2. Grading:
 - a. Rough grading shall be completed at the time of rough grading of adjacent contiguous areas;
 - b. Grading shall comply with Village approved plans;
 - c. Subgrade shall be graded and compacted so it will parallel finished grade;
 - d. Subgrade material shall be loosened and fine graded to a depth of two to four inches. All stones over four inches in size, sticks, debris, rubbish and other foreign substances shall be removed; and
 - e. Finished grades shall be uniform in slope between points for which elevations have been established.
3. Soils:
 - a. Soils shall not differ from those naturally occurring;
 - b. Soils shall not offer any restriction to the ultimate use of the property;
 - c. Topsoil shall be spread evenly and lightly compacted to a minimum depth of six inches over the entire site;

Title XV: Land Usage

- d. Topsoil must be good, friable soils with good tillage and shall be without any admixture of subsoil, clay, gravel, stones, debris, refuse, sand or other subsurface elements;
 - e. Topsoil shall not be placed in a muddy or frozen condition;
 - f. Topsoil shall contain no toxic substances which may be harmful to plant growth; and
 - g. Topsoil shall be spread no later than the placement of topsoil on the first lot adjacent to the site.
4. Seeding:
- a. All proposed library, park and recreational and school grounds shall be seeded and an acceptable stand of grass or vegetation established prior to dedication of the area to the Village;
 - b. Village-approved ground covers and grasses shall be used for all park and recreational areas suitable for the nature of the activity planned to occur thereon;
 - c. Seeding shall be completed during the fall or spring planting times, depending upon the recommended seed planting specifications;
 - d. Seeding shall be on moderately dry soil on a seed bed which will easily accept and nurture germination of seeds;
 - e. Seeding shall be watered sufficiently so that the vegetation becomes reasonably established; and
 - f. The developer shall be responsible for making necessary reparations to the site caused by erosion or other damage. Reparations shall be completed prior to acceptance of the site.

§ 155.60.11 IMPROVED SITES.

All sites shall be dedicated in a condition ready for full service of electricity, natural gas, telephone and cable television, and streets (including enclosed drainage and curb and gutter, where applicable), as applicable to the location of the site, and shall otherwise comply with the requirements of the Village ordinances and codes. The landscaping normally included within the definition of “improved sites under said ordinances and codes may be deleted due to the delay time between dedication of any such school grounds and the construction of school facilities thereon, except for groundcover as required in Section 155.60.10(4)(a) herein. The site shall have direct access to a fully improved street across at least 20 percent of the distance of its perimeter. School and park sites should ideally be accessible by a bicycle/pedestrian trail, and any such access route onto the property shall be at least 25 feet wide. Such access routes should normally be dedications

Chapter 155: Subdivision Regulations

and not easements, depending on which entity of government is to be responsible for said routes. Any vehicular access route leading to or on the site shall be of sufficient size and good geometry to properly accommodate vehicles that, will access and traverse the site including, but not limited to, good principles of traffic circulation, accommodation of one-way and/or two-way drives for school buses, separation of bus traffic from passenger automobile traffic, bus drop-off areas separate from publicly-dedicated streets, guest and employee parking areas, and the like. Such off-street access routes, drives, drop-offs and parking areas will not be dedicated rights-of-way and shall be the responsibility of the owner of the site to maintain.

§ 155.60.12 ENVIRONMENTAL RISK AUDIT.

Prior to the conveyance of any land to the Village, library district, fire protection district or school district, the intended grantee shall be furnished with an environmental risk audit prepared by an environmental professional meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), certified to and acceptable to the grantee, assuring the grantee that there are no hazardous substance(s) (as defined hereinafter) on, under, to or from the land. Said environmental audit shall be what is commonly referred to as a Phase I Environmental Audit, which shall meet the minimum requirements for a pre acquisition audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(v).

In the event the Phase I Environmental Audit concludes there is presence or likely presence of a release or substantial threat of a release of hazardous substance(s) or pesticide on, under, to or from the land, the grantee shall furnish a Phase II Environmental Audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(vi), including a soil toxicity analysis and recommendation from said environmental professional, meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), which concludes that there is no presence or likely presence of a release or substantial threat of a release of hazardous substance(s) on, under, to or from the land, and certifying that, in the judgment of said environmental professional, there is no reasonable probability that the land contains any hazardous substance(s) in violation of any federal or state environmental standards.

In the event said Phase II Environmental Audit and/or soil toxicity analysis discloses the presence or likely presence of a release or a substantial threat of a release of any hazardous substance(s) at, on, under, to or from the land to the conveyed, the grantor shall first cause all such hazardous substance(s) to be removed at its sole cost and expense in accordance with all federal, state and local environmental laws, rules and regulations and furnish the intended grantee with a "No Further Remediation Letter" from the governmental agencies having jurisdiction over the clean up prior to the conveyance of any of the land to the intended grantee.

Prior to the conveyance of the land, the subdivider or developer, as the case may be, and the owner of the land to be conveyed, shall execute and deliver to the intended grantee an Environmental Indemnification Agreement, which form has been approved by the Village Attorney, agreeing to defend, indemnify and hold the Village, its corporate authorities, officers, officials, employees, agents, successors and assigns, and the school district, as the case may be, and its respective officers, officials, employees, agents, successors and assigns, harmless from and against any and all liability, claims, damages, causes of action and expenses arising out of the presence of any hazardous substance(s) in, under or upon said land to be conveyed prior to the date of conveyance.

Title XV: Land Usage

Notwithstanding anything herein to the contrary, if any environmental report discloses the presence of hazardous substances on a piece of land, the Village or applicable district in its discretion may reject the land in favor of a cash contribution, irrespective of subsequent remediation efforts.

Hazardous substance(s) includes without limitation:

1. Those substances included in the definitions of hazardous substances, extremely hazardous substances, hazardous materials, toxic substances, toxic chemicals, toxic wastes, hazardous chemicals, hazardous wastes, solid waste and pesticides in CERLA, SARA, RCRA, HSWA, TSCA, OSHA, FWPCA, Illinois Pesticides Act (415 ILCS 60/1 *et seq.*), Illinois Responsible Property Transfer Act (765 ILCS 90/1 *et seq.*) and the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 *et seq.*), 49 U.S.C. Section 1801 *et seq.*, as amended, and as they may be amended in the future, and in the regulations promulgated pursuant to said laws.

2. Those substances defined in Section 1003 of the Illinois Environmental Protection Act and in the regulations promulgated pursuant to said act or other Illinois laws pertaining thereto.

3. Those substances listed in the U.S. Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto).

4. Such other substances, materials and wastes which are to become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws, ordinances or regulations.

5. Any material waste or substance which is (a) asbestos, (b) polychlorinated biphenols, (c) designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 125 1 *et seq.* (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 13 17), (d) explosives, or (e) radioactive materials.

6. For purposes of this Section 155.60.12, hazardous substances shall include petroleum or its byproducts as regulated under RCRA and any applicable state law or regulations.

§ 155.60.13 SUITABILITY OF SOILS AT SITE.

The subdivider or developer, at its own cost or expense, shall provide to the Village, library district, fire protection district or school district soil boring data, soil compaction test results and such other engineering studies, data and information pertaining to the proposed school, library, fire/rescue or park and recreational site, which the Village, library district, fire protection district or school district may request to enable it to determine the suitability of the proposed land dedication for library, fire/rescue or school grounds or park and recreation purposes. The Village, library district, fire protection district or school district shall have the right to reject any site which the Village, library district, fire protection district or school district determines, in accordance with sound engineering practices, is not suitable for a library site, fire/rescue site, park and recreational site or school grounds purposes.

Chapter 155: Subdivision Regulations

§ 155.60.14 TITLE INSURANCE, SURVEY, ASSESSMENT PLATS.

Each deed or other instrument conveying land to the Village, library district, fire protection district or school district shall be accompanied by:

1. A written commitment issued by a title insurer licensed to do business in the state to insure the grantee's title to such real estate in an amount equal to the value computed pursuant to Sections 155.60.01, 155.60.02, 155.60.03 and 155.60.04 herein, with extended coverage over the general exceptions to title and subject only to:

- a. real estate taxes not yet due and payable,
- b. covenants, conditions and restrictions of record which do not materially impair the use of the subject property as a library, school or park and recreational use,
- c. utility easements located within 20 feet of the boundary lines of the subject real estate (except where approved on the final engineering plans approved by the Village Engineer),
- d. existing drainage ditches, feeders and laterals,
- e. existing underground pipe or other conduit, and
- f. acts done or suffered by or judgments against the grantees.

2. A current ALTA boundary line survey, certified to the grantee by a licensed Illinois Land Surveyor to be in compliance with the American Land Survey Standards, showing no encroachments; and

3. Except in instances where the real estate is to be conveyed is a lot in a recorded subdivision, an assessment plat and tax division petition in a form acceptable to the appropriate Village authorities so the land to be conveyed can be assigned its own permanent real estate index number (PIN) for exemption purposes.

In addition, monuments must be established and the land staked immediately prior to dedication of the property. The subdivider or developer shall pay for the cost of the owner's title insurance in said amount, the ALTA survey, the assessment plat and any and all costs in connection with the tax division petition.

§ 155.60.15 REAL ESTATE TAX ESCROW.

The developer shall pay the general real estate taxes on the land not yet due and payable as of the date of transfer, and shall deposit a sum of money in escrow with the intended grantee's attorney or a title company licensed to do business in the State of Illinois, which is prorated as of the date of transfer on the basis of 110 percent of the tax assessor's latest assessed valuation, the latest known equalization factors and the latest known tax rate on the land. In the event the previous tax

Title XV: Land Usage

information or the previous tax bill includes other property, then the amount to be deposited in escrow shall be adjusted ratably based on the net acreage of the land compared to the net acreage of the other parcels covered by said tax bills. After the land has been divided for real estate tax purposes and has been conveyed to the intended grantee, the grantee shall proceed with due diligence to apply for a real estate tax exemption on the land.

§ 155.60.16 OBJECTIONS.

All objections relating to acreage requirements, presumptions as to fair market value, the *Table of Estimated Ultimate Population Per Dwelling Unit* or any other application of the Deer Park Impact Fee Ordinance to a particular subdivision or planned development, shall first be referred to the Plan Commission for a hearing. An objection must be made, if at all, prior to the approval of the final plat of subdivision by the Village. A failure to object by such time shall constitute a waiver of the right to object under the provisions of this Section 155.60.16. The procedure for a hearing before the Plan Commission shall be as follows:

1. Duties of the Plan Commission: The Plan Commission shall serve in an advisory capacity and shall have the following duties:
 - a. Advise and assist the Village in resolving objections regarding the *Table of Estimated Ultimate Population Per Dwelling Unit* in Section 155.60.07, the size of the school, park, fire/rescue and library sites in Sections 155.60.01, 155.60.02, 155.60.03 and 155.60.04, respectively, the fair market value of the land used to calculate the cash contribution in Section 155.60.05 or any other application of this Section 155.60.16 to a particular subdivision or planned development.
 - b. The Village shall adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this Section 155.60.16.
2. Information and Services to Be Used: The Village shall make available to the Plan Commission all professional reports relating to the *Table of Estimated Ultimate Population Per Dwelling Unit*, the size of the library, fire/rescue, park and school sites and the fair market value of the land used in calculating these cash contributions. The Plan Commission may also retain the services of professionals (attorneys, appraisers, statisticians, etc.) to assist in its review of issues raised by any objection.
3. Procedure for Resolving an Objection
 - a. Upon receipt of an objection, the Village Manager shall place the same on the next regular meeting agenda of the Village Board. Thereafter the Village Board shall refer the objection to the Plan Commission and by resolution establish a hearing date.
 - b. The Plan Commission shall provide public notice of the hearing date to consider the objection and shall notify the affected library, fire protection, and

Chapter 155: Subdivision Regulations

school districts by certified mail, return receipt requested, of the filing of the objection and of any hearing regarding same.

c. The objector shall publish notice of the hearing date once each week for three consecutive weeks, at least 30 days before but no more than 60 days before the scheduled date of the hearing. Notice shall be published in a newspaper of general circulation within the corporate limits of the Village. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear. The notice shall not be smaller than one-quarter page of a standard size or tabloid-size newspaper. The objector shall send a copy of said notice to any person who has requested said notice by certified mail (stamped at a U.S. Postal Service facility showing the date of mailing) at least 30 days prior to the hearing date.

d. The notice shall contain all of the following information:

i. The headline shall read: “NOTICE OF PUBLIC HEARING ON OBJECTION TO APPLICATION OF ORDINANCE REQUIRING THE DEDICATION OF SCHOOL GROUNDS, FIRE/RESCUE SITES OR CAPITAL FACILITIES, PARK LANDS ND LIBRARY LAND OR PAYMENT OF THE CASH CONTRIBUTIONS IN LIEU THEREOF.”

ii. The date, time and location of the public hearing.

iii. A statement that the purpose of the hearing is to consider the objection to a component of the application of the ordinance requiring the dedication of park lands, library sites, school grounds, or fire/rescue sites, or calculation of cash contribution in lieu thereof.

iv. A general description of the parcel(s), service area or areas within the Village that are the subject of the hearing.

v. A statement that the Village shall make available to the public, upon request, an easily understandable and detailed map of the parcel(s), service area or areas to which the ordinance applies, and any other available information about the objection.

vi. A statement that any member of the public affected by the ordinance or the parcel(s) or service area or areas shall have the right to appear at the public hearing and present testimony and/or evidence in support of or against the objection.

e. A public hearing shall be held for the consideration of the objection. In addition to the Village, any affected library district, school district and fire/rescue provider shall be allowed to participate in such hearing as a party thereto to present evidence, cross-examine witnesses and make arguments to the Plan Commission regarding the issues raised in the objection. The Plan Commission shall make a recommendation to adopt,

Title XV: Land Usage

reject in whole or in part, or modify the objection presented at the hearing, by written report to the Village, within 60 days after the hearing. The Village shall then have at least 60 but not more than 120 days to approve, disapprove or modify, by ordinance or resolution, the findings in this ordinance as it pertains to the development in question.

4. Costs and Fees: The objector shall bear all costs of the hearing before the Plan Commission including, but not limited to attendance fees paid the Plan Commission members, publication costs, professional consultants' fees and any other expenses of the Village.

§ 155.60.17 CONDITION TO ANNEXATION.

The dedications of land or cash contributions in lieu thereof required by Sections 155.60.01, 155.60.02, 155.60.03, 155.60.04 and 155.60.05 shall also be required as a condition to the annexation of any land to the Village which includes residential uses or will be developed as a residential use, and provisions therefore shall at a minimum be incorporated in any annexation or pre-annexation agreement governing such land. However, the Village reserves the right to negotiate dedications of land or cash contributions in lieu of land or a combination thereof greater than those set forth herein.

§ 155.60.18 INDEMNIFICATION.

As a condition to the Village distributing land dedications and/or cash contributions in lieu thereof the appropriate district shall execute an indemnification agreement in the form set forth in Exhibit A of this Impact Fee Ordinance, as may be amended from time to time.

§ 155.60.19 DISTRIBUTION.

The cash contribution in lieu of land dedication imposed by this Impact Fee Ordinance, as may be amended from time to time, shall be collected and held by the benefiting district to be used for the purposes set forth in this Impact Fee Ordinance .

As a condition of distribution of these land dedications and/or cash contributions in lieu of land dedications, the Village shall require that the school district, library district, or fire/rescue provider benefiting from such land dedications and/or cash contributions conduct a needs assessment and adopt a plan for acquisition of land and capital facilities needed to accommodate growth. In the case of parks, the Village shall create a needs assessment and plan for land acquisition.

§ 155.60.20 NEEDS ASSESSMENT; LAND AND CAPITAL FACILITIES ACQUISITION PLAN.

1. A needs assessment shall contain the following information for each district (school, library, fire/rescue provider and park):

Chapter 155: Subdivision Regulations

a. A description of the nature and location of existing park, library, fire/rescue and school lands and existing park, school, library, fire/rescue facility and capital facilities within each district.

b. An identification of the capacity of each school building, fire/rescue facility, library facility or park site within the particular district and of the number of students then enrolled in each school building.

c. A projection of the character and location of new development that is expected to occur within each district or Village during the succeeding 10-year period. The district or Village may obtain the information necessary to make this projection from sources such as but not limited to: municipalities, other units of government, agencies and consultants.

d. An identification of the amount of lands that will be necessary within the school district and Village in order to accommodate the demands of such projected new development, and an estimate of the public grounds acquisition costs that will be incurred or have been incurred by each district in acquiring such lands.

e. A general description of each classification of capital facilities (including construction, expansion or enhancement of any public facilities and the land improvement, design, engineering and professional costs related thereto) that will be necessary within each district in order to provide adequate capacity for the projected new development, and an estimate of the capital facilities costs that will be incurred by each district in constructing such capital facilities.

2. Based upon the needs assessment, the school district, fire/rescue district or library district shall provide the Village an acquisition plan for lands and capital facilities. This acquisition plan shall:

a. Project for a planning period of at least five years, the need for lands and capital facilities within the district or Village;

b. Set forth a schedule for the acquisition of such lands and facilities to meet the projected need (which schedule may be conditioned upon the availability of financing);

c. Indicate the size and general location of the needed lands and facilities;

d. Identify the estimated or incurred costs of acquiring such needed lands and facilities;

e. Set forth the anticipated funding sources for the acquisition of such needed lands and facilities;

Title XV: Land Usage

f. Determine the feasibility of acquiring the needed land and facilities based upon the district's current financial condition;

g. Determine the feasibility of acquiring the needed land and facilities based upon the district's or Village's estimate of the revenues (including, without limitation, cash contribution in lieu of land dedication required by Section 155.60.05) pursuant to the plan; and

h. Determine the impact on property taxes in the Village assuming the plan is implemented.

3. If the Village deems it necessary, it may require an updated needs assessment and plan for acquisition of land and capital facilities from the district annually. The failure to require said assessment update shall not invalidate the requirements of this Section 155.60.20.

§ 155.60.21 TIME OF PAYMENT.

All land dedications and cash contributions imposed by Sections 155.60.01, 155.60.02, 155.60.03, 155.60.04 and 155.60.05 shall be due and payable upon final plat approval. However, the Village may agree that the payment of the cash contributions may be made at the time of building permit issuance in consideration of which the subdivider or developer shall execute an agreement, in substantially the form of Exhibit B of this Impact Fee Ordinance, as amended from time to time, agreeing that the cash contributions payable shall be adjusted in accordance with the requirements herein and further agreeing that the cash contributions may be expended for the purposes described in Exhibit B. In the event the Village agrees to delay the payment of the fees required under this Ordinance to the time of building permit issuance, the cash contributions owed shall be based upon this Impact Fee Ordinance, as amended from time to time, which is in effect at the time the building permit is issued.

In calculating the fee at the time of platting, the Village shall assume the maximum density permitted under the zoning classification approved pursuant to the table attached as Exhibit C. For example, if the subdivision in question is zoned single family, the Village will assume for purposes of calculating fees payable, pursuant to this Impact Fee Ordinance, as amended from time to time, that all houses will have five bedrooms. The Village will then hold sufficient funds pending issuance of the building permit to enable it to refund any overpayments resulting from the fact that houses with less than five bedrooms are constructed. Refunds shall be made at time of issuance of the building permit.

For any lot which received final plat approval for development prior to the enactment of this Impact Fee Ordinance, as amended from time to time, and which remains vacant at the time this Ordinance is enacted, then all dedications and fees imposed by this Ordinance shall be due and payable at the time a building permit is issued.

§ 155.60.22 MISCELLANEOUS.

In calculating any cash contributions in lieu of land dedication payable at time of issuance of building permit as provided in Section 155.60.05 herein, the Village shall use the fair market value as

Chapter 155: Subdivision Regulations

set forth in Section 155.60.05 or any amendment thereto and in effect at the time of the contribution and building permit issuance.

The Village recognizes the fact that developments may differ in their impact upon a community. Consequently, the Village reserves the right to negotiate dedications that are different from those contained in this Impact Fee Ordinance.

Title XV: Land Usage

EXHIBIT A

**AGREEMENT REGARDING THE RECEIPT
OF DEVELOPER SUBDIVISION CONTRIBUTIONS**

THIS AGREEMENT, entered into as of the ____ day of _____, _____, by and between the Village of Deer Park, Lake and Cook Counties, Illinois (the “Village”), and _____, a governmental body within the State of Illinois (the “Benefiting Government”).

WITNESSETH

WHEREAS, the Village, through its ordinances or through the provisions of its annexation agreements has required that developers make contributions to the Village, that the Village, in turn, may make available for other government bodies that are affected by the subdivision improvements; and

WHEREAS, such contributions may be in land or in money and, when transferred or paid over to those government bodies, inure in part to the benefit of those government bodies and not entirely to the direct benefit of the Village; and

WHEREAS, from time to time within the Village, and within other municipalities, disputes have arisen regarding the validity and amount of such contributions; and

WHEREAS, the Village is willing, at its discretion, to continue seeking the contribution of land or money but wishes to procure a commitment from other government bodies benefited by the receipt of such contributions that those government bodies will (a) acknowledge that the requirement that such subdivision contributions be made is totally within the discretion of the Village as to their existence, manner and amount; (b) the other government body that benefits from the contribution will pay the cost of defending any lawsuit that is filed challenging the appropriate amount of the contributions, the time at which they are to be made or any other aspect of the contributions; and (c) that the benefited government body will comply with the terms of a final and nonappealable judicial determination by a court of competent jurisdiction rendered in connection with the lawsuit; and

WHEREAS, the Village is willing, in its discretion, to pay over or require contributions only to other government bodies that execute this Agreement;

NOW, THEREFORE, IT IS AGREED between the Village and the Benefiting Government, in consideration for the payment of money or the transfer of the land to the Benefiting Government, which the Village from time to time may within its discretion cause to be made by developers that are subdividing property, the Benefiting Government does agree, as follows:

1. The Benefiting Government acknowledges that, except as otherwise provided in the Village’s ordinances and/or annexation agreements, the Village is not obligated to cause the payment of money or the transfer of land to the Benefiting Government. The Benefiting

Chapter 155: Subdivision Regulations

Government recognizes that the Village may, at its sole discretion, amend its ordinances or annexation agreements or its practices to discontinue the payment of subdivision contributions to the Benefiting Government.

2. A. In the event a lawsuit is filed against the Village, the Benefiting Government, and/or others by a developer that is subdividing property or any other person, corporation or entity that challenges the appropriateness, amount, timing or any other aspect of a subdivision contribution that, pursuant to the terms of the Village's ordinances or annexation agreements, has been paid or is due to the Benefiting Government, then the Benefiting Government does agree to pay the costs and litigation expenses (including reasonable attorneys' fees) incurred in defending such lawsuit. The costs and expenses shall be paid by the Benefiting Government when and as incurred by the Village but in no event more than once a month. As a condition precedent to the payment of these costs and expenses, the Village shall submit to the Benefiting Government copies of the original statements reflecting the costs and expenses, together with the supporting documentation that may be reasonably requested by the Benefiting Government.

B. The Village covenants and agrees that it shall employ competent and skilled legal counsel to represent the Benefiting Government and the Village, and further covenants and agrees that it shall keep the Benefiting Government fully advised as to the progress and status of the litigation. In particular, the Village shall provide to the Benefiting Government copies of all pleadings filed in the litigation and shall consult regularly (and shall cause its attorneys to consult regularly) with the Benefiting Government or its attorneys, as applicable, as to the strategy for defending the lawsuit. In no event may such litigation be compromised or settled by the Village without at least 30 days' prior written notice to the Benefiting Government. In the event that the Benefiting Government decides that it would prefer to be represented in the litigation by legal counsel of its own choosing, then the Benefiting Government shall be free to retain its own legal counsel for that purpose and to intervene in the litigation. In the event the Benefiting Government shall intervene in the litigation, this Agreement shall terminate from and after the date of the intervention and neither party to this Agreement shall have any further obligations under the terms of this agreement from and after that date and the Benefiting Government may choose to continue to defend or choose not to defend the suit; provided, however, that the Benefiting Government shall still be liable for all sums that have accrued pursuant to the above subparagraph 2-A and that remain due and owing from the Benefiting Government to the Village relating to the defense of any lawsuit filed in connection with dedications required for cash contribution in lieu thereof collected for or distributed to the Benefiting Government.

3. In the event that a final and nonappealable judicial determination is made by a court of competent jurisdiction that contributions of land or cash received by the Benefiting Government are, in whole or in part, excessive, the Benefiting Government shall promptly repay those contributions to the person who procures such a judgment, together with all other amounts judged by the court to be owing from the Benefiting Government. In the event that a judicial determination

Title XV: Land Usage

should require the payment of damages or payment of attorneys' fees of the plaintiffs attorneys, in addition to the return of contributions held to be excessive, the Benefiting Government shall pay such additional amounts.

4. In further consideration of the continued payment by the Village to the Benefiting Government of the subject contributions of land or money, the Benefiting Government agrees that its obligations under this Agreement shall extend to both past and future cash and land contributions.

5. On or before June 1st of each year, every Benefiting Government that receives payments from the Village under this Agreement shall submit a report to the Village describing the manner in which the payments have been used and provide any additional information the municipality may require. When this Agreement provides that funds turned over to the Benefiting Government are to be used for a specific purpose or within a specific time period, the report shall address those issues. If the Benefiting Government should fail to file such a report with the Village, the Village may delay the payment of any additional funds due the Benefiting Government until such time as a full report containing adequate information is transmitted to the Village. The Benefiting Government understands that it will be asked to execute an indemnity agreement similar to this Agreement on an annual basis and that the Village shall not pay any additional funds due to the Benefiting Government until such time as the Municipality is in receipt of such annual executed indemnity agreement.

6. This Agreement shall be terminated by either party for any reason or no reason at all upon 30 days' prior written notice to the other party evidencing the intention to so terminate this Agreement. But the termination of this Agreement shall not affect the continuing obligation of the Benefiting Government or the Village with regard to claims or damages allegedly arising out of the Village's efforts prior to termination to impose, collect or distribute contributions, or to the actual distribution of subdivision contributions.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Chapter 155: Subdivision Regulations

Village of Deer Park

Benefiting
Government: _____

Village President

Title: _____

(SEAL)

(SEAL)

ATTEST:

ATTEST:

Village Clerk

Secretary

Title XV: Land Usage

EXHIBIT B

**AGREEMENT BETWEEN DEVELOPER AND
MUNICIPALITY TO DELAY CASH CONTRIBUTIONS**

This Agreement (“Agreement”) between the Village of Deer Park, Lake and Cook Counties (the “Village”), and _____, (“Developer”) agree as follows:

WITNESSETH

WHEREAS, the Village has approved a final plat of subdivision or a final plat of a planned development at the request of Developer for the real estate legally described in Exhibit A attached hereto and made a part hereof (the “Land”). Accordingly, pursuant to the Village’s Subdivision Regulations, certain cash contributions in lieu of dedications for library, fire/rescue, park and recreation, and school lands are immediately due the Village from the Developer.

WHEREAS, Developer has, however, requested that the payment of the aforesaid cash contributions be delayed and that the same become due and payable on a per dwelling unit basis at the time the Village issues a building permit for the particular dwelling unit.

NOW THEREFORE, in consideration for the Village agreeing to delay its receipt of the cash contributions, Developer hereby agrees as follows:

1. The amount of cash contributions owed shall be calculated based upon the Deer Park Impact Fee Ordinance, or as provided for in such other future ordinance amending or replacing the Deer Park Impact Fee Ordinance (the “Ordinance”) which is in effect at the time of the issuance of a building permit; and

2. Notwithstanding any present or future law, regulation and/or legal precedent to the contrary, the unit of local government that is the ultimate recipient of the subject cash contributions may expend such contributions for any of the following purposes intended to serve immediate or future needs of the residents and children of the Developer’s subdivision or planned development: (a) for the acquisition of land; (b) for site improvements such as, by way of example, streets, curbs, gutters, stormwater control, and utility extensions; (c) for construction of capital facilities, including, by way of example, new buildings and structures, and the expansion or enhancement of existing buildings and structures; and (d) for so-called soft costs directly related to the foregoing items, such as architectural and engineering costs.

3. Developer has reviewed the Ordinance, and all of the methodology, formula, calculations, projections, assumptions, numbers and other factors used to arrive at the land dedication requirements or cash contributions that are required under the Ordinance and this Agreement (the “Contribution”) and hereby acknowledges and agrees that:

a. Pursuant to the terms of the Ordinance, Developer has been offered the opportunity to raise in a hearing before the Village Plan Commission, any objections relating to acreage requirements, presumptions as to fair market value, the *Table of Estimated*

Chapter 155: Subdivision Regulations

Ultimate Population Per Unit Dwelling Unit, or any other application of the Ordinance; Developer has not raised such objections; Developer has thereby waived the right to assert those objections.

- b. Developer hereby waives any future right to object to or institute any legal action regarding the Contribution.
- c. Developer hereby acknowledges that the Ordinance and Calculations have been properly passed, calculated and imposed.

4. This Agreement constitutes a covenant that is appurtenant to and runs with the Land. Either this Agreement or a memorandum thereof may be recorded against legal title to the Land by either party hereto; provided, however, it shall be a condition of the Village’s issuance of the first building permit for a dwelling unit on the Land that Developer shall provide satisfactory evidence to the Village that this Agreement or a memorandum thereof has been recorded against legal title to the Land.

5. Developer represents and warrants to the Village that it is the sole holder of record fee title to the Land.

IN WITNESS WHEREOF, the Village and the Developer have caused this Agreement to be duly authorized, executed and entered as of the date first above written.

Village of Deer Park

Village President

Developer

ATTEST:

Village Clerk

Title XV: Land Usage

EXHIBIT C

TABLE OF ESTIMATED ULTIMATE SCHOOL POPULATION PER DWELLING UNIT							
Type of Unit	Children Per Unit					Adults 18years +	Total Per Dwelling Unit
	Preschool 0-4 years	Elementary Grades K-5 5-10 years	Middle Grades 6-8 11-13 years	Total Grades K-8 5-13 years	High School Grades 9-12 14-17 years		
Detached Single Family:							
2 <i>Bedroom</i>	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 <i>Bedroom</i>	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 <i>Bedroom</i>	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 <i>Bedroom</i>	0.283	0.345	0.248	0.593	0.300	2.594	3.770
Attached Single Family:							
1 <i>Bedroom</i>	0.000	0.000	0.000	0.000	0.000	1.193	1.193
2 <i>Bedroom</i>	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 <i>Bedroom</i>	0.212	0.234	0.058	0.292	0.059	1.829	2.392
4 <i>Bedroom</i>	0.323	0.322	0.154	0.476	0.173	2.173	3.145
Apartments:							
<i>Efficiency</i>	0.000	0.000	0.000	0.000	0.000	1.294	1.294
1 <i>Bedroom</i>	0.000	0.002	0.001	0.003	0.001	1.754	1.758
2 <i>Bedroom</i>	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 <i>Bedroom</i>	0.052	0.234	0.123	0.357	0.118	2.526	3.053

Source: Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, IL 1996

(Ord. 03-4, passed 1-20-03)

(Am. Ord. 04-20, passed 4-19-04)

Chapter 155: Subdivision Regulations

ADMINISTRATION AND ENFORCEMENT

§ 155.70 APPROVAL OF PLAN COMMISSION REQUIRED.

No land shall after March 21, 1960 be subdivided nor any street laid out, nor any improvements made to the land until the plan or plans of the subdivision or street improvements shall have been certified to and approved by the Plan Commission. This approval must be in writing and placed on the original tracing of the final plans as hereinafter specified under § 155.71.

(‘77 Code, § 23.05) Penalty, see § 155.99

§ 155.71 INSPECTION AT SUBDIVIDER’S EXPENSE.

All required land improvements to be installed under the provisions of this chapter shall be inspected at the subdivider’s expense. The Village Engineer, a registered professional engineer shall provide an inspection of the job for the Village Board both prior to and during the process of construction. When the work is completed, the engineer shall certify to the governing body that the work complies in all respects with the approved plans and specifications.

§ 155.72 VARIATIONS.

The Plan Commission may recommend a variation of the application of the regulations in harmony with the general purpose and intent of this chapter in cases where there are particular difficulties or peculiar hardships in the way of carrying out the strict letter of any such regulation relating to the dividing of land. The Plan Commission shall give its reasons for any such recommendation to the Board of Trustees, which has the authority to approve or deny such variation.

(‘77 Code, § 23.13)

§ 155.99 PENALTY.

Any person who shall subdivide, sell, or dispose of any parcel of land in violation of the terms of this chapter shall be subject to a fine of not more than \$500 for each offense. Any person who shall willfully violate any of the provisions of this chapter (after he has been notified by a duly authorized official of the Village that he is in violation) shall be subject to a fine of not more than \$500.

(‘77 Code, § 23.18)